



STATE SECRETARIAT FOR INFRASTRUCTURE AND ENVIRONMENT

**PUBLIC BIDDING PROCESS  
AUCTION NOTICE NO. 01/2020**

**CONCESSION CONTRACT DRAFT FOR USE OF PUBLIC ASSET NO. [•]  
CAMINHOS DO MAR – SERRA DO MAR STATE PARK**

**INTERNATIONAL BIDDING PROCESS NO. 01/2020**

**SÃO PAULO – SP**



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## STATE SECRETARIAT FOR INFRASTRUCTURE AND ENVIRONMENT

### CONCESSION CONTRACT Nº [●]

On [●] month of day [●] of [●], by this instrument

On the one hand, as GRANTING AUTHORITY, the STATE OF SÃO PAULO, through its STATE SECRETARIAT FOR INFRASTRUCTURE AND ENVIRONMENT - SIMA, government entity of the State of São Paulo created by State Law [●] and regulated by State Decree no. [●], headquartered in the State of São Paulo, in the Municipality of São Paulo, at [●], hereunder represented by the Secretary for Infrastructure and Environment, Mr. [●], bearer of ID card number [●] and registered under Individual Taxpayer ID Number [●], appointed by decree of appointment of the Governor, published in the Official Gazette /SP on [●] month of day [●] of [●], and on the other hand, as the CONCESSIONAIRE, to [●], a limited liability company, headquartered in the state of São Paulo, in the municipality of [●], in [●], registered under Corporate Taxpayer ID Number [●], hereunder represented by its [●], Mr. [●], bearer of ID card number [●] and registered under Individual Taxpayer ID Number/ME [●], whose powers derive from its articles of incorporation, with the intervention-consent of the Foundation for the Conservation and Forest Production of the State of São Paulo, [●], represented hereunder, in the form of its articles of incorporation, by its Director [●], Mr. [●], bearer of ID card number [●] and registered under Individual Taxpayer ID Number [●] and of the Metropolitan Company of Water and Energy SA - EMAE S.A., [●], hereby represented, in the form of its articles of incorporation, by its Director [●], Mr. [●], bearer of ID card number [●] and registered under Individual Taxpayer ID Number [●].

#### WHEREAS:

- A) pursuant to State Law No.16.260 of June 29, 2016, the State of São Paulo, which in this CONCESSION CONTRACT figures as the GRANTING AUTHORITY, was authorized to delegate the right to use CAMINHOS DO MAR, whose territorial area is located in the Conservation Unit known as the Serra do Mar State Park, to the private sector;
- B) the Board of Directors of the State Privatization Program's Board of the State of São Paulo - CDPED, approved this delegation at its 251<sup>st</sup> Ordinary Meeting;
- C) to give effect to such a decision, the GRANTING AUTHORITY proceeded to carry out a bidding process, in the form of INTERNATIONAL BIDDING PROCESS NO. 01/2020, regulated, as applicable, by Federal Act 8.666/1993, by State Law 6.544/1989, by State Law No. 16.260/2016, Federal Laws No. 8.987/1995, No. 9.074/1995, and by State Laws No. 7.835/1992 and No. 10.177/1998, and other regulations governing the matter;
- D) the INTERNATIONAL BIDDING PROCESS No. 01/2020 was won by [●], according to the decision published in the Official Gazette/SP, on the date of [●], and, as a result, the SPECIAL PURPOSE COMPANY - SPC was created, and executes the present CONCESSION CONTRACT as the CONCESSIONAIRE;

The PARTIES, qualified above, resolve, by mutual CONTRACT, to execute this CONCESSION CONTRACT, which shall be governed by the clauses and conditions set forth hereunder.

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**CHAPTER I – GENERAL DISPOSITIONS**

**CLAUSE ONE – DEFINITIONS**

1.1. For the purposes of the CONTRACT hereunder, unless expressly provided otherwise, the terms, phrases and expressions listed below, when used in the CONTRACT hereunder and its ANNEXES and written in capital letters or with initial capital letters, shall be understood and construed according to the following meanings, and shall be used both in the plural and in the singular, without any change in meaning:

<b>GOVERNMENT ENTITY</b>	Direct or indirect, federal, state, Federal District and municipal government bodies or entities.
<b>ANNEX</b>	Set of documents, part of the AUCTION NOTICE and the CONTRACT, as listed.
<b>CONCESSION AREA</b>	Area subject to delegation through the CONCESSION CONTRACT, whose perimeters are described in ANNEX I.
<b>INFRACTION NOTICE</b>	Document containing application of CONTRACT or regulatory penalties arising from the investigation of irregularities found during inspections carried out within the scope of the CONCESSION.
<b>DEPOSITARY BANK</b>	FINANCIAL INSTITUTION authorized to render financial securities custody services to the PARTIES, pursuant to the terms of the CONTRACT and the ANNEXES.
<b>CONCESSION ASSETS</b>	Assets concerning the CONCESSION, and pursuant to the ANNEXES.
<b>CONTROLLING GROUP</b>	Group of SPECIAL PURPOSE COMPANY shareholders that exercise CONTROL over the company.
<b>REVERSIBLE ASSETS</b>	The assets bound to CONCESSION, which are indispensable for the provision of services, shall be reverted and/or returned to the GRANTING AUTHORITY upon termination of the CONTRACT, in order to guarantee the continuity of services rendered.
<b>CAMINHOS DO MAR</b>	Territorial share located within the perimeters of the Serra do Mar State Park Conservation Unit, designated according to the perimeter established in ANNEX I, corresponding to the CONCESSION AREA.
<b>CDPED</b>	State Privatization Program's Board of the State of São Paulo.
<b>GRANTING AUTHORITY</b>	The State of São Paulo, represented by SIMA.
<b>CONCESSION FOR USE OF THE PUBLIC ASSET or CONCESSION</b>	Legal relationship formed by the delegation of the activities object of the CONTRACT, by the State of São Paulo, through SIMA, to the SPECIAL PURPOSE COMPANY, a legal entity governed by private law constituted by the WINNING BIDDER to exercise them in its own name and at its own risk, by earning REVENUE.

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<b>CONCESSIONAIRE</b>	Special purpose company established by the WINNING BIDDER, which executes the CONTRACT with the GRANTING AUTHORITY.
<b>CENTRALIZER ACCOUNT</b>	Current checking account held by the CONCESSIONAIRE, with restricted transactions, as set forth under ANNEX X.
<b>RESTORATION FUND ACCOUNT</b>	Current checking account held by the FF, as set forth under ANNEX XI.
<b>CONCESSION CONTRACT or CONTRACT</b>	CONCESSION CONTRACT FOR USE OF THE PUBLIC ASSET, by delegating to the private sector the activities of renovations, conservation, operations, maintenance and economic exploitation of the CONCESSION AREA, corresponding to the territorial share located within the perimeters of the Serra do Mar State Park Conservation Unit concerning Caminhos do Mar, designated in accordance with the perimeters described and detailed in ANNEX I, including devising projects, undertaking construction works and investments, providing services and the economic exploitation of ecotourism and visitation activities, while fulfilling the conditions set forth in the CONTRACT and ANNEX II.
<b>CONTROL</b>	Subject to the terms of art. 116 of Law 6.404 /1976, means the right to: (a) hold the majority of votes in corporate resolutions and the power to elect the majority of the administrators or managers of another person, investment fund or private pension entities, as the case may be; and (b) effectively use its powers to direct social activities and guide the operations or managers of another person, investment fund or private pension entities.
<b>PHYSICAL-EXECUTIVE TIMETABLE</b>	Integral timetable of the INVESTMENT PLAN, to be submitted by the CONCESSIONAIRE, containing the details, by means of initial, intermediate and final milestones, for each indicated investment, considering the initial and final deadlines for the completion of the construction works foreseen there, as set forth under the CONTRACT and ANNEXES III and IV.
<b>DATE OF EXECUTION</b>	Date of CONTRACT execution, that is [.]
<b>PRE-OPERATIONAL EXPENSES</b>	Expenses realized by the WINNING BIDDER of the CONCESSION, previous to constitution as a special purpose company.
<b>SUBORDINATED DEBTS</b>	Loans, financing, or any other debt instruments owed by

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	CONCESSIONAIRE to any creditor, either individual or a legal entity that is part of the CONCESSIONAIRE's ECONOMIC GROUP, direct or indirect shareholder, or that, in any way, qualifies as a RELATED PARTY.
<b>QUALIFICATION DOCUMENTS</b>	Documents to be submitted by the BIDDER in the Qualification Envelope, which shall include Legal Qualification, Fiscal and Labor Regulation, Technical Capacity and Economic-Financial Capacity, as set out hereunder.
<b>DOE/SP</b>	The State of São Paulo's Official Gazette.
<b>AUCTION NOTICE</b>	The INTERNATIONAL BIDDING PROCESS AUCTION NOTICE number 01/2020, and all its ANNEXES.
<b>EMAE S.A.</b>	The Metropolitan Company of Water and Energy S A.
<b>IMBALANCE EVENT</b>	Event, act or fact, which triggers the economic-financial imbalance of the contract hereunder, and which leads to recovery of the economic-financial balance, corresponding to the losses effectively proven to the CONCESSIONAIRE or the GRANTING AUTHORITY.
<b>DISBURSEMENT EVENTS</b>	Events that substantiate the duty of paying the corresponding pecuniary portion as RESTORATION FUNDS to the CONCESSIONAIRE, according to ANNEXES III and IV.
<b>IMPACTING EVENTS</b>	Events that generate economic and financial burdens to the CONCESSION, under the terms set forth in the CONTRACT hereunder, constituting a situation technically demonstrated by the CONCESSIONAIRE, signaling the impossibility to continue exploiting the CONCESSION due to the impossibility of readjusting the amounts charged by the CONCESSIONAIRE in the economic exploitation of the CONCESSION AREA to a level capable of generating the necessary revenue capable of ensuring the CONCESSION's economic and financial viability.
<b>FINANCIERS OR LENDERS</b>	Commercial banks, development banks, multilateral agencies, export credit agencies, fiduciary agents, fund managers or other entities that provide financing to the CONCESSIONAIRE or represent the creditor parties in this financing
<b>FOREST FOUNDATION OF THE STATE OF SÃO PAULO or FF</b>	Foundation for the Conservation and Forest Production of the State of São Paulo.
<b>PERFORMANCE BOND</b>	Guarantee of faithful compliance with the obligations of the CONCESSION CONTRACT, to



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	be maintained by CONCESSIONAIRE, in favor of SIMA, in the amounts and under the terms defined under the CONTRACT.
<b>ECONOMIC GROUP</b>	The BIDDER's or CONCESSIONAIRE'S ECONOMIC GROUP is comprised of associated, controlled or affiliated companies, under the terms of articles 1.097 onwards, the Civil Code and article 278 of Federal Law No. 6.404/1976, and companies or investment funds that have common directors, administrators, except for board members or shareholders (the latter having a stake of over 10%) or legal representatives, as well as those that depend economically or financially on another company or investment fund, in addition to companies or investment funds subject to the same global structure, including global sharing of knowledge, governance and corporate policies.
<b>PERFORMANCE INDICATORS</b>	Set of parameters that measure the quality of services rendered by the CONCESSIONAIRE, pursuant to ANNEX VII.
<b>TICKETS</b>	Prices charged by the CONCESSIONAIRE for USER entrance at CAMINHOS DO MAR.
<b>INTERFERENCES</b>	Public or private facilities including urban, aerial, surface or underground infrastructure, which shall interfere or bear direct or indirect interference from the activities under the responsibility of CONCESSIONAIRE.
<b>INTERVENING PARTIES</b>	The FF and EMAE S.A.
<b>INTERVENTOR</b>	Person, collegiate, company or group of companies responsible for carrying out CONCESSION interventions, as set forth under the CONTRACT hereunder and under the applicable law.
<b>INVENTORY</b>	Inventory of assets, investments and construction works to be maintained by the CONCESSIONAIRE during the CONCESSION TERM.
<b>MINIMUM STARTING INVESTMENT</b>	Minimum investments required by the CONCESSIONAIRE under the scope of the CONCESSION, which shall be carried out in accordance with the terms of ANNEX III.
<b>ADDITIONAL INVESTMENTS</b>	Comprise all investments, not originally provided for under the CONTRACT, that the GRANTING AUTHORITY requires from the CONCESSIONAIRE, upon relevant economic and financial rebalancing.
<b>CPI/FIPE</b>	Consumer Cost Index of the Institute of Economic Research Foundation (FIPE).
<b>ENVIRONMENTAL PERMITS</b>	Administrative actions that authorize the installation of the enterprise or activity in a specific location and its

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	respective operations, in accordance with the relevant legislation and the specifications contained in the approved plans, programs and projects, including environmental control measures and other conditions.
<b>BIDDING PROCESS</b>	INTERNATIONAL BIDDING PROCESS number 01/2020, promoted by the GRANTING AUTHORITY for the selection of the CONCESSIONAIRE that shall execute the object of the CONCESSION.
<b>BIDDER</b>	Separate company or companies, funds and/or entities constituting a CONSORTIUM, and participating in the BIDDING PROCESS.
<b>WINNING BIDDER</b>	BIDDER declared the winner for having submitted the best appraised proposal, and fulfilling all AUCTION NOTICE requirements.
<b>MONUMENTS</b>	Historical Monuments registered by the competent authorities, object of ANNEXES III and IV.
<b>INSPECTION COSTS</b>	Cost resulting from the investment rate of 0.5% (five tenths percent) of REVENUE earned by the CONCESSIONAIRE, to be paid to SIMA, according to ANNEX X.
<b>FIXED GRANT</b>	Sum offered in the PRICE PROPOSAL submitted by BIDDERS during the bidding process, which shall be deposited in the RESTORATION ACCOUNT as a condition for entering into the CONTRACT, up to the limit of the RESTORATION PRICE, whereas the surplus shall be paid by the WINNING BIDDER as instructed by the GRANTING AUTHORITY, and set forth in the regulations established in the AUCTION NOTICE.
<b>VARIABLE GRANT</b>	Sum to be paid by the CONCESSIONAIRE to the FOREST FOUNDATION, under the terms of ANNEX X, estimated at at 0.5% (five tenths percent) of the REVENUE earned by the CONCESSIONAIRE, payable starting from the 25th (twenty-fifth) month effective the date of execution of the TERM OF DELIVERY OF THE PUBLIC ASSET by way of a price for the CONCESSION, as provided for under the CONTRACT, whereas the percentage payable may vary according to the mechanism described in ANNEX X of the CONTRACT.
<b>CUSTOMER RELATIONSHIP SERVICE</b>	Platform to be made available by the CONCESSIONAIRE for CAMINHOS DO MAR users to contribute with criticisms, suggestions and complaints aiming to promote ADEQUATE SERVICES.
<b>PARTIES</b>	The GRANTING AUTHORITY and the CONCESSIONAIRE.

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<b>RELATED PARTIES</b>	Regarding the CONCESSIONAIRE, anyone in their ECONOMIC GROUP, and those considered as such in accordance with current accounting regulations.
<b>DEMOBILIZATION PLAN</b>	Document to be prepared by the CONCESSIONAIRE, submitted to be approved by the GRANTING AUTHORITY, providing the demobilization process of the CONCESSIONAIRE's activities at the end of the CONCESSION, with the aim of enabling the reversion of REVERSIBLE ASSETS, as well as ensuring the continuous and adequate development of activities that the GRANTING AUTHORITY deems reasonable.
<b>MANAGEMENT AND OPERATION PLAN</b>	Plan to be submitted by the CONCESSIONAIRE, pursuant to ANNEX II.
<b>INTERVENTION PLAN</b>	Plan to be submitted by the CONCESSIONAIRE, containing all civil construction works, RESTORATION activities, assembly of facilities or any other type of permanent physical intervention in the CONCESSION AREA, according to this AUCTION NOTICE, the CONTRACT and ANNEXES II and III.
<b>MANAGEMENT PLAN</b>	Technical document of the Serra do Mar State Park Conservation Unit, which establishes, among other things, zoning and regulations that govern the use of the area and the management of the Park's natural resources.
<b>INSURANCE PLAN</b>	Document to be devised by the CONCESSIONAIRE, containing the list of all mandatory insurance policies, as set forth under the CONTRACT and ANNEXES, and whose policies shall be valid and in force throughout the CONCESSION TERM, being subject to review under CONTRACT.
<b>POLICIES FOR RELATED-PARTY TRANSACTIONS</b>	Document devised and approved by the CONCESSIONAIRE's management entities, which shall contain the regulations and conditions for carrying out transactions between the CONCESSIONAIRE and its RELATED PARTIES, as set forth hereunder.
<b>CONCESSION TERM</b>	The term of 30 (thirty) years, effective the date of execution of the TERM OF DELIVERY OF THE PUBLIC ASSET.
<b>PRICE PROPOSAL OR PROPOSAL</b>	Proposal in which the cost of the FIXED GRANT for exploitation of the object of the CONCESSION is submitted, according to AUCTION NOTICE

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	regulations.
<b>REVENUE</b>	All gross amounts earned by the CONCESSIONAIRE for carrying out any economic activity, directly or through third parties, in the CONCESSION AREA.
<b>RESTORATION FUNDS</b>	Sum previously encumbered by the FOREST FOUNDATION OF THE STATE OF SÃO PAULO for supporting the CONCESSIONAIRE's RESTORATION-related investments, as provided for under article 21 of Federal Act number 4.320/1964 and the regulations of the AUCTION NOTICE, the CONTRACT and ANNEX XI.
<b>RESTORATION</b>	Specialized construction works that aim to repair the MONUMENTS described in ANNEXES II and IV.
<b>EXTRAORDINARY REVIEW</b>	Review of the CONTRACT, at the behest of the CONCESSIONAIRE or by official act of the GRANTING AUTHORITY, in order to adjust it to amendments, changes or conditions that shall influence CONTRACT compliance and recover its economic-financial balance, only applicable in exceptional cases foreseen under CONTRACT, when it is not possible to deal with the matter in the context of the ORDINARY REVIEW.
<b>ORDINARY REVIEW</b>	Review of the CONTRACT, carried out every four years, effective the date of execution of the TERM OF DELIVERY OF THE PUBLIC ASSET, with the scope of adapting PERFORMANCE INDICATORS, SPECIFICATIONS, INSURANCE PLAN and any CONCESSION conditions to the changes that have been perceived in this period, as provided for under CLAUSE Thirty hereunder.
<b>SIMA</b>	State Secretariat for Infrastructure and Environment.
<b>ADEQUATE SERVICE</b>	Defined as delivered services that meet the conditions of regularity, continuity, efficiency, safety, timeliness, generality and courtesy, within the best quality parameters, using all means and resources for their execution to meet standards and procedures established under the CONTRACT, to those determined by GRANTING AUTHORITY.
<b>SPECIAL PURPOSE COMPANY or SPC</b>	Limited-liability company, established in accordance with Brazilian law, with the specific purpose of carrying out the object of this CONCESSION.
<b>TRANSFER CONTROL REQUEST</b>	Request made by the CONCESSIONAIRE, subject to prior consent granted by the GRANTING

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	AUTHORITY, for the SPECIAL PURPOSE COMPANY's TRANSFER OF CONTROL.
<b>SUCCESSOR</b>	Concessionaire, winner of a concluded bidding process, whose object, in whole or in part, is CAMINHOS DO MAR, or a government agency or entity that succeeds the CONTRACTED PARTY.
<b>TERM OF DELIVERY OF THE PUBLIC ASSET</b>	Document signed by the PARTIES that makes official the transfer of the direct possession and control of the CONCESSION AREA, allowing for the start of operations of this area by the CONCESSIONAIRE and the revenue of the corresponding TICKETS, provided the conditions foreseen hereunder are met.
<b>INSPECTION DOCUMENT</b>	Document containing a record of any and all occurrences verified by inspections carried out in the CONCESSION AREA, which the GRANTING AUTHORITY shall submit to the CONCESSIONAIRE, as set forth under the CONTRACT.
<b>FINAL ACCEPTANCE CERTIFICATE</b>	Document issued upon termination of the CONCESSION, provided all conditions determined in the PROVISIONAL ACCEPTANCE CERTIFICATE are met, or any compensations are borne with.
<b>PROVISIONAL ACCEPTANCE CERTIFICATE</b>	Document to be issued by the GRANTING AUTHORITY, which shall convey the context of the REVERSIBLE ASSETS, containing the terms of their acceptance, the eventual need for corrections or substitutions, under the responsibility of the CONCESSIONAIRE.
<b>TRANSFER OF CONTROL</b>	Any change in corporate composition that implies a modification in the direct or indirect CONTROL of the CONCESSIONAIRE, subject to the provisions of Federal Act Number 6404/1976.
<b>ARBITRATION COURT</b>	Arbitration court to resolve disputes subject to arbitration, as set forth under CLAUSE Fifty-Three.
<b>CASH GENERATING UNIT or CGU</b>	Asset or group of assets whose exploitation shall be carried out with the purpose of generating revenue.
<b>USERS</b>	Any individual or legal entity who visits the CONCESSION AREA.
<b>RESTORATION COST</b>	Amount corresponding to R\$ 4,251,853.31 (four million, two hundred and fifty-one thousand, eight hundred and fifty-three reais and thirty-one cents), fixed and non-adjustable, and any variation in the amount actually spent on executing construction works is a risk undertaken by the CONCESSIONAIRE, according to the risk

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	allocation hereunder.
<b>ESTIMATED CONTRACT PRICE</b>	Estimated cost of the sum of the INVESTMENT and the FIXED GRANT, pursuant to CLAUSE 6.1.
<b>INDEPENDENT VERIFIER</b>	Expert company hired by the CONCESSIONAIRE, and whose duties are provided for hereunder.

**CLAUSE TWO – CONTRACT INTERPRETATION**

2.1. For purposes of this CONTRACT, except when stated otherwise:

I. the definitions of this CONTRACT, as set out in CLAUSE One, have the meanings assigned to them in that CLAUSE, either in the plural or in the singular;

II. all references hereunder to designate Clauses, subclauses or other subdivisions refer to the Clauses, subclauses or other subdivisions in this CONTRACT, except when expressly provided for otherwise;

III. the pronouns of any one gender include the other two genders;

IV. all references to this CONTRACT or to any other document related to this CONCESSION shall be construed as covering any changes and/or additives that shall be entered into between the PARTIES;

V. references made to the legislation and regulations shall be construed as the legislation and regulations in force at the time of the specific case, applicable to them, from any branch of the federation, and considering their amendments;

VI. use in this CONTRACT of the terms "including" or "included" means "including, but not limited to" or "included, but not limited to";

VII. all terms established hereunder shall be construed as accounting for calendar days, unless working days are expressly indicated. Should deadlines/terms end on weekends, holidays or days when there is no working day at SIMA, the deadline shall be automatically postponed to the first subsequent working day;

VIII. references to CONTRACT refer to both this document and to other other documents that appear as ANNEXES, subject to the interpretation regulations established under this CLAUSE;

IX. titles of clauses of the CONTRACT and ANNEXES shall not be used in their application or interpretation.

2.2. Controversies that shall exist in the application and/or interpretation of the provisions and/or documents related to this CONTRACT shall be settled as follows:

I. the wording of this CONCESSION CONTRACT shall be considered, which shall prevail over all other documents of the contractual relationship, including the AUCTION NOTICE and its ANNEXES;

II. in case of differences between the ANNEXES and this CONTRACT, the ANNEXES issued by the GRANTING AUTHORITY, represented by SIMA, or FF, shall prevail;

III. in case of differences between the ANNEXES issued by GRANTING AUTHORITY, SIMA or FF, the one with the most recent date shall prevail.



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**THIRD CLAUSE - APPLICABLE LAW AND GENERAL CONDITIONS**

3.1. This CONTRACT is governed by the regulations set forth in the body of this text and in its ANNEXES, as well as by State Law No. 16.260/2016 and, where applicable, by Federal Act No. 8.666/1993; Federal Act No. 9.985/2000; State Law No. 6.544/1989; by Federal Acts 8.987/1995 and 9.074/1995, and by State Law 7.835/1992.

3.2. Unless stated otherwise, May/2020 is deemed the effective date for all costs denoted in this CONTRACT, which, depending on the case and pertinence, shall be adjusted monetarily according to the variation of the IPC/FIPE or any other index that shall come to replace it.

**CLAUSE FOUR – ANNEXES**

4.1. The following ANNEXES comprise this CONTRACT, for all purposes:

I	CONCESSION AREA
II	SET OF SPECIFICATIONS
III	AGREEMENT FOR ENGINEERING SERVICES
IV	EXECUTIVE RESTORATION PROJECT AND USE AND CONSERVATION MANUAL
V	COEXISTENCE GUIDELINES FOR THE CONCESSIONAIRE AND EMAE S.A.
VI	JOINT SIMA-SLT RESOLUTION
VII	PERFORMANCE INDICATORS
VIII	TERM OF DELIVERY OF THE PUBLIC ASSET
IX	TICKETING POLICY
X	ACCOUNT ADMINISTRATION CONTRACT - CENTRALIZER ACCOUNT
XI	ACCOUNT ADMINISTRATION CONTRACT – RESTORATION FUND ACCOUNT
XII	SPECIAL PURPOSE COMPANY DOCUMENTS
XIII	TIMETABLE FOR THE PAYING IN OF CAPITAL STOCK
XIV	DEMOBILIZATION AND TRANSITION PLAN
XV	INSURANCE PLAN AND INSURANCE POLICIES
XVI	INSPECTION AND PENALTY CONTRACT

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**CHAPTER II – CONCESSION**

**FIFTH CLAUSE - OBJECT OF THE CONCESSION**

5.1. The aim of the CONCESSION herein is to delegate to the private sector activities for carrying out investments, conservation, operations, maintenance and economic exploitation of the CONCESSION AREA, which corresponds to the territorial share located within the perimeters of the Serra do Mar State Park Conservation Unit concerning CAMINHOS DO MAR, designated in accordance with the perimeters described and detailed in ANNEX I, including devising projects, carrying out construction works and investments, rendering services and undertaking the economic exploitation of ecotourism and visitation activities, subject to the conditions established hereunder and in the ANNEXES, MANAGEMENT PLAN and applicable law.

5.1.1. The CONCESSIONAIRE shall also be responsible for carrying out RESTORATION works, as set forth under clause eighteen and ANNEX III.

5.2. The CONCESSION AREA shall be freely explored by the CONCESSIONAIRE, provided the provisions of ANNEX II of this CONTRACT are fulfilled, as well as:

I. the nature of the communal use by the people and the purposes for creating the Serra do Mar State Park are upheld, particularly in regard to CAMINHOS DO MAR;

II. the regulations, standards and procedures prescribed in the MANAGEMENT PLAN of the Serra do Mar State Park Conservation Unit, in this CONTRACT and its ANNEXES, and in State Law No. 16.260 of June 29, 2016 are fulfilled;

III. the Joint SIMA-SLT Resolution no. 001 of September 11, 2020 is complied with;

IV. construction works and interventions involving demolitions, renovations or constructions of new permanent facilities secure prior approval by the GRANTING AUTHORITY, as per ANNEX III;

V. the premises contained in the Coexistence Guidelines for the CONCESSIONAIRE and EMAE S.A. are accounted for and developed.

5.2.1. The approval prescribed in item IV of Clause 5.2. aims to assess the compatibility of construction works, interventions and activities with the end purposes of the Park and CAMINHOS DO MAR, its MANAGEMENT PLAN and the impact on the landscape, thereby not resulting in any liabilities for the GRANTING AUTHORITY or changing the risk matrix provided for under this CONCESSION CONTRACT.

5.2.2. Refurbishments, restorations, improvements or any other intervention carried out on the MONUMENTS shall uphold specific RESTORATION terms set forth in Clause Eighteen and in ANNEXES III and IV, and shall additionally uphold the provisions contained in Clause 5.2 and in the respective subclauses, as applicable.

5.3. The CONCESSIONAIRE shall ensure access by representatives of the GRANTING AUTHORITY, SIMA, FF and EMAE S.A. to the CONCESSION AREA, so as to guarantee that activities related to the park's environmental management and the exercise of local law enforcement duties are able to be carried out, as well as activities to support EMAE S.A. in its electricity generation undertakings, pursuant to ANNEX V.



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5.4. THE CONCESSION AREA, permitted activities and uses, as well as the MINIMUM STARTING INVESTMENTS and CONCESSION assignments are foreseen and detailed under ANNEX II.

5.5. Notwithstanding the provisions of this CONTRACT and ANNEXES, the CONCESSIONAIRE shall observe the following contractual milestones:

I. up to 180 (one hundred and eighty) days from the DATE OF EXECUTION, the CONCESSIONAIRE shall submit to the GRANTING AUTHORITY its proposal for an INTERVENTION PLAN, which, once approved, shall become part of ANNEX III, and shall always be kept up-to-date;

II. up to 120 (one hundred and twenty) days from the DATE OF EXECUTION, the CONCESSIONAIRE shall submit to the GRANTING AUTHORITY its proposal for a MANAGEMENT AND OPERATION PLAN, which shall become part of ANNEX II, and shall be kept up-to-date;

III. up to 60 (sixty) days from the DATE OF EXECUTION, the CONCESSIONAIRE shall submit to the GRANTING AUTHORITY its proposal for an IMPLEMENTATION PLAN and a MANAGEMENT AND OPERATION PLAN specific to the Highway SP-148 stretch contained in the CONCESSION AREA, subject to the provisions of Joint SIMA-SLT Resolution No. 001/2020, or a standard to replace it, contained in ANNEX VI. As soon as the specific plans referred to in this item are approved, as set forth under this CONTRACT and ANNEX VI, they shall integrate, respectively, the CONCESSION's INTERVENTION PLAN and OPERATION AND MANAGEMENT PLAN;

IV. up to 90 (ninety) days from the DATE OF EXECUTION, the PARTIES shall enter into the TERM OF DELIVERY OF THE PUBLIC ASSET, provided all the conditions established in this CONTRACT are observed;

V. up to 36 (thirty-six) months from the date of execution of the TERM OF DELIVERY OF THE PUBLIC ASSET, the CONCESSIONAIRE shall conclude the MINIMUM STARTING INVESTMENTS;

VI. up to 21 (twenty-one) months from the date of execution of the TERM OF DELIVERY OF THE PUBLIC ASSET, the CONCESSIONAIRE shall complete the RESTORATION works; and

**up to 90 (ninety) days from the DATE OF EXECUTION, the CONCESSIONAIRE shall submit to the GRANTING AUTHORITY the RESTORATION works timetable.**

**CLAUSE SIX – ON THE GRANT**

6.1. The cost payable by the CONCESSIONAIRE to the GRANTING AUTHORITY due to the delegation of the exploitation of CAMINHOS DO MAR is composed of the FIXED GRANT and the VARIABLE GRANT, according to regulations established in this CONTRACT and its ANNEXES, as follows:

I. the FIXED GRANT, with a cost of R\$ [●] ([●]), base date of May/2020, adjusted using the IPC/FIPE index, was deposited by the CONCESSIONAIRE in the RESTORATION FUND ACCOUNT up to the limit of the RESTORATION PRICE, and any remaining balance was deposited in a bank account designated by the GRANTING AUTHORITY; and

II. the VARIABLE GRANT shall be paid to the GRANTING AUTHORITY, pursuant to Clause Thirteen, calculated at 0.5% (five tenths percent) of the REVENUE earned by the CONCESSIONAIRE, as of the



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25th (twenty-fifth) month from entering into the TERM OF DELIVERY OF THE PUBLIC ASSET.

6.1.1. The CONCESSION price described in Clause 6.1 is not to be confused with sums due by the CONCESSIONAIRE to the GRANTING AUTHORITY in view of inspection activities within its competence, particularly the INSPECTION COSTS regulated in Clause Fourteen of this CONTRACT.

6.1.2. Failure to make payments, in the manner and within the periods specified hereunder, shall make the CONCESSIONAIRE subject to relevant penalties, notwithstanding the possibility of execution, by the GRANTING AUTHORITY, of bonds provided by the CONCESSIONAIRE, in addition to application of penalties and potential declaration of forfeiture of the CONCESSIONAIRE.

6.1.3. Allocation of sums paid under the FIXED GRANT and the VARIABLE GRANT shall comply with State Law No. 16.260/2016.

6.2. This CONCESSION assumes the provision of ADEQUATE SERVICES, deeming as such any and all services rendered in accordance with this CONTRACT, while satisfying the PERFORMANCE INDICATORS, established in ANNEX VII, in full.

6.3. To carry out the object of the CONTRACT, the CONCESSIONAIRE shall be entitled to obtain compensation compatible with the services and activities that it provides to USERS, upholding guidelines specified in this CONTRACT and its ANNEXES, as well as the MANAGEMENT PLAN and applicable legislation.

### **CLAUSE SEVEN – ON THE CONCESSION TERM**

7.1. THE CONCESSION TERM is 30 (thirty) years, effective the date of execution of the TERM OF DELIVERY OF THE PUBLIC ASSET.

7.1.1. The entering into of the TERM OF DELIVERY OF THE PUBLIC ASSET is a condition for achieving full CONTRACT effectiveness.

7.1.1.1. The PARTIES shall do their utmost to ensure that the TERM OF DELIVERY OF THE PUBLIC ASSET is executed as soon as possible.

7.1.2. The term provided for under Clause 7.1 shall be extended, exceptionally and at the sole discretion of the GRANTING AUTHORITY, to restore the economic and financial balance of CONTRACT in the cases provided for under this CONTRACT, or to ensure continuity of the provision of services, pursuant to article 16 of State Law No. 16.933/2019.

7.1.2.1. The term specified in Clause 7.1 shall also be extended by a discretionary decision by the GRANTING AUTHORITY aimed at including investments not provided for under the CONTRACT and its ANNEXES, pursuant to articles 4 and following of State Law No. 16.933/2019, subject to legal requirements required for an anticipated extension of the CONCESSION.

7.1.2.2. The application of sub-clause 7.1.2.1 shall not waive the necessary qualification of the CONCESSION as a project suited for anticipated extension by the competent State of São Paulo agency or entity, as set forth under article 2 of State Law No. 16.933/2019.

7.1.3. The extension of the final term of the CONCESSION CONTRACT shall be carried out upon execution of an Addendum, in accordance with the content of its clauses and, complementary or subsidiary, of the legislation in force at the date of its execution.

7.2. The CONTRACT shall be terminated in advance, subject to the regulations established

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hereunder, in the following cases:

- I. either PARTY shall take the initiative, in the event of substantial fortuitous or force majeure events, when such events are not insurable according to the regulations established hereunder, and whose irreparable consequences extend for more than 90 (ninety) days, or for a period defined by mutual agreement between the PARTIES, when it is verified that the effects shall irreversibly jeopardize exploitation of the CONCESSION;
  - II. at the initiative of the CONCESSIONAIRE, if the GRANTING AUTHORITY unilaterally imposes limitations on prices charged by the CONCESSIONAIRE in the CONCESSION AREA, including TICKET prices, other than those provided for under this CONTRACT and its ANNEXES, notwithstanding the CONCESSIONAIRE's option to exercise its right to economic-financial recovery to the detriment of early termination;
  - III. at the initiative of the CONCESSIONAIRE, if RESTORATION FUNDS are not made available in the RESTAURATION FUND ACCOUNT within 360 (three hundred and sixty) days effective the DATE OF EXECUTION, notwithstanding the CONCESSIONAIRE's option to exercise its right to economic-financial recovery in detriment of early termination;
  - IV. at the initiative of the CONCESSIONAIRE, upon the occurrence of IMPACTING EVENTS on the CONCESSION, resulting exclusively from risks referred to in items XXXIII or XXXIV of Clause 24.1 effectively taking place, allocated to the CONCESSIONAIRE, which, individually or combined, result in a situation in which even eventual readjustments of sums charged by the CONCESSIONAIRE to USERS are not sufficient to generate the REVENUE needed for the viability of the exploitation of CAMINHOS DO MAR by the CONCESSIONAIRE; and
  - V. at the initiative of the GRANTING AUTHORITY, in the event of economic-financial imbalance event(s), the risk of which has been allocated to the GRANTING AUTHORITY, when the projection of the future impact of the event(s), brought to the present cost according to the criteria provided in Clause 28.5, exceeds the amount of R\$ 2,500,000.00 (two million and five hundred thousand reais), adjusted montarily using the same criteria foreseen for the readjustment of the FIXED GRANT, as per Clause 12.1.
- 7.2.1. In the event provided for under Clause 7.2, item IV, in case the CONCESSIONAIRE expresses its intention to terminate the CONTRACT in advance, the GRANTING AUTHORITY shall choose, at its discretion, to take on itself the future economic and financial effects of the event(s) already occurred that qualifies the risk(s) foreseen under item(s) XXXIII or XXXIV of Clause 24.1 and, consequently, recover the CONTRACT, thereby preventing its early termination.
- 7.2.2. For purposes set out under clause 7.2 of Clause 7.2, general normative changes made to ticket exemption or half-price policies that impact TICKET revenue at CAMINHOS DO MAR and related attractions shall not be deemed limitations to prices charged by the

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CONCESSIONAIRE, with this risk pertaining to the CONCESSIONAIRE, as set forth under item XXXIV of Clause 24.1, notwithstanding the possibility of the CONCESSIONAIRE exercising its prerogative of early termination, as specified in item IV of Clause 7.2, if its assumptions are fulfilled.

- 7.2.3. For the exercise of the early contract termination prerogative referred to in item II of Clause 7.2, only limitations on sums charged by the CONCESSIONAIRE that stem from the GRANTING AUTHORITY's specific determinations for the CONCESSION shall be considered, and provided the economic-financial impact borne by the CONCESSIONAIRE as a result of this determination is greater than 10% (ten percent) of TICKET revenue, using as grounds for calculation, TICKET revenue collected in the last 12 (twelve) months, adjusted montarily using the same criteria as for the FIXED GRANT, in accordance with Clause 12.1, or applied to more than 10% of USERS..
- 7.2.4. For specific GRANTING AUTHORITY determinations referred to in sub-clause 7.2.3, whose economic-financial impact is lower than that established for the exercise of the prerogative to carry out early termination of the CONCESSION, the CONCESSIONAIRE may claim the economic-financial recovery of the CONTRACT.

**CLAUSE EIGHT – ON TRANSFERRING THE PUBLIC ASSET TO THE CONCESSIONAIRE**

- 8.1. The possession of the CONCESSION AREA shall be transferred to the CONCESSIONAIRE after implementing the conditions provided for under sub-clause 8.1.2., within 90 (ninety) days effective the DATE OF EXECUTION of the CONCESSION CONTRACT, by entering into the TERM OF DELIVERY OF THE PUBLIC ASSET, and from that date onwards, the CONCESSIONAIRE shall be solely responsible for maintaining possession and use of the CONCESSION AREA, subject to the provisions of this CONTRACT and its ANNEXES.
- 8.1.1. The TERM OF DELIVERY OF THE PUBLIC ASSET shall be submitted along with a photographic report and descriptive statement of the existing facilities, equipment, assets and building projects in the CONCESSION AREA devised by the CONCESSIONAIRE, and approved by the GRANTING AUTHORITY. After concluding the term and approving the photographic report and descriptive statement, they shall comprise this CONTRACT as ANNEX VIII.
- 8.1.2. Conditions for entering into the TERM OF DELIVERY OF THE PUBLIC ASSET are: (I) evidence of the CONCESSIONAIRE having contracted the insurance provided for under Clause Thirty-Seven of this CONTRACT, in accordance with the defined INSURANCE PLAN; and (II) if applicable, evidence provided by the GRANTING AUTHORITY concerning deposit in the RESTORATION FUND ACCOUNT of the difference between the FIXED GRANT amount deposited by the CONCESSIONAIRE in the RESTORATION FUND ACCOUNT, and the sum defined as the RESTORATION PRICE.
- 8.1.3. The term established in Clause 8.1 shall be extended for more successive terms of 60 (sixty) days, upon a justified decision by the GRANTING AUTHORITY.
- 8.1.4. Effective the date of execution of the TERM OF DELIVERY OF THE PUBLIC ASSET, the CONCESSIONAIRE's representatives shall enter the CONCESSION AREA upon prior

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request and scheduling with the GRANTING AUTHORITY, for all purposes relating to the future exploitation of the object of CONCESSION, including to carry out all necessary steps for devising the photographic report and descriptive statement referred to in sub-clause 8.1.1, as well as to carry out preparatory measures for RESTORATION works.

- 8.1.5. Should the CONCESSIONAIRE submit a photographic report and specific descriptive statement for the MONUMENTS, and upon its approval by the GRANTING AUTHORITY, submission of the timetable of RESTORATION works and contracting INSURANCE pertinent to such works, in accordance with the INSURANCE PLAN, the CONCESSIONAIRE, with the prior consent granted by the GRANTING AUTHORITY, shall start the RESTORATION works prior to entering into the TERM OF DELIVERY OF THE PUBLIC ASSET, maintaining the final term provided for under item VI of Clause 5.5, effective the date of execution of the TERM OF DELIVERY OF THE PUBLIC ASSET.

8.1.5.1. Upon its consent, the GRANTING AUTHORITY shall set forth conditions to mitigate the impacts of construction works on CAMINHOS DO MAR's activities.

8.1.5.2. Upholding the deadline foreseen under item VI of Clause 5.5 does not rule out the need to comply with the initial and intermediate milestones established in the timetable submitted by the CONCESSIONAIRE, as set forth under Clause 18.5.

8.2. The direct ownership of the existing facilities and equipment in the CONCESSION AREA, except for any asset or equipment whose ownership is not transferred to the CONCESSIONAIRE, pursuant to ANNEX II of this CONTRACT, shall be transferred to the CONCESSIONAIRE simultaneously with the transfer referred to in this Clause.

8.3. From the entering into of the TERM OF DELIVERY OF THE PUBLIC ASSET until termination of the CONCESSION, it shall be the sole responsibility of the CONCESSIONAIRE to carry out all activities, investments and assignments included in the object of CONCESSION, and the CONCESSIONAIRE shall also be responsible for exploiting CAMINHOS DO MAR, duly and within the limits of this CONTRACT and its ANNEXES, the MANAGEMENT PLAN and the applicable legislation.

**CLAUSE NINE – ESTIMATED CONTRACT PRICE**

9.1. THE ESTIMATED CONTRACT PRICE is R\$ [●] ([●]), base date of May/2020.

9.2. THE ESTIMATED CONTRACT PRICE is for reference purposes only, and cannot be used, by either PARTY, as grounds for making adjustments to the economic-financial balance of CONTRACT, or for any other purposes that entail using the ESTIMATED CONTRACT PRICE as a parameter for indemnifications, reimbursements and the like.

**CLAUSE TEN – ON COMPENSATION**

10.1. CONCESSIONAIRE REVENUE is deemed to be all sums earned by the CONCESSIONAIRE, particularly due to direct exploitation or through third parties, pursuant to this CONTRACT, CAMINHOS DO MAR and the rest of the CONCESSION AREA, including, but not limited to, ticket office exploitation and CASH GENERATING UNITS, as well as other related assets and rights, such as, but not limited to, image rights and sponsorships.

10.1.1. Revenues for purposes proposed hereunder shall not be deemed those arising from



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investments in the financial market, sums received from insurance and from indemnifications or pecuniary penalties arising from CONTRACTs entered into between the CONCESSIONAIRE and third parties, except for any indemnifications due by third parties to the CONCESSIONAIRE, whose costs would originally be deemed REVENUE for purposes of this CONTRACT.

10.1.2. The CAMINHOS DO MAR ticketing policy shall take into account information specified in ANNEX IX, and the CONCESSIONAIRE shall be given full freedom to define its ticket prices, in compliance with ticket exemption and half-price policies set out under ANNEX IX.

10.2. The CONCESSIONAIRE declares to be aware of the costs, risks and conditions related to obtaining the REVENUE, agreeing to it being sufficient to compensate all investments, costs and expenses related to the object of this CONTRACT, so that the conditions originally established hereunder confer economic-financial balance to the CONCESSION.

10.3. Economic exploitation of the CONCESSION AREA by the CONCESSIONAIRE is prohibited, whether directly or indirectly, in regard to the following:

I. installing antennas and telecommunications equipment for public or private legal entities that operate in telecommunications, radio and television as well as related industries, whereas only those for exclusive use of the CONCESSIONAIRE and/or CAMINHOS DO MAR USERS shall be permitted. The FF may instal antennas mentioned in the provision hereunder, provided it ensures that CAMINHOS DO MAR USERS' safety is not jeopardized and does not interfere with its regular operations, and it shall additionally always check with the CONCESSIONAIRE in the event of installing antennas within the CONCESSION AREA;

II. commercial exploitation of timber or forest by-products;

III. exploitation of activities or advertising that violates the current legislation, particularly environmental legislation, whether of political, religious nature or which may harm the use and exploitation of the CONCESSION AREA;

IV. marketing of "naming rights" that changes the official name of the Serra do Mar State Park Conservation Unit and that of CAMINHOS DO MAR.

10.4. Exploiting advertising services shall comply with the current legislation and regulations of the National Council for Advertising Self-Regulation - CONAR, not violating morals and proper conduct, and cannot have any religious or political nature, or refer to any kind of slander, discrimination or prejudice of any order, including prejudices of race, color, creed, gender and sexuality, of a social or xenophobic nature.

10.4.1. Economic exploitation of the CONCESSION AREA by the CONCESSIONAIRE is prohibited, whether directly or indirectly, with regard to activities or advertising that violate the current legislation or that may impair or harm use and exploitation of the CONCESSION AREA, pursuant to the terms of this CONTRACT and its ANNEXES.

10.5. The marketing of "naming rights" is permitted for specific areas, equipment, trails and other spaces of CAMINHOS DO MAR, provided that, in addition to fulfilling the impediments in Clause 10.3 as well as the guidelines set forth under Clause 10.4, where applicable, it is not contrary to proper practices, does not impair the rights of third parties, respects copyrights, and that the rights holder submits documentation to CONCESSIONAIRE clearing it of any debts or outstanding issues with the Registry of Outstanding Credits of State Agencies and Entities - state CADIN (State Law No.



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12.799/08), the National Registry of Ineligible and Suspended Companies- CEIS (Federal Act No. 12.846/12), the National Registry of Punished Companies - CNEP, and the State of São Paulo's Registry of Punished Corporations – CEEP, and the Electronic System for Application and Registry of Administrative Sanctions - e-Sanctions of the State of São Paulo, and provided that the rights holder has not suffered criminal or administrative sanctions derived from conduct and activities harmful to the environment, pursuant to Law No. 9.605/1998, State Law No. 997/1976, and State Decree No. 8.468/1976, except in the case of serving the sentence and rehabilitation, pursuant to applicable law.

10.5.1. Contracting by the CONCESSIONAIRE for purposes of marketing the rights set forth under Clause 10.5 cannot exceed the term of the CONTRACT.

10.5.2. The documentation required in Clause 10.5 shall be maintained by the CONCESSIONAIRE, and shall be submitted to the GRANTING AUTHORITY, upon request.

10.6. All CONTRACTs related to REVENUE exploitation by the CONCESSIONAIRE shall be executed in writing and submitted to the GRANTING AUTHORITY for its acknowledgment.

10.6.1. Contracts that the CONCESSIONAIRE enters into with third parties, including for purposes of exploiting CAMINHOS DO MAR activities, shall be governed by private law, with no legal relationship being established between the third parties and the GRANTING AUTHORITY.

10.6.2. At the end of the CONCESSION CONTRACT, the CONCESSIONAIRE shall undertake to deliver the areas object of exploitation clear and free of any assets and rights, adopting, for this purpose, all necessary measures.

10.6.3. No CONTRACT entered into between the CONCESSIONAIRE and third parties, whose purpose is to exploit REVENUE in this CONCESSION CONTRACT, shall exceed the CONCESSION TERM, unless a decision or express authorization is granted by the GRANTING AUTHORITY, whereas the CONCESSIONAIRE shall be solely and fully responsible, as a result of contracts of that nature, for any taxes, charges, obligations, liens, costs, residual costs or other sources charged by its subcontractors, with the CONCESSIONAIRE being prohibited from imposing such a burden on the GRANTING AUTHORITY, as well as charging any sum considered to be directly payable as a result of contracts executed with private parties.

10.6.3.1. The approval set forth under sub-clause 10.6.3 cannot be given, under any circumstances, for contracts to be entered into with RELATED PARTIES, and shall be subject to the GRANTING AUTHORITY's convenience and opportunity appraisal, whereas any denial does not, under any circumstances, give effect to economic-financial recovery of the CONTRACT.

10.6.3.2. Once the approval set forth under sub clause 10.6.3 has been granted, maintenance of the

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CONTRACT in question is also expressly approved, in case of early termination of the CONCESSION, subject to the provisions in Clause 10.8.

10.6.3.3. Contracts previously approved, as set forth under sub-clause 10.6.3, shall provide for periodic compensation in equal or increasing installments throughout their term, and shall be monetarily adjusted using the official inflation index, and it shall additionally be prohibited to anticipate installments that surpass the CONCESSION term.

10.6.3.4. In the event that the commercial contract executed between CONCESSIONAIRE and third parties provides for variable compensation proportional to the turnover of the business, it shall have an equal or increasing percentage cost and constant periodicity throughout the contract.

10.6.3.5. If the commercial contract executed between the CONCESSIONAIRE and third parties provides for forms of compensation that differ from those set forth under the item hereunder, this shall be notified in the authorization request specified in subclause 10.6.3, and shall be subject to the GRANTING AUTHORITY's approval.

10.6.4 In the event of entering into contracts with a term longer than the CONCESSION term, in addition to the authorization provided for under sub-clause 10.6.3, the following conditions shall be observed: (I) the GRANTING AUTHORITY shall be part of the adjustment as an intervener, whereas the CONCESSIONAIRE shall not be entitled to any compensation, in any capacity, during the term beyond the CONCESSION term; (II) proportionality shall be established between the rate of return projected by the CONCESSIONAIRE, over the remaining CONCESSION TERM, and the actual rate of return for the GRANTING AUTHORITY, in the period after the effective CONCESSION TERM; and (III) after the CONCESSION TERM, the rate of return shall be due to the GRANTING AUTHORITY, whereas the commercial conditions and form of the CONTRACT shall observe the conditions initially agreed upon with the CONCESSIONAIRE, and any changes that entail reducing or increasing such conditions in detriment to the GRANTING AUTHORITY shall be prohibited.

10.7. Any losses incurred by the CONCESSIONAIRE, the frustration of REVENUE expectations or any other failure to exploit CAMINHOS DO MAR cannot be alleged for purposes of reviewing the CONCESSION CONTRACT or its economic-financial recovery, with the CONCESSIONAIRE being accountable for, with due regard for the risks allocated in this CONTRACT, fully taking on the risk of its execution.

10.8. In the event of early termination of the CONCESSION, including due to forfeiture and expropriation, the GRANTING AUTHORITY or SUCCESSOR may report contracts entered into by CONCESSIONAIRE whose object is the use of spaces in the CONCESSION AREA, including those that have secured the approval specified in sub-clause 10.6.3, ensuring compensation in the event of investments made by the CONCESSIONAIRE or the third party not yet amortized, even if the entering into of the CONTRACT has not been preceded by the express approval of the GRANTING AUTHORITY.

10.8.1. In the case of contracts entered into by CONCESSIONAIRE with validity periods exceeding the end of the CONCESSION TERM, without the necessary approval as set forth under sub clause 10.6.3, the compensation shall be calculated considering the linear amortization between the start date of the exploitation of the investment and the final CONCESSION TERM.

### **CLAUSE ELEVEN – LINKED ACCOUNTS OPERATION**

11.1. As a condition for entering into this contract, the CONCESSIONAIRE opened a CENTRALIZER ACCOUNT at the DEPOSITARY BANK, according to ANNEX X, committing itself to ensure that all REVENUE earned by the CONCESSIONAIRE is exclusively transferred to the CENTRALIZER BANK ACCOUNT owned by CONCESSIONAIRE and with restricted transactions, whereas charges and fees related to contracting the DEPOSITARY BANK shall be borne by the





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CONCESSIONAIRE, in accordance with the terms of said ANNEX X.

11.1.1. The PARTIES acknowledge that of all the CONCESSIONAIRE REVENUE, as set forth hereunder, and prior to their allocation to the CONCESSIONAIRE's free transaction bank account, sums referring to VARIABLE GRANTS, INSPECTION COSTS and PERFORMANCE INDICATORS shall be deducted, subject to the conditions established hereunder.

11.1.2. After the realization of the deductions mentioned in subclause 11.1.1 above, the remaining balance shall be immediately transferred to the free transaction account bank account held by the CONCESSIONAIRE.

11.2. The CONCESSIONAIRE shall arrange for the opening of a CENTRALIZER ACCOUNT with the DEPOSITARY BANK, as set forth under the draft CONTRACT in ANNEX X. Should there be any change to the terms and conditions submitted in the draft referred to above, opening of the CENTRALIZER ACCOUNT shall be conditional upon the GRANTING AUTHORITY's prior consent.

11.3. After the due administrative proceeding, the penalty provided for under ANNEX XVI shall be applied, and shall trigger the initiation of a process of forfeiture of the CONCESSION as well as any act of the CONCESSIONAIRE that represents fraud to the mandatory allocation of its REVENUE to the CENTRALIZER ACCOUNT or fictitious reduction of the CONCESSIONAIRE REVENUE.

### On the Restoration Fund Account

11.4. THE RESTORATION FUND ACCOUNT owned by the FOREST FOUNDATION OF THE STATE OF SÃO PAULO was constituted as a condition for entering into this CONTRACT, and its guidelines are regulated under the terms specified in ANNEX XI. Also as a condition for entering into the CONTRACT, the CONCESSIONAIRE deposited the FIXED GRANT sum in the RESTORATION FUND ACCOUNT, up to the limit of the RESTORATION PRICE.

11.5. THE FOREST FOUNDATION OF THE STATE OF SÃO PAULO shall provide, if applicable, the deposit of the difference between the FIXED GRANT sum deposited by the CONCESSIONAIRE in the RESTORATION FUND ACCOUNT and the RESTORATION PRICE.

### CLAUSE TWELVE – ON THE FIXED GRANT

12.1. As a condition of entering into this CONTRACT, the CONCESSIONAIRE or the WINNING BIDDER(S) of the BIDDING PROCESS, as regulated by the AUCTION NOTICE, paid the sum due to the GRANTING AUTHORITY as a FIXED GRANT, in the amount of R\$ [●], adjusted using the IPC/ FIPE index, whereas of the total FIXED GRANT sum, the CONCESSIONAIRE made a deposit of the corresponding amount in the RESTORATION FUND ACCOUNT up to the limit of the RESTORATION PRICE, and, in the case of the existence of a remaining balance, made the deposit of this balance in a bank account designated by the GRANTING AUTHORITY.

### CLAUSE THIRTEEN – ON THE VARIABLE GRANT

13.1. The CONCESSIONAIRE shall pay a VARIABLE GRANT to the FF corresponding to at least 0.5% (five tenths percent) of its REVENUES, throughout the entire CONCESSION term, effective the 25th (twenty-fifth) month of this CONTRACT, as set forth in the provisions of Clause 13.3.

13.1.1. Revenue and payment of the sums due under the VARIABLE GRANT, while upholding the maximum monthly periodicity, are regulated in ANNEX X, and the PARTIES shall take all necessary measures for their effective compliance.

13.2. In the event of an undue decrease in VARIABLE GRANT receipts resulting from any operations

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that aim to artificially reduce the CONCESSIONAIRE REVENUE, through appropriation of this REVENUE by a third party(s), the GRANTING AUTHORITY shall use as grounds for calculating the VARIABLE GRANT, the gross revenue earned by third parties who have operated activities that generate such REVENUE, notwithstanding the enforcement of applicable penalties.

13.2.1. In the event of Clause 13.2 above, and after the due administrative process, the GRANTING AUTHORITY shall notify the DEPOSITARY BANK, as per ANNEX X, so that it makes the additional payable discount on the CONCESSIONAIRE REVENUE, until settlement of the payable amount, plus a late payment penalty of 2% (two percent), late payment interest equivalent to 1% per month (one percent per month), and monetary adjustment based on the IPC/FIPE variation, *pro rata die*.

13.3. Annually, effective the 37th (thirty-seventh) month of the CONTRACT being in force, the VARIABLE GRANT shall be increased to up to 1.5% of the CONCESSIONAIRE REVENUE, conditional upon fulfillment of PERFORMANCE INDICATORS concerning exploitation of CAMINHOS DO MAR, according to ANNEX VII, and pursuant to the formula described in the sub-clauses below.

13.3.1 If the score of the performance indicators is greater than or equal to 9, the percentage of the variable grant shall be 0.5% of the gross revenue.

13.2. If the score is less than 9, the variable grant percentage cost shall be given by the following formula:

$$P = 1,5 - \frac{1}{9} \times N$$

So that:

P – represents the percentage cost, which shall vary between a maximum of 1.5% and a minimum of 0.5% of the CONCESSIONAIRE REVENUE;

N – represents the score of the Performance Indicators, as assessed annually by the GRANTING AUTHORITY, with support from the INDEPENDENT VERIFIER.

13.3.3. The GRANTING AUTHORITY shall, in accordance with ANNEX X, notify the DEPOSITARY BANK, in the form and periodicity indicated in said ANNEX, regarding the percentage to be deducted from the CONCESSIONAIRE REVENUE in each annual period.

13.3.4. Fulfillment of the CONCESSIONAIRE's PERFORMANCE INDICATORS shall be assessed in accordance with Clause Fifteen of this CONTRACT and ANNEX VII.

### **CLAUSE FOURTEEN – ON INSPECTION COSTS**

14.1. The CONCESSIONAIRE shall pay INSPECTION COSTS to the GRANTING AUTHORITY, corresponding to 0,5% (five tenths percent) of its REVENUE, throughout the entire CONCESSION TERM.

14.1.1. Revenue and payables of INSPECTION COSTS, upholding the maximum monthly periodicity, are regulated in ANNEX X, and the PARTIES shall take all necessary measures to comply with them effectively.

14.2. Provisions of Clause 13.2 and sub clause 13.2.1 shall be subject to collection of INSPECTION COSTS.

### **CLAUSE FIFTEEN – ON THE INDEPENDENT VERIFIER**



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15.1. The CONCESSIONAIRE shall contract a company or consortium of companies to act as an INDEPENDENT VERIFIER to assess compliance with the PERFORMANCE INDICATORS of this CONTRACT.

15.2. The INDEPENDENT VERIFIER, in the exercise of its activities and under the guidance of the GRANTING AUTHORITY, shall carry out all necessary measures to fulfill its duties, carrying out surveys and field measurements, and collecting information from the PARTIES, and shall therefore have access to all CONCESSION-related information and documents.

15.3. The assessment carried out by the INDEPENDENT VERIFIER shall use ANNEX VII as its reference, and reports devised by it shall be submitted to the GRANTING AUTHORITY until the 5th (fifth) working day, effective the CONTRACT anniversary date. Application of PERFORMANCE INDICATORS with the corresponding adjustment in the VARIABLE GRANT shall start on the 1st (first) day of the month, immediately following the anniversary of CONTRACT, and subject to the regulations of ANNEX X.

15.3.1. The PARTIES shall settle doubts or differences about the referred report between the date of delivery of the report by the INDEPENDENT VERIFIER, as stated above, and the starting date of the application of adjusted costs.

15.4. For purposes of contracting the INDEPENDENT VERIFIER, the CONCESSIONAIRE shall submit, for prior approval by the GRANTING AUTHORITY, and within up to 15 (fifteen) days from the date of execution of the TERM OF DELIVERY OF THE PUBLIC ASSET, at least 3 (three) companies or consortia of companies of recognized competence to act as INDEPENDENT VERIFIERS, subject to the requirements set forth under Clause Fifteen hereunder.

15.5. The GRANTING AUTHORITY shall issue a statement, within a maximum period of 15 (fifteen) consecutive days, effective the receipt of the appointment set forth under Clause 15.4 above, concerning the suitability of the companies or consortia of companies submitted by CONCESSIONAIRE, and shall approve a maximum of 3 (three) companies or consortia of companies to act as INDEPENDENT VERIFIERS. The CONCESSIONAIRE shall formalize, within a maximum period of 60 (sixty) days, effective the date of execution of the TERM OF DELIVERY OF THE PUBLIC ASSET, the entering into CONTRACT with 1 (one) of the companies or consortia of companies approved by the GRANTING AUTHORITY, to act as the INDEPENDENT VERIFIER.

15.5.1. If the GRANTING AUTHORITY rejects the list of appointments submitted by the CONCESSIONAIRE or approves less than 3 (three) companies or consortia of companies, the CONCESSIONAIRE shall submit another list(s) with complementary appointments, in accordance with the provisions above.

15.5.1.1 If, after submission of the second list with appointments of companies or consortia to act as INDEPENDENT VERIFIERS, one or two entities are approved, then the CONCESSIONAIRE shall be exempted from submitting new appointments.

15.5.1.2. If, after the second list of appointments, the GRANTING AUTHORITY has not approved any

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company or consortium of companies, CONCESSIONAIRE shall submit another list of appointments, and so on, under the same terms set forth in Clause 15.4, until the GRANTING AUTHORITY ratifies a company(s) or consortium(s) of companies to act as the INDEPENDENT VERIFIER in this CONCESSION.

15.5.2. The rejection, by the GRANTING AUTHORITY, of the choices for INDEPENDENT VERIFIERS appointed by the CONCESSIONAIRE shall always occur in a motivated and reasonable manner, by signaling the requirement(s) that were not met by the CONCESSIONAIRE's nominations.

15.6. The CONCESSIONAIRE shall, at each annual verification cycle, replace the Contracted INDEPENDENT VERIFIER, provided it is replaced by another company or consortium of companies previously approved by GRANTING AUTHORITY.

15.6.1. Annually, at least 45 (forty-five) days before the date of delivery of the report produced by the INDEPENDENT VERIFIER on the annual assessment of CONCESSIONAIRE PERFORMANCE INDICATORS, the CONCESSIONAIRE shall submit new nominations for INDEPENDENT VERIFIERS for approval by the GRANTING AUTHORITY, in addition to or replacing those already approved, while upholding the same term contained in Clause 15.4 above, and a maximum of 3 (three) companies or consortia of approved companies shall be maintained to act as the CONCESSION's INDEPENDENT VERIFIERS.

15.6.2. The list of companies or consortia of companies approved, as set forth in subparagraph 15.6.1 above, shall be valid effective the verification cycle immediately after the one in which the approval by the GRANTING AUTHORITY was given, and for the term during which the approval lasts.

15.7 THE INDEPENDENT VERIFIER shall meet the following requirements:

I. have complete impartiality and no conflict of interest in regard to the PARTIES to this CONCESSION CONTRACT;

II. have provenly performed services of similar characteristics in undertakings or projects compatible with the object of the CONCESSION;

III. submit a Work Plan demonstrating the methodology to be applied in conducting the work to assess the performance of the CONCESSIONAIRE in compliance with the CONTRACT, with reference to ANNEX VII;

IV. not be a controlling, subsidiary or affiliated company, not be under common control in regard to the CONCESSIONAIRE, or belong to its ECONOMIC GROUP or shareholders;

V. not be subject to liquidation, intervention or Special Temporary Bankruptcy Management - RAET or having declared bankruptcy;

VI. have a technical team of higher-level experts, professionally qualified in areas related to the exploitation activity of the object of the CONCESSION.

15.8. The technical training of the members of the INDEPENDENT VERIFIER team, which deals with item VI of Clause 15.7, shall also entail:

I. a statement by each nominated professional agreeing to be included in the team;

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II. a resumé of each indicated professional containing, at the minimum, the following information: full name, date of birth, nationality, proposed position, work relationship, education, extension and postgraduate courses, list of participation in services or projects with client identification; and

III. declaration that they shall act with impartiality and technical independence in regard to CONCESSION CONTRACT PARTIES.

15.9 The experience required of the INDEPENDENT VERIFIER shall be proven by the company or consortium of companies, or by members of the related technical team.

15.10 The INDEPENDENT VERIFIER shall be replaced by another verifier on the list approved by GRANTING AUTHORITY, as set forth under Clause 15.5, in case of failure in fulfilling the requirements specified in this Clause while the CONCESSION CONTRACT is in force.

15.11. Replacement of the INDEPENDENT VERIFIER does not exempt it from any of the responsibilities taken on until then.

15.12. Compensation of the INDEPENDENT VERIFIER shall be the responsibility of the CONCESSIONAIRE, without any burden to the GRANTING AUTHORITY.

15.13. The PARTIES may, at any time, request information or clarifications directly from the INDEPENDENT VERIFIER, always with a copy of the request submitted to the other PARTY.

15.13.1. The PARTIES declare that the activity to be carried out by the INDEPENDENT VERIFIER shall consist in supporting oversight of the CONTRACT and that, for this purpose, the delivery of opinions and analyses by the INDEPENDENT VERIFIER shall be made, jointly and at the same time, to GRANTING AUTHORITY and CONCESSIONAIRE.

**CLAUSE SIXTEEN – THE CONCESSION ASSET SYSTEM**

16.1. The CONCESSION is composed of:

I. the CONCESSION AREA, as set forth under ANNEX I, with all the building projects and facilities thereunder, except those expressly indicated as excluded from the object of the CONCESSION, according to ANNEX II;

II. all equipment, machinery, apparatus, accessories and facilities in general, as well as all other assets bound to CAMINHOS DO MAR's operations and maintenance transferred to the CONCESSIONAIRE or incorporated by it to the CONCESSION AREA during the CONCESSION TERM;

III. the assets, movable or immovable, acquired, incorporated, elaborated or constructed by the CONCESSIONAIRE, throughout the CONCESSION TERM, as well as all improvements, regardless of being useful or for mere pleasure, accessions, physical or intellectual, incorporated to the CONCESSION AREA during the CONCESSION TERM, as a result of construction works or investments made by the CONCESSIONAIRE, even if resulting from non-mandatory investments and which are used in CAMINHOS DO MAR's operations and maintenance;

IV. all MINIMUM STARTING INVESTMENT, as well as ADDITIONAL INVESTMENTS that shall be required throughout the CONCESSION TERM, including movable assets necessary for the



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exploitation of the CONCESSION AREA, as explored by the CONCESSIONAIRE, provided they relate to the MINIMUM STARTING INVESTMENT or to the ADDITIONAL INVESTMENTS.

16.1.1. All specifications regarding assets to be added to the CONCESSION related to MINIMUM STARTING INVESTMENTS, in addition to specifications on conditions for making investments and general interventions in the CONCESSION AREA, are listed in ANNEXES II and III and shall be fulfilled by the CONCESSIONAIRE, under penalty of verification of contractual default and enforcement of applicable penalties.

16.2. All assets that are part of or shall be part of this CONCESSION shall be considered REVERSIBLE ASSETS for purposes of this CONTRACT and the applicable law, with all relevant provisions applicable to them.

16.2.1. All assets considered in this CONTRACT as REVERSIBLE ASSETS shall be owned by the CONCESSIONAIRE or the GRANTING AUTHORITY, subject to the relevant legal and accounting regulations.

16.3. The possession, custody, maintenance and surveillance of the assets belonging to the CONCESSION are the responsibility of the CONCESSIONAIRE.

16.4. The CONCESSIONAIRE undertakes to maintain, in full conditions of use, conservation and security, at its expense, the CONCESSION ASSETS during the CONTRACT term, carrying out, for this purpose, repairs, renovations and adaptations required to ensure the quality and sound performance of all activities foreseen under this CONCESSION.

16.5. The CONCESSIONAIRE is expressly authorized to recommend, on its behalf, legal measures to ensure or recover possession of CONCESSION ASSETS.

16.6. The CONCESSIONAIRE is fully responsible for maintaining the REVERSIBLE ASSET INVENTORY in current conditions, and any act that shall characterize the attempt or the consummation of fraud, through fault or willful misconduct, in the characterization of the assets comprising the CONCESSION, shall be deemed an infraction subject to penalties described hereunder, notwithstanding other sanctions resulting from the current legislation.

16.7. CONCESSION ASSETS shall be properly registered in the CONCESSIONAIRE's books, so as to enable their swift identification by the GRANTING AUTHORITY, including their distinction in regard to exclusively private assets, while upholding current accounting regulations.

16.8. At the end of the REVERSIBLE ASSETS' useful lives, the CONCESSIONAIRE shall immediately replace them with new and similar assets of equal or superior quality, in compliance with obligations to continue providing the services covered by this CONTRACT and, most of all, the mandatory technological update and service to PERFORMANCE INDICATORS, subject to the relevant contractual provisions.

16.9. Replacement of REVERSIBLE ASSETS during the CONCESSION TERM does not authorize any claim for economic-financial recovery of the CONTRACT by any of the PARTIES.

16.9.1. The CONCESSIONAIRE declares, upon celebrating this CONTRACT, that all necessary costs for the replacement, substitution and ordinary maintenance of REVERSIBLE ASSETS have already been considered in its PRICE PROPOSAL, reason why there shall be no compensation, as well as no contractual imbalance due to replacement, maintenance or substitution of REVERSIBLE ASSETS by the CONCESSIONAIRE.

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- 16.10. All originally planned investments in this CONCESSION CONTRACT, including maintenance and replacement of REVERSIBLE ASSETS, shall be depreciated and amortized by the CONCESSIONAIRE during the CONCESSION TERM, whereas claims or compensation claims for any unamortized balance at the end of the CONCESSION TERM, in regard to these assets, shall not be permitted.
- 16.10.1. In the event of early termination of the CONTRACT, amortization of investments made by the CONTRACTED PARTY shall meet the provisions of Chapter IX.
- 16.11. The CONCESSIONAIRE gives, free of charge and definitely, to the GRANTING AUTHORITY and future SUCCESSORS of CAMINHOS DO MAR, license to use the studies, projects and other works of intellectual nature, created and used while devising the project, as well as their respective intellectual property rights (including the right to make and use derivative works), including in future concession contracts, and without any restrictions in the event of conditional continuity of service provision, its update and/or review.
- 16.11.1. The CONCESSIONAIRE authorizes the GRANTING AUTHORITY to use all collected and shared information as part of its inspection activities, for purposes of research, development and transparency, as well as improvements in their inspection activities.
- 16.12. The sale, assignment or transfer to third parties, in any capacity, of the REVERSIBLE ASSETS, shall depend on the prior consent given by the GRANTING AUTHORITY, as set forth hereunder, except for replacement of movable assets, aiming at maintaining the respective useful life under the terms set forth under Clause 16.8 .
- 16.12.1. When consent is required, the GRANTING AUTHORITY shall issue its decision on the sale, constitution of encumbrances or transfer, of any kind, of the CONCESSION's REVERSIBLE ASSETS by the CONCESSIONAIRE to third parties, within a period compatible with the complexity of the situation, and which cannot exceed 60 (sixty) days, effective receipt of the prior consent submitted by the CONCESSIONAIRE.
- 16.12.2. The GRANTING AUTHORITY shall, during the term of the CONTRACT, notify the CONCESSIONAIRE on situations of prior consent that was waived, as mentioned in Clause 12.16, provided the requirements set forth in this notification are fulfilled.
- 16.12.3. All of the CONCESSIONAIRE's legal matters with third parties concerning REVERSIBLE ASSETS shall expressly mention the REVERSIBLE ASSETS tied to the CONCESSION.
- 16.12.4. Any and all disposals or acquisitions of assets that qualify as REVERSIBLE ASSETS, and which the CONCESSIONAIRE intends to carry out in the last two (2) years of the CONCESSION TERM, shall not be objected by the GRANTING AUTHORITY.
- 16.12.4.1. The GRANTING AUTHORITY shall issue a statement, in writing, within fifteen (15) days on the CONCESSIONAIRE's request, whereas it shall be deemed that in the event that the GRANTING AUTHORITY fails to speak up, no objection has been granted.
- 16.13. Assets employed or used by the CONCESSIONAIRE that are not included in the INVENTORY, and that do not qualify as REVERSIBLE ASSETS, shall be considered exclusively private assets, and shall be freely used and transferred by the CONCESSIONAIRE, notwithstanding its duty to comply with the PERFORMANCE INDICATORS and other provisions hereunder.

**CLAUSE SEVENTEEN – ON INTERVENTIONS AND INVESTMENTS**

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17.1. The CONCESSIONAIRE undertakes to carry out, at its own risk, whether directly or indirectly, the MINIMUM STARTING INVESTMENT specified in ANNEX II, and subject to the conditions set forth under ANNEX III, the deadlines and other conditions established thereunder, notwithstanding investments deemed necessary for the full development of this CONCESSION.

17.1.1. Within 180 (hundred and eighty) days from the DATE OF EXECUTION, the CONCESSIONAIRE shall submit its INTERVENTION PLAN to the GRANTING AUTHORITY, which shall include the PHYSICAL-EXECUTIVE TIMETABLE and submit detailed information, using initial, intermediate and final milestones on each one of the interventions foreseen by the CONCESSIONAIRE, including the MINIMUM STARTING INVESTMENT.

17.2. The CONCESSIONAIRE is responsible for developing and keeping engineering projects up-to-date on all construction works, interventions and investments, as required under the conditions and specifications in ANNEX III.

17.3. Approval, “non-objection” or receipt, by the GRANTING AUTHORITY, of plans, projects or studies submitted by the CONCESSIONAIRE does not entail any responsibility on behalf of the GRANTING AUTHORITY, does not change the risk matrix provided for under this CONTRACT, and does not exempt the CONCESSIONAIRE, whether totally or partially, of its obligations arising from this CONTRACT or relevant legal or regulatory provisions, and it shall remain responsible for any imperfections or flaws in the project or the quality of services provided.

17.3.1. The CONCESSIONAIRE shall not object to the GRANTING AUTHORITY making any exceptions or defenses to exempt all or part of its contractual obligations, based on facts arising from the contractual relationships with any subcontractors.

17.4. All milestones and stages, including initial and intermediate milestones submitted in the INTERVENTION PLAN and established to monitor the progress of the MINIMUM STARTING INVESTMENT, shall be duly and timely fulfilled by the CONCESSIONAIRE, under penalty of penalties applied, as provided for under this CONTRACT, as well as other applicable consequences.

17.4.1. Delays in fulfilling milestones set for attaining the MINIMUM STARTING INVESTMENT, both those that indicate the beginning and those which establish the end of each construction stage of the construction works, shall give rise to penalties for the CONCESSIONAIRE, notwithstanding the possibility of rescheduling the timetable, subject to the regulations in Clause 44.6.

17.5. Together with devising or reviewing the INTERVENTION PLAN, the CONCESSIONAIRE shall carry out any reviews needed in the respective INSURANCE PLAN, which shall point to the list of assessments and instruments to be executed by the CONCESSIONAIRE, with the purpose of unconditionally ensuring all obligations and investments.

17.5.1. Contracting corresponding insurance and bonds is a condition for starting the execution of each investment or construction work stage.

### **CLAUSE EIGHTEEN – ON MONUMENT RESTORATION**

18.1. Pursuant to ANNEX III, the CONCESSIONAIRE shall carry out, whether directly or indirectly, RESTORATION works.

18.1.1. The CONCESSIONAIRE shall use monument facilities for purposes of commercial exploitation, pursuant to ANNEXES III, IV and IX.



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- 18.2. To carry out these RESTORATION works, the CONCESSIONAIRE shall abide by the executive project, duly approved before the competent authorities, as set forth under ANNEX IV.
- 18.3. The costs of RESTORATION works shall be the CONCESSIONAIRE's risk and responsibility, which shall receive the funds deposited in the RESTORATION FUND ACCOUNT in accordance with fulfillment of the DISBURSEMENT EVENTS.
- 18.3.1. RESTORATION FUNDS to be provided by the FOREST FOUNDATION OF THE STATE OF SÃO PAULO in the RESTORATION FUND ACCOUNT shall correspond to the difference between the RESTORATION PRICE and the sum deposited by the CONCESSIONAIRE in the RESTORATION ACCOUNT, from the FIXED GRANT in the PRICE PROPOSAL.
- 18.3.2. Any variation between estimated costs hereunder as the RESTORATION PRICE, and expenses actually incurred by the CONCESSIONAIRE for carrying out the RESTORATION works regulated in ANNEX I V, shall be the responsibility of the CONCESSIONAIRE, not incurring payment for any economic-financial recovery in favor of the CONCESSIONAIRE or the GRANTING AUTHORITY.
- 18.3.3. The act of determining the RESTORATION FUND, as well as the DISBURSEMENT EVENTS, shall comply with the regulations in ANNEX IV.
- 18.4. The FF, whether directly or indirectly, shall be responsible for inspecting, verifying and monitoring RESTORATION works, as set forth under ANNEXES III and IV.
- 18.5. All milestones and stages, including initial and intermediary milestones included in the RESTORATION works timetable referred to in clause VII of Clause 5.5, shall be duly and timely fulfilled by the CONCESSIONAIRE, under penalty of incurring the penalties provided for hereunder, as well as other applicable consequences.
- 18.5.1. Delays in reaching milestones established for carrying out RESTORATION works, both those that indicate the beginning and those that establish the end of each construction stage of the works, shall result in penalties to the CONCESSIONAIRE, notwithstanding the possibility of rescheduling the timetable, subject to the regulations set forth under Clause 44.6.

**CLAUSE NINETEEN – ON CAMINHOS DO MAR OPERATIONS AND OPERATING CONDITIONS**

- 19.1. The CONCESSIONAIRE is obliged to carry out CAMINHOS DO MAR's operational activities, as well as to keep them constantly and permanently running, taking into account the minimum operational and conservation conditions, at its own risk, and in compliance with the relevant legislation, the provisions of this CONTRACT and ANNEXES, the MANAGEMENT PLAN and the best practices recognized for these activities, in addition to PERFORMANCE INDICATORS.
- 19.1.1. Within 120 (one hundred twenty) days effective the DATE OF EXECUTION, the CONCESSIONAIRE shall submit its MANAGEMENT and OPERATION PLAN to the GRANTING AUTHORITY, which shall describe the processes and routines of CAMINHOS DO MAR's operations, management and maintenance by the CONCESSIONAIRE, as set forth under ANNEX II.
- 19.2. Effective the entering into of the TERM OF DELIVERY OF THE PUBLIC ASSET, the CONCESSIONAIRE shall assume operations of CAMINHOS DO MAR until termination of this CONTRACT.

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**CLAUSE TWENTY – ON MECHANISMS TO PRESERVE CURRENT CIRCUMSTANCES AND INCORPORATE NEW TECHNOLOGIES**

- 20.1. The CONCESSIONAIRE shall comply with current technologies in exploiting the object of this CONTRACT, thus characterized by preserving modern and updated equipment, facilities and, as set forth under Clause 20.9, also with techniques in rendering services and performing activities related to exploitation of the CONCESSION AREA, provided the current technologies are needed due to (i) obsolescence of CONCESSION ASSETS specified in Clause Sixteen or (II) the need to comply with PERFORMANCE INDICATORS and other requirements set forth hereunder and in the ANNEXES .
- 20.2. The CONCESSIONAIRE shall implement, regardless of the decision made by the GRANTING AUTHORITY, all necessary measures to fulfill its contractual obligations, including in regard to PERFORMANCE INDICATORS, subject to the provisions of the CONTRACT and ANNEXES hereunder .
- 20.3. The CONCESSIONAIRE shall take into account the useful life of the CONCESSION ASSETS and their proper use and operation, and shall, when necessary, replace them with other assets and equipment that has updated technology and operational conditions identical to or superior to the ones replaced.
- 20.4. Updated technological obligations entail situations in which the CONCESSIONAIRE, pursuant to the provisions in Clause 20 .3, and aimed at meeting PERFORMANCE INDICATORS and other requirements set forth under the CONTRACT and its ANNEXES, performs updates and improvements on CONCESSION ASSETS, upon request by their manufacturers.
- 20.5. The technological obsolescence of CONCESSION ASSETS shall be characterized when, during the CONCESSION TERM, relevant losses in their initial functions take place or, still, they are unable to meet the PERFORMANCE INDICATORS and other requirements established in the CONTRACT and ANNEXES.
- 20.6. Potential cases of poor conservation or absence of maintenance of the CONCESSION ASSETS by the CONCESSIONAIRE are not included within the scope of Clause 20 .5, with said cases to be governed by specific regulations provided for hereunder and in the ANNEXES.
- 20.7. CONCESSIONAIRE expenses and investments carried out in order to ensure that the CONCESSION is up-to-date, including meeting PERFORMANCE INDICATORS and other requirements established in the CONTRACT and in the ANNEXES, shall be amortized within the CONCESSION TERM, and shall not entitle the CONCESSIONAIRE to any right to indemnity or economic-financial recovery.
- 20.8. The provisions set forth under Clauses 20.1 to 20.7 of this CONTRACT are not to be confused with the possibility of deploying and incorporating technological innovations by the CONCESSIONAIRE, at its discretion or upon decision taken by the GRANTING AUTHORITY.
- 20.9. Subject to the provisions of Clause Twenty hereunder, technological innovations are considered, for purposes of the CONTRACT, any technologies that at the time of their potential adoption and incorporation by the CONCESSIONAIRE, constitute state-of-the-art technology and do not have widespread use in the commercial park industry, environmental assets or other assets intended for public use, and whose use, despite having the potential to provide efficiency and productivity gains within the CONCESSION , is essential for meeting PERFORMANCE INDICATORS and other elements initially provided for under the CONTRACT and its ANNEXES.

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- 20.10. The CONCESSIONAIRE shall have full liberty to incorporate, during the CONCESSION, technological innovations in the context of the economical exploitation of CAMINHOS DO MAR, subject to the provisions in Section XVII hereunder, without the CONCESSIONAIRE being entitled to any right to economic-financial balance.
- 20.11. The incorporation of technological innovations by the CONCESSIONAIRE, if decided as such by the GRANTING AUTHORITY, entails the recovery of the economic-financial balance of the CONTRACT, as set forth under Clause XXVIII.
- 20.11.1. In the potential case specified in Clause 20.11, PERFORMANCE INDICATORS shall be updated by the GRANTING AUTHORITY so as to account for performance improvements, if these exist, relating to the incorporation of specific technological innovations.
- 20.12. The incorporation of technological innovations by decision of the GRANTING AUTHORITY, under any circumstances and subject to the provisions in Clause 20.1 1, shall only occur pursuant to ordinary or extraordinary reviews, as set forth under Clauses Thirty and Thirty-one, and shall give rise to the previous recovery of the economic-financial balance of the CONCESSION.
- 20.13. The provisions of this Clause do not dismiss the CONCESSIONAIRE'S obligations of adopting, implementing and defraying any and all procedural and/or operational measures, including those of tax, labor and/or environmental nature, determined by inspection agents other than SIMA or FF, and which shall not entitle the CONCESSIONAIRE to any indemnification or economic-financial recovery as a result of said measures, in case these determinations fail to denote a risk or responsibility factor to the GRANTING AUTHORITY, under the terms of this CONTRACT.

### CHAPTER III – ON THE PARTIES' OBLIGATIONS AND THE CONTRACT'S FINANCIAL BALANCE

#### CLAUSE TWENTY- ONE - MAIN RIGHTS AND OBLIGATIONS OF THE CONCESSIONAIRE

- 21.1. The following are the main rights and obligations of the CONCESSIONAIRE, notwithstanding other obligations specified hereunder, whereas failure to comply with them shall lead to penalties in accordance with the regulations hereunder:
- I. using and exploring the CONCESSION AREA in accordance with the provisions set forth hereunder, in the ANNEXES, MANAGEMENT PLAN and applicable legislation;
  - II. carrying out the MINIMUM STARTING INVESTMENT established in ANNEX II;
  - III. carrying out RESTORATION works in accordance with the specifications and requirements specified hereunder and in the ANNEXES;
  - IV. using the CONCESSION AREA as deemed fit, provided all activities are attuned to its use, with the MANAGEMENT PLAN, the state and municipal regulations that govern the matter, and not breaching the prohibitions provided for under this CONTRACT and its ANNEXES;
  - V. using the Highway SP-148 stretch located in the CONCESSION AREA, in accordance with the provisions of this CONTRACT, ANNEXES II and III, and the applicable legislation;
  - VI. bearing all costs pertaining to electricity, water, and all utilities accrued in the CONCESSION AREA, as well as all taxes resulting from these activities;



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- VII.ensuring free access, at any time, to the persons in charge, by the GRANTING AUTHORITY, for inspecting its facilities and the places where activities related to the object of CONCESSION are developed;
- VIII.providing all information requested by the GRANTING AUTHORITY within the deadlines and time spans determined;
- IX.providing the Advisory Board of the Conservation Unit , annually , within 90 (ninety) days following every anniversary of the CONCESSION CONTRACT, with a general review on all activities undertaken and, upon request, attending regular Board meetings, with the consent of the GRANTING AUTHORITY;
- X.taking all measures and obtaining permits related to the environmental legislation and other specific authorizations for the regular exercise of its activities;
- XI.ensuring the integrity of the CONCESSION ASSETS;
- XII.notifying all contracted companies that provide services related to the object of the CONCESSION on relevant issues concerning the execution of the contracted scope, the provisions of this CONCESSION CONTRACT, all regulations that apply to the development of activities for which they were contracted, and the provisions related to environmental protection, and use and exploitation of the CONCESSION AREA;
- XIII.repairing any and all damages in the CONCESSION AREA, in communication routes, water and sewage pipes, electricity, gas pipes, telecommunications grids and respective equipment, and any other INTERFERENCES, in compliance with Clause 21.3, as well as in any third party assets, as a result of economic exploitation of CAMINHOS DO MAR or the performance of any activity under its responsibility , with the exception of damages caused by fault or willful misconduct by the GRANTING AUTHORITY;
- XIV.making the payment of the VARIABLE GRANT to the FF, and INSPECTION COSTS to the GRANTING AUTHORITY ;
- XV.notifying the GRANTING AUTHORITY on any judicial or administrative procedures or notifications resulting from issues related to the CONCESSION CONTRACT, including terms and procedural deadlines, and employing their best efforts to uphold common interests, performing all procedural acts required for that purpose;
- XVI.keeping the GRANTING AUTHORITY free of any disputes, assuming , when accepted by the Judiciary, the position of the party, and when the procedural replacement is rejected or maintained jointly, assuming the conduct of the proceedings and sponsorship of any lawsuits filed by third parties due to the execution of the object of this CONCESSION CONTRACT;
- XVII.keeping, during the CONCESSION TERM, all capacity and qualification conditions required in the BIDDING PROCESS, which are necessary for the continued exploitation of the CONCESSION ASSETS;
- XVIII.meeting legal determinations related to labor laws, social security, occupational safety and health regarding their employees, and being accountable for all payroll, labor and social security charges levied on the cost of labor of employed work, as well as insurance for occupational accidents;
- XIX.keeping, at the GRANTING AUTHORITY's disposal, if required, a copy of the contractual instruments entered into by the CONCESSIONAIRE with third parties related to subcontracted services, as well as those related to investments, acquisitions and services related to the CONCESSION ASSETS;

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- XX.forwarding immediately after they are executed and keeping at the GRANTING AUTHORITY's disposal, if required, a copy of the contractual instruments executed by the CONCESSIONAIRE with third parties, relating to services and activities that generate or shall generate REVENUE;
- XXI.maintaining and preserving all assets, equipment and facilities of the CONCESSION AREA in perfect working conditions, promoting replacements requested due to wear and tear or outdated technology, or even carrying out repairs or refurbishments needed for the proper execution and preservation of adequate activities and services, as determined hereunder;
- XXII.in the event of earthmoving events, even if covered by the risk taken on by the GRANTING AUTHORITY, as set forth under Clause 25.1, item VII , taking all measures within its powers to resume regular operations, with the purpose of mitigating the impact of the event, with Clause 25.1, item VII providing for the economic-financial recovery of the CONTRACT.
- XXIII.indemnifying and maintaining the GRANTING AUTHORITY indemnified due to any claim or loss it shall suffer due to, among other things:
- a. disbursements resulting from judicial or arbitration orders of any kind, even if with additional interest rates and legal charges, to satisfy obligations originally imputable to the CONCESSIONAIRE , including labor claims filed by employees or third parties linked to the CONCESSIONAIRE, as well as damages to USERS or determinations made by control and inspection agencies;
  - b. any act practiced by the CONCESSIONAIRE, its administrators, employees, agents, service providers, third parties with whom it has contracted, or any other individual or legal entity related to it;
  - c. tax, labor, social security or accident-related issues related to CONCESSIONAIRE employees and contracted third parties;
  - d. Environmental damages caused by the CONCESSIONAIRE in the CONCESSION AREA and its surroundings;
  - e. procedural expenses, legal fees and other charges which it may need to bear due to the events described in this paragraph;
  - f. the CONCESSIONAIRE's liability shall continue even after the CONTRACT is terminated, and the GRANTING AUTHORITY may seek reimbursement from partners of the CONCESSIONAIRE, in accordance with corporate law, in the event of dissolution of the legal person.
- XXIV.maintaining accounting and financial statements in accordance with accounting practices adopted in Brazil, in regulations issued by the Federal Accounting Council – CFC, and in the Interpretations, Guidelines and Pronouncements of the Accounting Pronouncements Committee - CPC;
- XXV.following up on any proposals for changes to the unit's MANAGEMENT PLAN, which shall result in the event specified in Clause 25.1, item V , as well as notifying the GRANTING AUTHORITY, prior to the approval of the changes, on the impact of the change on the CONTRACT;
- XXVI.maintaining the contractual PERFORMANCE BOND and the necessary insurance in accordance with the terms of this CONCESSION CONTRACT;



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- XXVII.ensuring that adequate visual communication is made available in all facilities and establishments where USERS are allowed within the CONCESSION AREA, posting adequate legible signs containing telephone numbers, other electronic channels and addresses of the customer service office, so as to make clear that it is a distinct company from the GRANTING AUTHORITY;
- XXVIII.adopting measures to prevent, restrict or discourage vehicles from parking or staying on the banks of Highway SP-148, in the CONCESSION AREA , notifying the competent authorities to take appropriate measures in checking potentially illicit conduct;
- XXIX.adopting measures to prevent users from feeding animals;
- XXX.providing an environmentally sustainable destination for all waste as well as deploying proper management aimed at energy efficiency and reducing consumption of water resources in specific areas;
- XXXI.notifying competent authorities immediately, and as soon as possible, on any occurrences in the exercise of their activities that jeopardize the environmental integrity of the CONCESSION AREA or of PESM;
- XXXII.adopting all reasonably required measures to prevent occurrences of damages or accidents to CAMINHOS DO MAR USERS, employees, outsourced personnel or persons related in any way to CONCESSIONAIRE, or to any persons who are within the CONCESSION AREA, as well as adopting all necessary mobile urgent care or outpatient care measures available to mitigate any damages that have occurred or to assist injured people inside the CONCESSION AREA, immediately notifying the competent authorities;
- XXXIII.taking all reasonable steps to prevent any kind of theft, robbery, damage or injury to CAMINHOS DO MAR USERS, employees, outsourced personnel or persons related in any way to CONCESSIONAIRE, or to any persons inside the CONCESSION AREA;
- XXXIV.submitting to the INDEPENDENT VERIFIER and the GRANTING AUTHORITY all data and information necessary to verify the PERFORMANCE INDICATORS;
- XXXV.implementing and maintaining, within 360 (three hundred and sixty) days from the DATE OF EXECUTION, a compliance program in its scope, consisting of internal mechanisms and procedures of integrity, auditing and encouraging the report of irregularities, and in the effective application of codes of ethics and conduct, policies and guidelines in order to detect and remedy deviations, frauds, irregularities and illegal acts against the GOVERNMENT, all in prestige to Federal Act 12.846/2013 (Anti Corruption Law);
- XXXVI.providing, during the entire CONCESSION TERM, approvals from physical and/or intangible asset heritage protection agencies needed due to heritage site listings and records, present and future, imposed on the area, as well as to deal with any financial-economic impacts regarding historic places and records already existing on the date of the PROPOSAL;
- XXXVII.adopting all measures to mitigate and control epidemiological or health risks in the CONCESSION AREA , arising from internal or external factors, notwithstanding the application of the other provisions set forth under the CONTRACT for events constituting fortuitous or force majeure circumstances.
- 21.2. The responsibility of the CONCESSIONAIRE shall endure even after the end of the CONTRACT, allowing the GRANTING AUTHORITY, SIMA, the FF or other competent institution, to claim reimbursement for

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any losses arising from obligations under this CONTRACT, including CONCESSIONAIRE shareholders, under corporate law in the event of dissolution of the Special Purpose Company.

- 21.3. The obligation of the CONCESSIONAIRE to deal with any INTERFERENCES, provided for under item XIII of Clause 21.1, does not dismiss the right to economic-financial recovery in the event that the risk of the respective INTERFERENCE is allocated to the GRANTING AUTHORITY, provided other assumptions of the recovery are met.
- 21.4. The obligation of the CONCESSIONAIRE to provide, throughout the duration of the CONCESSION, approvals for defense of physical and/or intangible assets that shall be necessary due to future heritage sites and future registrations, imposed on the area after the date of submission of the PROPOSAL, provided for under item XXXVI of Clause 21.1, does not impair the right to economic-financial recovery in the event that the risk of the respective registration or listing as a heritage site is allocated to the GRANTING AUTHORITY, provided other conditions for recovery are observed.

**CLAUSE TWENTY- TWO - MAIN RIGHTS AND OBLIGATIONS OF THE GRANTING AUTHORITY**

22.1. The main rights and obligations of the GRANTING AUTHORITY, notwithstanding other obligations set forth hereunder, are:

- I. transferring to the CONCESSIONAIRE, by entering into the TERM OF DELIVERY OF THE PUBLIC ASSET, the direct ownership and control of the CONCESSION AREA, as set forth under the CONTRACT and its ANNEXES;
- II. employing one's best efforts to collaborate in securing all necessary permits and approvals for the CONCESSIONAIRE, so that it can comply with the object of this CONTRACT, including joint participation in meetings and submitting statements that shall be necessary;
- III. inspecting construction work projects to be implemented or modified in the CONCESSION AREA, so as to underscore the purpose of the proper implementation of the execution of the object;
- IV. monitoring compliance with standards and regulations relating to the implementation of the CONCESSION object;
- V. monitoring the execution of the CONTRACT, ensuring sound quality in the exploitation of CONCESSION, including receiving, investigating and referring complaints from USERS, in addition to appropriately applying all necessary measures, notwithstanding other regulation prerogatives, inspection and monitoring provided for under this CONTRACT and the applicable legislation;
- VI. inspecting all facilities with the purpose of verifying the full conservation of the granted asset, in addition to evaluating the technical resources used by the CONCESSIONAIRE in the exploitation of the CONCESSION ;
- VII. carrying out periodic auditing of accounting, economic and financial nature, or any other relevant aspect, and if deemed necessary, contracting an expert auditing company for the CONCESSIONAIRE's books and records, so as to prevent the occurrence of situations that might jeopardize the exploitation of the CONCESSION and the conservation and the public use of CAMINHOS DO MAR, notwithstanding the exercise of oversight activities under its competence;
- VIII. properly grounded decisions, permits, approvals, orders, or other acts hereunder;

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IX.monitoring the quality and performance of the CONCESSIONAIRE in carrying out the object of this CONTRACT;

X.overseeing, in accordance with a program established jointly with the CONCESSIONAIRE, the development of engineering designs and studies, and expanding its best efforts to minimize the deadlines for necessary approvals;

XI.providing institutional support for necessary understandings, along with other public agencies, where the implementation of these responsibility services interferes in the activities provided for in the object of the CONTRACT, without any change in the risks taken on by each of the PARTIES hereunder; and

XII.undertaking to preserve the economic-financial balance of the CONTRACT.

XIII.conserving and managing the CONCESSION AREA during the term between the execution of the CONTRACT and the execution of the TERM OF DELIVERY OF THE PUBLIC ASSET, as well as enabling CONCESSIONAIRE representatives to access the CONCESSION AREA, where said access does not impair on-site events or activities, in order to carry out studies, inspections and measures needed to secure permits and approvals for carrying out construction works, notwithstanding the possibility of applying sub-paragraph 8.1.5.

**CLAUSE TWENTY- THREE - MAIN RIGHTS AND OBLIGATIONS OF USERS**

23.1. Notwithstanding the applicable legislation, the following are rights and obligations of CAMINHOS DO MAR USERS:

I.receiving an ADEQUATE SERVICE, pursuant to the quality and performance standards specified in the CONTRACT and its ANNEXES;

II.receiving information from the GRANTING AUTHORITY and the CONCESSIONAIRE to uphold individual or collective interests and for the correct use of CAMINHOS DO MAR;

III.receiving information from the CONCESSIONAIRE on prices charged at CAMINHOS DO MAR, including, but not limited to, TICKET prices;

IV.communicating with the CONCESSIONAIRE through different systems and customer service channels, especially through the CUSTOMER SERVICE OFFICE, customer service in social media, among others;

V.notifying the GRANTING AUTHORITY and the CONCESSIONAIRE on irregularities that they have become aware of concerning implementation of services, management of CAMINHOS DO MAR and other conditions of visitation and public use relating to the CONCESSION AREA;

VI.notifying the competent authorities on unlawful acts committed by the CONCESSIONAIRE in its exploitation of the CONCESSION;

VII.contributing to keeping the assest comprising the CONCESSION, through which services are provided, in sound conditions;

VIII.complying with legal and regulatory obligations related to the visitation and public use of CAMINHOS DO MAR;

IX.and being covered by the insurance provided for hereunder, as applicable.



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**CLAUSE TWENTY- FOUR – RISKS OF THE CONCESSIONAIRE**

24.1. The CONCESSIONAIRE assumes full responsibility for all risks inherent to operations and implementation of services and activities provided for in the object of this CONTRACT, except for those expressly that are in contradiction of this CONTRACT, and including the following major risks:

**Engineering, Construction and Operational Risks**

- I.errors, omissions or changes in engineering designs, including the CONCESSIONAIRE's execution and/or technology methodology;
- II.urban and environmental restrictions regarding projects considered by the CONCESSIONAIRE to form its PRICE PROPOSAL;
- III.risks arising from the technology(s) or technique(s) employed in executing the activities that are object of the CONCESSION, and failure of technological innovations introduced by the CONCESSIONAIRE ;
- IV.embargo of construction works or activities pursuant to the object of CONCESSION;
- V.construction work errors, including damages resulting from failures in safety at the construction site;
- VI.project errors, errors in estimating costs and/or expenses, errors in estimating time of completion of the construction works, or failure in planning and undertaking activities that are the object of the CONCESSION, construction work or equipment defects, and errors or failures caused by the CONCESSIONAIRE, by third parties or subcontracted companies contracted by the CONCESSIONAIRE;
- VII.any problems arising from the CONCESSIONAIRE's relationship with its subcontractors or outsourced personnel, including in regard to the business partnerships resulting thereof;
- VIII.interfacing and aligning construction works, equipment and systems with each other, and the materials and equipment belonging to the GRANTING AUTHORITY;
- IX.delays resulting from failure to secure permits, licenses and/or approvals of any kind, to be issued by administrative authorities, required for execution of the activities that are object of the CONCESSION , as well as any court orders to suspend its implementation, resulting in any of the cases mentioned in this item, of commissive or omissive acts on behalf of the CONCESSIONAIRE;
- X.provision of public utilities, such as electricity and water;
- XI.any interference with GOVERNMENT entities, including its concessionaires, permit holders and authorizers of public services or delegates of economic activities, for the execution of the activities that are the object of the CONCESSION ;
- XII.all risks inherent to the execution of the CONCESSION object with the quality required hereunder, including, but not limited to, investments, costs or additional expenses needed to meet the PERFORMANCE INDICATORS' fulfillment, in order to meet the obligation to preserve the current circumstances in the execution of the activities that are object of the CONTRACT, as well as technical standards and regulations provided for by law or hereunder;
- XIII.economic inefficiencies or losses resulting from failures, negligence, ineptitude or omission in the execution of the activities that are object of the CONCESSION;

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- XIV. problems, delays or inconsistencies in supplying inputs needed for carrying out activities covered by the CONCESSION CONTRACT;
- XV. visible flaws or defects in the CONCESSION AREA and the CONCESSION ASSETS;
- XVI. geological situation of the CONCESSION AREA, with regard to the construction works to be carried out;
- XVII. earthmoving related to embankments that are found within the CONCESSION AREA;
- XVIII. embargo of the venture due to the non-compliance by the CONCESSIONAIRE and/or its subcontractors, with regard to the guidelines and requirements resulting from the process of securing permits;
- XIX. partial interventions on Highway SP-148 resulting specifically from public utility or social interest-related construction works specified in ANNEX II, concerning the Project to Reinforce the Baixada Santista Gas Infrastructure;
- XX. costs that shall be payable, including material and/or moral damages to CAMINHOS DO MAR USERS, employees, outsourced personnel or persons related in any way to the CONCESSIONAIRE, or to any persons who are within the CONCESSION AREA, even if due to accidents, including those that result in death;
- XXI. handling of INTERFERENCES that shall be identified in carrying out interventions that are not part of the MINIMUM STARTING INVESTMENT or ADDITIONAL INVESTMENTS, and all consequences related to them, including the burden arising from the need to remove or move, as well as other costs associated with the measures that shall be necessary.

### **Economic and Financial Risks**

- XXII. REVENUE projections considered in the PRICE PROPOSAL, and any type of recovery of the economic-financial balance of the CONCESSION CONTRACT not possible due to alteration, non-confirmation or losses resulting from the frustration of the estimated REVENUE;
- XXIII. prices charged by the CONCESSIONAIRE or third parties that have contracted with the CONCESSIONAIRE in exploiting activities at CAMINHOS DO MAR;
- XXIV. costs from burglary, theft, destruction, even partially, or loss of CONCESSION ASSETS, derived from any event, except those from fortuitous or force majeure events, or administrative occurrences;
- XXV. financial capacity and/or fundraising by CONCESSIONAIRE, as well as variation in costs of loans and financing to be obtained by CONCESSIONAIRE to carry out activities, investments or fund operations that are the object of the CONCESSION;
- XXVI. changes in visitor demand from any intended projection made by the CONCESSIONAIRE or the GRANTING AUTHORITY;
- XXVII. changes in the REVENUE earned by the CONCESSIONAIRE in regard to any projection made by the CONCESSIONAIRE or the GRANTING AUTHORITY;
- XXVIII. errors in estimates and possible changes regarding input costs, operating costs, maintenance costs, investments, personnel expenses, or any other cost incurred by the CONCESSIONAIRE in carrying out activities covered by the CONCESSION over time or concerning any projection made by the CONCESSIONAIRE or the GRANTING AUTHORITY;

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- XXIX.reductions in the total amount earned as REVENUE due to the absence of electronic registration or any type of fraud practiced by USERS who benefit from any activity performed by the CONCESSIONAIRE, including due to lack of electricity, equipment failures, acts of vandalism, and other events whose risk has been allocated to the CONCESSIONAIRE, as set forth hereunder, except for cases where the risk of the occurrence of the event causing the reduction in the perception of REVENUE is exclusively attributed to the GRANTING AUTHORITY;
- XXX.costs corresponding to tax and other duties levied on activities performed by the CONCESSIONAIRE;
- XXXI.economic inefficiencies or losses arising from failures, negligence, ineptitude, omissions, or from CONCESSIONAIRE activities in fulfilling the object of the CONCESSION;
- XXXII.changes in the macroeconomic scenario, changes in the cost of capital, changes in interest rates on the market, and changes in exchange rates;
- XXXIII.creation, termination or modification of taxes or legal charges that have repercussions, whether direct or indirect, on the CONCESSIONAIRE's revenues and expenses;
- XXXIV.changes in legislation and state regulations of general nature, coming from any branch of the federation, not specific to the CONCESSION or the CONCESSIONAIRE, even though they shall constitute a government authority act, and which impact the CONTRACT, provided they are not related to risks already expressly assumed by the GRANTING AUTHORITY hereunder;
- XXXV.posterior verification of errors or omissions in the PRICE PROPOSAL or any other of the CONCESSIONAIRE's projections or assumptions, or in surveys that subsidized them, including those needed to assess data and projects disclosed by the GRANTING AUTHORITY;
- XXXVI.damages, whether intentional or not, to CONCESSION ASSETS, resulting from vandalism, depredation, theft, graffiti, or other acts practiced by USERS or by third parties;
- XXXVII.failure by USERS or third parties to pay amounts due to the CONCESSIONAIRE;

**Legal Risks**

- XXXVIII.unpredictable factors, predictable factors of incalculable consequences, fortuitous or force majeure events that, under normal market conditions, shall be covered by insurance offered in Brazil, if, at the time of the substantial risk, they were insurable for at least 2 (two) years, up to the limit of the average policy costs normally practiced in the market, by at least two insurance companies, regardless of whether the CONCESSIONAIRE contracted them or not;
- XXXIX.collective strikes and grievances from CONCESSIONAIRE employees, their suppliers, subcontractors or outsourced third-parties;
- XL.civil, administrative, environmental and penal liabilities for damages that may occur to third parties, or caused by third parties, whether these persons work for the CONCESSIONAIRE, its employees, agents, outsourced companies or subcontractors, resulting from the execution of the activities that are object of the CONCESSION ;
- XLI.impacts arising from the creation, removal or review of regulatory standards issued by the GRANTING AUTHORITY or any other agency or entity that exercises regulation over the activities object of the CONCESSION, when purely procedural;

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XLII.the CONCESSIONAIRE's tax planning;

XLIII.mandatory injunction concerning execution of the activities that are object of the CONCESSION CONTRACT, when they arise from commissive or omissive acts by the CONCESSIONAIRE; and

XLIV.investments, costs and expenses resulting from heritage site listings and records already imposed on existing physical and intangible assets in the CONCESSION AREA until the date of submission of the PROPOSAL.

**Environmental Risks**

XLV.fines or compensation for environmental liabilities generated during the execution of the activities that are object of the CONCESSION;

XLVI.embargo of the venture, new costs, non-compliance with deadlines, need for new approvals of projects by the competent authorities, including the GRANTING AUTHORITY, issuance of new approvals by the competent bodies, when due to non-compliance by the CONCESSIONAIRE and/or its subcontractors, concerning all requirements arising from the process of securing ENVIRONMENTAL PERMITS, including any compensation;

XLVII.environmental costs and possible environmental liabilities related to environmental permits and inspection of activities that are object of the CONCESSION;

XLVIII.environmental liabilities and/or irregularities whose taxable event became substantial after the conclusion of the TERM OF DELIVERY OF THE PUBLIC ASSET;

XLIX. direct and indirect costs and deadlines for solving real estate squatting.

24.2. All risks assumed by the CONCESSIONAIRE hereunder shall be applicable to all INTERVENTIONS, including RESTORATIONS, and shall not be excluded or altered due to the fact that the GRANTING AUTHORITY has made the executive project available, except for the provisions of Clause 25.1, item XV.

24.3. The CONCESSIONAIRE expressly declares to have full knowledge of the nature and extent of risks taken on by it in the CONCESSION CONTRACT, and has taken such risks into account when devising its PRICE PROPOSAL .

24.4. The CONCESSIONAIRE is fully responsible for the detailed surveying and knowledge of the risks taken on by it, in the performance of its duties hereunder, and shall adopt all solutions, processes and techniques it deems most appropriate and efficient to mitigate risks assumed, taking responsibility for any resulting consequences.

**CLAUSE TWENTY- FIVE – ON THE RISKS OF THE GRANTING AUTHORITY**

25.1. Notwithstanding other risks expressly assumed by the GRANTING AUTHORITY in other clauses of this CONTRACT, the GRANTING AUTHORITY takes on the following CONCESSION-related risks:

I.economic and financial impacts, positive or negative, resulting from unilateral changes to the MINIMUM STARTING INVESTMENT or the RESTORATION works, establishment of ADDITIONAL INVESTMENTS , establishment of new assignments, or changes to any obligations under the responsibility of the CONCESSIONAIRE, provided that, as a direct result of this change, the CONCESSIONAIRE suffers changes in costs or in REVENUE, whether increasing or decreasing;

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- II.environmental liabilities resulting from previous activities in the CONCESSION AREA, and which have not been identified in BIDDING PROCESS documents;
- III.legal or administrative decisions that prevent or make it impossible for the CONCESSIONAIRE to earn the CONCESSION REVENUE, or to carry out construction works resulting from the MINIMUM STARTING INVESTMENT or RESTORATIONS, except in cases where the CONCESSIONAIRE has given rise to the decision;
- IV.unilateral changes imposed by the GRANTING AUTHORITY on conditions for executing the CONTRACT;
- V.changes to the unit's MANAGEMENT PLAN, provided that, as a direct result of the change, the CONCESSIONAIRE substantially changes its costs or REVENUE, either increasing or decreasing them;
- VI.availability of necessary funds for fulfilling obligations, if any, of complementing sums to be deposited in the RESTORATION FUND ACCOUNT;
- VII. impacts on the CONCESSION AREA or on the CONCESSIONAIRE's activities, resulting from earth movements related to embankments located outside the CONCESSION AREA;
- VIII.impacts resulting from total or partial interventions on Highway SP-148 in the CONCESSION AREA, resulting from public utility or social interest construction works performed by third parties, excluding the cases expressly provided for under ANNEX III.
- IX.unpredictable factors, predictable factors of incalculable consequences, fortuitous or force majeure events that, under normal market conditions, cannot be covered by insurance offered in Brazil and, at the time of substantial risk, were not insurable for at least 2 (two) years in the Brazilian market, by at least two insurance companies, or in regard to the share that exceeds the average of the indemnified costs for policies normally practiced in the market;
- X.damages caused to REVERSIBLE ASSETS, to the CONCESSIONAIRE, to third parties or to USERS, if due to substantial risks attributed to the GRANTING AUTHORITY, or when due to their fault;
- XI.archaeological or paleontological discoveries in the CONCESSION AREA;
- XII.handling of INTERFERENCES that shall be identified in the execution of the MINIMUM STARTING INVESTMENT, RESTORATIONS or ADDITIONAL INVESTMENTS, and all consequences related to them, including costs arising from the need to remove or move, as well as other costs associated with all measures that shall be necessary;
- XIII.modifications promoted by the GRANTING AUTHORITY in the PERFORMANCE INDICATORS proven and effective in causing impacts on CONCESSIONAIRE costs, greater than those experienced in case the object of the CONTRACT is carried out under current circumstances and suitability;
- XIV.decision imposed upon the CONCESSIONAIRE to incorporate technological innovations under Clause 20.11 and 20.12;
- XV.handling of hidden flaws verified at any time by the CONCESSIONAIRE in the CONCESSION AREA, taking place prior to the execution of TERM OF DELIVERY OF THE PUBLIC ASSET;

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- XVI. the need to review the executive MONUMENT RESTORATION project(s), in the event of project flaws or errors that technically make their execution unfeasible;
- XVII. costs inherent to carrying out the MINIMUM STARTING INVESTMENT, RESTORATIONS and ADDITIONAL INVESTMENTS arising from the need to implement unconventional construction methods outside the standards determined in technical regulations and/or this CONTRACT or its ANNEXES due to requirements formulated in the approval of ENVIRONMENTAL PERMITS, as set forth under sub clause 27.2, item V;
- XVIII. the reversal or non-performance of the CONCESSIONAIRE's obligations, resulting from the delay or omission by the GRANTING AUTHORITY to carry out the activities and obligations attributed to it hereunder;
- XIX. delays in the construction works for implementing the MINIMUM STARTING INVESTMENT, RESTORATIONS or ADDITIONAL INVESTMENTS arising from delays in obtaining permits, licenses or approvals from GOVERNMENT entities, required for constructions or operations of new facilities, unless due to a fact attributable to the CONCESSIONAIRE;
- XX. delays in construction works resulting from the delay in obtaining environmental permits, when the deadlines for evaluation by the environmental agency responsible for issuing the permits exceed the legal provisions, except if due to a fact attributable to the CONCESSIONAIRE;
- XXI. state action specifically directed at contracting, which effectively burdens the execution of the CONTRACT, except when the act or fact constitutes a risk that has already been specifically and expressly attributed to the CONCESSIONAIRE hereunder;
- XXII. closing of CAMINHOS DO MAR imposed by state agencies due to epidemiological or health risks, or external factors, in cases where the CONCESSIONAIRE is not able to adopt measures capable of mitigating risks at a level that allows for the operations of the referred establishments;
- XXIII. investments, costs and expenses arising from protection of cultural heritage and records that are imposed to existing tangible and intangible assets at the CONCESSION AREA after the date of submission of the proposal, and which lead to actual impacts on the CONCESSIONAIRE's costs or REVENUE; and
- XXIV. acts of vandalism practiced by third parties in the MONUMENT called Cruzeiro Quinhentista.

**CLAUSE TWENTY-SIX - MAINTENANCE OF THE ECONOMIC-FINANCIAL BALANCE OF THE CONTRACT**

- 26.1. Whenever the conditions of the CONTRACT are met, its economic-financial balance is deemed maintained.
- 26.2. The CONTRACT is deemed to have economic and financial imbalance whenever either PARTY suffers the effects, either positive or negative, arising from an event whose risk has not been allocated to it, which promotes substantial imbalance in the economic-financial balance of the CONTRACT.
- 26.2.1. The analysis of the recovery of the economic-financial balance of CONTRACT assumes verification of the global economic conditions of the CONCESSION CONTRACT, and is restricted to neutralizing the financial effects of events leading to contractual imbalances, as regulated under this Clause, while considering, for purposes of achieving the intended neutralization, the economic-financial, tax and accounting effects resulting from the chosen recovery measure.



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26.2.2. The CONTRACT shall also be deemed unbalanced in cases where either PARTY receives benefits due to non-compliance, or delay in the fulfillment of the obligations allocated to it.

26.2.3. In view of a substantial IMBALANCE EVENT, only the recovery of the economic-financial balance of the CONTRACT shall be necessary in regard to the share of the imbalance claimed, and whose exact measure is proven by the pleading party.

26.3. In addition to the assumptions provided for under Clause 26.2, recovery of the economic and financial balance of the CONTRACT shall also apply in the event of unilateral changes imposed by the GRANTING AUTHORITY on the conditions of execution of the CONTRACT, provided that, as a direct result of this change, an effective change in the CONCESSIONAIRE's costs or REVENUE is verified, whether upwards or downwards.

**CLAUSE TWENTY-SEVEN – IDENTIFICATION OF EVENTS GIVING RISE TO ECONOMIC-FINANCIAL IMBALANCE OF THE CONTRACT**

27.1. The procedure for restoration of the economic-financial balance may be initiated at the request of the CONCESSIONAIRE or as determined by the GRANTING AUTHORITY, given that the requesting PARTY shall be responsible for timely demonstration of the occurrence and identification of the IMBALANCE EVENT.

27.1.1. The pleading PARTY shall identify the IMBALANCE EVENT and notify the other PARTY within a period not exceeding 180 (one hundred and eighty) days from it coming into fruition, focusing on upholding the topicality of the contractual relations, as well as enabling the proper handling of the consequences of the IMBALANCE EVENT.

27.1.1.1. In cases where there is an identification of a hidden flaw by the PARTY, the period identified in the previous sub-clause shall be counted effective the date of identification of the IMBALANCE EVENT.

**On the CONCESSIONAIRE's Initiative Claims**

27.2. When the request for recovery of the economic-financial balance is initiated by the CONCESSIONAIRE, it shall be carried out by means of a reasoned request and be submitted with all documents needed to demonstrate the suitability of the claim, including in regard to:

I. precise identification of the IMBALANCE EVENT, along with, where appropriate, evidence that the liability is allocated to the GRANTING AUTHORITY;

II. quantitative assessment of the imbalances effectively identified in the cash flow, with the date of occurrence of each one of them, or the estimate, in case of new investments, for the calculation of the recovery of the economic-financial balance of CONTRACT, as provided for under Clause Twenty-eight, depending on the IMBALANCE EVENT;

III. evidence of costs, direct and indirect, actually incurred by the CONCESSIONAIRE, resulting from the IMBALANCE EVENT giving rise to the claim, along with an explanatory table of contents containing accounting and tax regimes applicable to allegedly imbalanced revenues or costs;

IV. in the event of evaluation of possible future imbalances, detailed statement of the assumptions and parameters used to estimate the impacts of the IMBALANCE EVENT on the CONCESSIONAIRE's cash flow;

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V.in case the approval process for ENVIRONMENTAL PERMITS regarding the realization of mandatory investments is required to implement unconventional construction methods outside the standards determined in technical regulations and/or this CONTRACT or its ANNEXES, the CONCESSIONAIRE shall evidence (i) the nature of the decision, characterizing it, reasonably, as being outside the expected construction standards; and (II) the direct impact of such requirement for purposes of requesting economic and financial recovery.

27.3. By means of the claim submitted by the CONCESSIONAIRE, the GRANTING AUTHORITY shall, within a maximum period of sixty (60) days, issue a statement regarding the admissibility of the election, and assess whether the recovery procedure of the economic-financial balance of the CONTRACT shall be processed in an extraordinary manner.

27.3.1. Whenever the justification for urgency in the handling of the IMBALANCE EVENT is not justified or accepted by the GRANTING AUTHORITY, it shall be addressed in the subsequent ORDINARY REVIEW.

### **On accessing information needed for assessing claimed imbalances**

27.4. In assessing the claim initiated at the behest of the CONCESSIONAIRE and the GRANTING AUTHORITY, the PARTIES shall, at any time, contract specific technical and/or economic reports.

27.4.1. At the discretion of the respondent PARTY, an expert entity with notoriously recognized technical capacity may carry out auditing to verify the situation, giving effect to the request for economic-financial balance with due participation of the PARTIES and transparency, so as to enable them, whether directly or by an equivalent entity, to be subject to technical rebuttal.

27.5. The GRANTING AUTHORITY, or someone appointed by it, shall have free access to information, assets and facilities of the CONCESSIONAIRE or third parties contracted by it, in order to assess the CONCESSIONAIRE's submitted claim of economic-financial balance.

### **On the GRANTING AUTHORITY's Initiative Claims**

27.6. The request for recovering the economic-financial balance initiated by the GRANTING AUTHORITY shall be notified to the CONCESSIONAIRE, along with a copy of relevant technical reports and studies.

27.6.1. Upon receipt of the notification on the IMBALANCE EVENT, the CONCESSIONAIRE shall have 60 (sixty) days to submit a reasoned statement regarding the claim for recovering the economic-financial balance of the CONTRACT submitted by the GRANTING AUTHORITY as a notification, under penalty of tacit consent to the request.

27.6.2. Taking into account the response of the CONCESSIONAIRE to the claim made by the GRANTING AUTHORITY, the GRANTING AUTHORITY shall have thirty (30) days to review the appropriateness of recovering the economic-financial balance.

### **On events or reasons that do not give rise to CONTRACT imbalance**

27.7. The recovery of the economic-financial balance in favor of the CONCESSIONAIRE shall not apply:

I.when losses suffered derive from the occurrence of negligence, recklessness, incompetence, ineptitude or omission in the exploitation of the CONCESSION and handling of the risks allocated to it;

II.when, in any manner and to any extent, the CONCESSIONAIRE has contributed, whether directly or indirectly, to the event causing the imbalance;

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III. in case the substantial events motivating the claim from the CONCESSIONAIRE do not cause an effective impact on contractual conditions, and do not cause an effective loss resulting from the imbalance in the economic-financial equation of the CONTRACT.

- 27.8. If it is proved that the impacts of the events motivating the request to recover the economic-financial balance could have been mitigated or minimized by measures available to the CONCESSIONAIRE, or through reasonably demandable efforts by the CONCESSIONAIRE, the restoration of the economic-financial balance shall be calculated taking into account only the cost of the imbalance that would persist, even in the event of diligent performance by CONCESSIONAIRE.
- 27.9. If it is found that more than one PARTY contributed directly or indirectly to the IMBALANCE EVENT due to negligence, ineptitude or omission of both PARTIES, the recovery of the economic-financial balance shall consider only the amount of the damage to which the aggrieved PARTY has not caused.

**CLAUSE TWENTY- EIGHT – ON THE RESTORATION OF THE ECONOMIC-FINANCIAL BALANCE**

- 28.1. When a process is initiated to restore the economic-financial balance of the CONCESSION, the claims of both PARTIES shall be considered jointly, in order to offset the positive and negative economic and financial impacts resulting from the IMBALANCE EVENTS.
- 28.2. The eventual restoration of the economic-financial balance, even when the claim was made by the CONCESSIONAIRE, shall necessarily consider possible impacts in favor of the GRANTING AUTHORITY.
- 28.3. The restoration of the economic-financial balance of the CONTRACT as a whole, or in regard to any specific IMBALANCE EVENT, shall be carried out in order to obtain the Net Present Value of the Cash Flow of balances equal to zero, considering the Internal Rate of Return - IRR inherent to each IMBALANCE EVENT, as determined in the subclauses below.
- 28.3.1. In the event of IMBALANCE EVENTS resulting from cancellations, delays or anticipations of MINIMUM STARTING INVESTMENTS set forth under ANNEX II, when caused by risk factors or responsibility of the GRANTING AUTHORITY, or when the benefit provided for in subclause 26.2.2 is characterized, recovery shall be carried out taking into account the costs attributed to the investments in the studies that supported the CONCESSION, according to the physical-executive distribution established, as well as the Internal Rate of Return of 8.31 % (eight point thirty-one percent).
- 28.3.2. In the event of any other IMBALANCE EVENTS, the restoration of the economic-financial balance shall take place through the elaboration of the marginal cash flow, considering: (I) marginal cash flows, positive or negative, calculated based on the difference between situations with and without the respective event; and (II) marginal cash flows necessary to recover the economic-financial balance.
- 28.3.2.1. IMBALANCE EVENTS consistent in new investments shall consider, to calculate the restoration of the economic-financial balance of the CONTRACT, the Internal Rate of Return calculated on the date of execution of the respective amendment, as set forth under sub clause 28.5.3.
- 28.3.2.2. All other cases of IMBALANCE EVENTS shall consider, for purposes of calculating the restoration of the economic-financial balance of the CONTRACT, the Internal Rate of Return calculated for the contractual year in which the IMBALANCE EVENT occurred, as set forth under sub clause 28.5.3.

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28.3.2.3. In case of a IMBALANCE EVENT, as regulated by sub clause 28.3.2, which extends for more than one year, the Internal Rate of Return set forth under sub clause 28.5.3 shall be considered for calculating the economic-financial balance of the CONTRACT, calculated for the contractual year in which the IMBALANCE EVENT initially occurred, which shall be applied to the entire IMBALANCE EVENT period.

28.4. At each restoration of the economic-financial balance, the Internal Rate of Return of that calculation shall be defined, in definite for the entire CONCESSION TERM, in accordance with the rates in force for the IMBALANCE EVENTS considered thereunder.

### **Restoration of the Economic-Financial Balance by Marginal Cash Flow**

28.5. For the restoration of the economic and financial balance of IMBALANCE EVENTS set forth under sub clause 28.3.2, the following procedures shall be followed while devising the Marginal Cash Flow:

28.5.1. The restoration of the economic-financial balance shall be carried out in such a way that the Net Present Value of the Marginal Cash Flow projected is zero due to the event that gave rise to the recovery, considering, on the same effective date, (I) marginal cash flows resulting from the event giving rise to the restoration, and (II) marginal cash flows resulting from the restoration of the economic and financial balance.

28.5.1.1. For purposes of calculating the Net Present Value of calculated marginal cash flows, the internal rate of return is incurred for each new contractual year. If the beginning of each contractual year does not coincide with the 1st day of the month, for purposes of the IRR, the 1st day of the subsequent month shall be considered.

28.5.2. For purposes of determining the marginal expenditure cash flows, the best available information shall be used to portray actual and effective current conditions to estimate the amounts of investments, costs and expenditures, as well as any revenue and other gains resulting from the IMBALANCE EVENT;

28.5.2.1. The CONCESSIONAIRE shall submit estimates of the assessment of the imbalance, even in cases where the claim is an initiative from the GRANTING AUTHORITY, using, for this purpose, the best cost references from the public and/or private sector available at the time of the claim.

28.5.2.1.1. Except for the provisions of sub clause 28.3.1, the information should, preferably, be based on public costs in force, or other documents that shall replace it, and the lack of availability of more current information, and at the discretion of the GRANTING AUTHORITY, projections made during the BIDDING PROCESS or other parameters, for instance, those used and published in national and international engineering magazines.

28.5.2.2. The GRANTING AUTHORITY shall request that the CONCESSIONAIRE show that the costs required for new investments shall be calculated based on market costs, considering the overall cost of construction works or similar activities in Brazil or cost-based systems using as inputs market costs of the specific sector of the project, assessed, in any case, by means of a synthetic budget, prepared using expeditious or parametric methodologies.

28.5.3. The real annual Discount Rate to be used in calculating the present cost set forth under subclauses 28.3.2.1 and 28.3.2.2 shall be composed of the average of the last twelve (12) months of the gross selling rate of interest on the Treasury Bill IPCA + with Semiannual interest (NTN-

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B) or, in its absence, another one that replaces it , *ex-ante* the deduction of Income Tax, with maturity date in 2050 or the maturity date most compatible with the date of the contractual term, published by National Treasury Department, compounded by spread or surcharge on interest equivalent to 207.40 % pa (two hundred and seven point forty percent ), per year, base of 252 (two hundred and fifty-two) working days.

28.5.4. In the event of restoration of the CONTRACT balance by means of an extension, the methodology for measuring income and expenses for the extended term shall consider:

28.5.4.1. For the projection of revenue collection and cash inflow, from the actual data for demand for USERS at the time of calculation, the projected demand for CAMINHOS DO MAR and its CASH GENERATING UNITS shall be carried out, which shall be multiplied by the average costs practiced in the CONCESSION, both for admission costs and in regard to the costs practiced in CASH GENERATING UNITS, considering the 24 (twenty-four) months immediately prior to the date in question, thereby obtaining estimates for the CAMINHOS DO MAR CONCESSIONAIRE's REVENUE. In order to carry out the projections referred to here, the form of exploitation of each of the CASH GENERATING UNITS by the CONCESSIONAIRE shall be considered, so that the projection reflects the projected revenue and expenses for CONCESSIONAIRE, and shall be adopted, as a limit for retroaction, the date of entry into operation of the last of the CASH GENERATING UNITS.

28.5.4.2. To calculate the projections of the CONCESSIONAIRE's costs and expenses and define the cash outflow, starting from the initial term of the marginal cash flow, including the formalized term extensions, the following shall be considered for purposes of determining the term to be extended:

28.5.4.2.1. Sums related to costs and expenses calculated by the CONCESSIONAIRE in the 24 (twenty-four) months immediately prior to the effective date of the cash flow, adopting, as a limit for such retroaction, the date of start of operations of the last of the CASH GENERATING UNITS.

28.5.4.2.2. Average costs shall serve as a reference for extending the CONCESSION term, with no variations or any type of alteration.

28.5.4.3. Costs and expenses related to the conservation and maintenance of any new construction works, as well as any revenue provided, shall also be considered for purposes of calculating the Marginal Cash Flow.

28.5.4.4. Projected sums for REVENUE, expenses and costs shall be considered as of their establishment, at the risk of the CONCESSIONAIRE, and shall not be reviewed or reconsidered under any circumstances.

28.5.4.4.1. For purposes of economic and financial recovery caused by events other than changes in tax or accounting legislation, taxes and accounting implications of any nature that effectively impact the entire CONCESSION TERM shall be considered, including the formalized extension of terms, regardless of the PARTY that has assumed the risk of changing tax or accounting legislations.

28.5.4.5. For purposes of the Marginal Cash Flow, calculations of amortization and depreciation shall be carried out in accordance with the applicable standards and legislation.

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28.5.4.6. Installments of VARIABLE GRANT and INSPECTION COSTS provided for hereunder may be maintained at the discretion of the GRANTING AUTHORITY throughout the extension period, and included in the Marginal Cash Flow that is the object of this methodology.

28.5.5. For purposes of deciding the sum to be recovered, the effects of direct and indirect taxes effectively levied on the flow of marginal expenditures shall be considered.

### **CLAUSE TWENTY- NINE - ON THE MODALITIES FOR RESTORATION OF THE ECONOMIC-FINANCIAL BALANCE OF THE CONTRACT**

29.1. The GRANTING AUTHORITY shall have the right to choose the method by which the restoration of the economic-financial balance of the CONTRACT shall be implemented, particularly, but not limited to, the following modalities:

I.extension or reduction of the CONCESSION TERM;

II.compensation or indemnity;

III.revision of costs for the VARIABLE GRANT or INSPECTION COSTS;

IV.changes in obligations or deadlines provided for hereunder and/or in the AUCTION NOTICE;

V.a combination of the above modalities or other permitted by legislation, at the discretion of the GRANTING AUTHORITY.

29.2. In addition to the modalities listed in Clause 29.1, implementation of the restoration of the economic-financial balance of the CONTRACT shall also take place through the following modalities, in these cases depending upon prior consent granted by the CONCESSIONAIRE:

I.accord and satisfaction of assets and/or assignment of real estate revenue;

II.assumption, by the GRANTING AUTHORITY, of costs attributed by the CONTRACT to the CONCESSIONAIRE;

III.exploitation of REVENUE beyond the term of the CONCESSION CONTRACT;

IV.a combination of the above modalities or other permitted by legislation.

29.3. Restoration of the economic-financial balance of the CONTRACT shall be formalized in an Addendum to this CONTRACT.

### **CHAPTER IV – ON CONTRACT REVIEWS**

#### **CLAUSE THIRTY - ORDINARY CONTRACT REVIEW**

30.1. Each four-year cycle, effective the date of execution of the TERM OF DELIVERY OF THE PUBLIC ASSET, ORDINARY CONCESSION REVIEW procedures shall be taken, which may lead to:

I.review of the PERFORMANCE INDICATORS and of the established goals, with the purpose of establishing proper economic incentives needed to stimulate the continuous improvement of the execution of activities that are object of the CONCESSION ;



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II. review of the INSURANCE PLAN developed by the CONCESSIONAIRE;

III. inclusion of ADDITIONAL INVESTMENTS, always in compliance with the economic-financial balance of the CONTRACT.

30.1.1. Demands for new investments in the CONCESSION shall be implemented as a matter of priority during ORDINARY REVIEWS, with the aim of improving planning and execution of investments, even in the event that they arise from events occurred or identified in moments prior to the processing of ORDINARY REVIEWS.

30.1.1.1. If there are urgent demands that, for technical, economic-financial, security or public interest reasons demand immediate intervention, without waiting for the end of the contractual cycle of 4 (four) years for each ORDINARY REVIEW, the implementation of these new investments through an EXTRAORDINARY REVIEW shall be carried out, which shall observe the terms and procedures provided for under this CONTRACT and in the relevant legislation and regulations.

30.1.2. The review of PERFORMANCE INDICATORS can be processed in the course of the ORDINARY REVIEWS, and the GRANTING AUTHORITY may request, by means of the proceedings established in subclause 30.2.1 and onwards for incorporating new technologies, the adjustment of PERFORMANCE INDICATORS set forth under ANNEX VII, or the creation of new indicators that reflect current, modern and innovative standards for executing construction works and services encompassed by this CONTRACT.

### **On Processing Ordinary Reviews**

30.2. Within the scope of the ORDINARY REVIEW process, the PARTIES shall submit a report containing a proposal to review the PERFORMANCE INDICATORS, the technical assessment as to the adequacy of the INSURANCE PLAN and any review needs, as well as proposals for reviewing or including charges in the CONCESSION, duly justified and with estimates of economic-financial impacts and expected improvements, if any, for the various parties comprising the CONCESSION.

30.2.1. For the ORDINARY REVIEW of the PERFORMANCE INDICATORS, the PARTIES shall carry out a joint assessment of the current indicators and established goals, taking into account the search for continuous improvement in the execution of the activities that are object of the CONCESSION, and establishing a reasonable period for adapting the new required standards, culminating:

30.2.1.1. In the reformulation of PERFORMANCE INDICATORS that prove to be ineffective in encouraging CONCESSIONAIRE activities and services to be performed in compliance with the quality required by GRANTING AUTHORITY and USERS;

30.2.1.2. When reviewing the targets set for each PERFORMANCE INDICATOR, based on data collected from periodic performance assessments, necessarily setting them at a level equivalent to or higher than that of the current level, and always upholding the aim of fostering a continuous improvement of the quality of the activities performed by the CONCESSIONAIRE; and/or

30.2.1.3. In creating new PERFORMANCE INDICATORS, in the cases of demands, by the GRANTING AUTHORITY, as set forth under clauses 20.9 and 20.11, or as a result of the fulfillment of its current duties, as set forth under clauses 20.1 and 20.7, of new performance standards, motivated by the emergence of technological innovations or adjustments to national or international standards.

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- 30.2.2. The ORDINARY REVIEW shall preferably take place so as to precede discussions related to devising the Annual Budget Law that shall come into force in the year following the ORDINARY REVIEW.
- 30.2.3. The ORDINARY REVIEW cannot have an impact on risk allocation established hereunder, unless it is proven that, as foreseen by the GRANTING AUTHORITY's projections that underpinned the BIDDING PROCESS, the CONTRACT poses insurmountable inefficiencies.
- 30.2.4. Upon completion of the ORDINARY REVIEW procedure, and following ordinary administrative proceedings in observance of the principles of opportunity to be heard and adversarial nature granted to the CONCESSIONAIRE, the GRANTING AUTHORITY shall be responsible for setting the new contractual guidelines, while taking into account the limits and procedures set forth in this Clause, whereas the CONCESSIONAIRE, in case of disagreement, shall be responsible for using dispute settlement mechanisms provided for hereunder.
- 30.2.5. The results of the ORDINARY REVIEW process referred to in this Clause shall give rise to the economic and financial recovery of the CONCESSION, whose recovery procedure shall comply with the regulations provided for under Clauses 28.1 to 30.1 and onwards.

### **CLAUSE THIRTY- ONE - EXTRAORDINARY CONTRACT REVIEWS**

- 31.1. Either PARTY may request an EXTRAORDINARY CONTRACT REVIEW in case an event whose consequences are severe enough to give rise to the need of evaluation and urgent measures comes or is about to come into fruition, applying the provisions in this Clause to the EXTRAORDINARY REVIEW and, where applicable, the provisions relating to the ORDINARY REVIEW.
- 31.2. In case the EXTRAORDINARY REVIEW process is initiated by the CONCESSIONAIRE, it shall submit the necessary support to prove to the GRANTING AUTHORITY that failure to immediately address the event shall result in aggravating circumstances and harmful consequences.
- 31.3. The GRANTING AUTHORITY has a term of sixty (60) days, effective the formalization of the request submitted by the CONCESSIONAIRE to assess whether the submitted reasons justify immediate handling of the matter or not, and whether the severity of the consequences would support the non-observance of the ordinary CONTRACT REVIEW procedure, motivating the importance of not waiting for the necessary time delay until the subsequent ORDINARY REVIEW.

## **CHAPTER V – ON THE CONCESSIONAIRE**

### **CLAUSE THIRTY- TWO – ON THE LEGAL STRUCTURE OF THE SPECIAL PURPOSE COMPANY**

- 32.1. The CONCESSIONAIRE's bylaws are listed as ANNEX XII and its business purpose, specific and exclusive, throughout the term of this CONTRACT, shall be the realization of the object of this CONCESSION, with the CONCESSIONAIRE's headquarters and legal domicile in the State of São Paulo.

- 32.1.1. The bylaws of the CONCESSIONAIRE shall include a clause that:

- I. prohibits changes to its purpose, except to include activities involving the exploitation of REVENUE;
- II. submits actions described in Clause 43.1 to the GRANTING AUTHORITY's prior approval;
- III. submits the contracting of loans or obligations, whose amortization terms exceed the final term of the CONCESSION CONTRACT, to the GRANTING AUTHORITY's prior approval.

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- 32.1.2. The CONCESSIONAIRE shall explore, directly or indirectly, including through subsidiaries, the activities that generate REVENUE, subject to the regulations of this CONTRACT and its ANNEXES.
- 32.2. The CONCESSIONAIRE shall comply with corporate governance standards and adopt accounting and standardized financial statements, especially with regard to transactions with Related Parties, in accordance with the accounting practices adopted in Brazil, based on Brazilian Corporate Law (Federal Act 6.404 of December 15 1976 and amendments), and in the Accounting Standards issued by the Federal Accounting Council - CFC.
- 32.2.1. The CONCESSIONAIRE's financial and accounting information and statements, including working papers and additional information that shall be periodically submitted to the GRANTING AUTHORITY, shall be audited by a reputable expert independent auditing company with notable expertise.
- 32.2.2. The expert audit company shall also verify compliance with the stipulations regarding the RELATED PARTIES, as set forth under Clauses 32.8 to 32.10, regardless of the CONCESSIONAIRE's accounting or governance system.
- 32.3. The minimum paid-up capital stock of the SPC shall be R\$ 1,250,000.00 (one million and two hundred and fifty thousand reais), on the base date of May/2020 .
- 32.3.1. For the signing of this CONTRACT, the SPC shall have no less than R\$ 125,000.00 (one hundred and twenty five thousand reais), on the base date of May/2020, in duly paid up capital stock, in Brazilian currency.
- 32.3.2. Paying up of the remaining capital stock shall comply with the Timetable for the Paying in of Capital Stock submitted in ANNEX XIII of the CONTRACT.
- 32.3.3. The CONCESSIONAIRE undertakes to keep the GRANTING AUTHORITY permanently informed on the SPECIAL PURPOSE COMPANY's shareholders' compliance with capital stock paid, allowing the GRANTING AUTHORITY to conduct investigations and auditing to verify the situation.
- 32.3.4. The SPC cannot, during the CONCESSION TERM, reduce its capital stock below the minimum amount set forth in this Clause without previous and expressly written consent given by the GRANTING AUTHORITY.
- 32.3.5. Until payment is not completed, as per ANNEX XIII, the CONCESSIONAIRE's shareholders are jointly and severally liable, regardless of the proportion of shares subscribed to each one, before the GRANTING AUTHORITY, for the CONCESSIONAIRE's obligations, as set forth hereunder, up to the limit of the amount of the missing share for the paying in of the initially subscribed capital.
- 32.3.5.1. In the event that the capital stock is not fully paid up, in case of assumption of the CONCESSIONAIRE's corporate CONTROL by LENDERS, the former shareholder shall remain jointly and severally liable for the amount of the missing portion within the limit of its respective stakes.
- 32.4. The fiscal year of the CONCESSIONAIRE and the financial year of the CONTRACT hereunder coincide with the calendar year.

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- 32.5. The participation of foreign capital in the CONCESSIONAIRE shall abide by the current Brazilian legislation.
- 32.6. The demobilization of the CONCESSIONAIRE can only occur after all activities described in ANNEX XIV have been carried out.
- 32.7. Even after termination of the CONCESSION, the CONCESSIONAIRE shall maintain the minimum subscription of capital stock referred to in this Clause until its demobilization.
- 32.8. The CONCESSIONAIRE shall, within one (month), effective the date of execution of the TERM OF DELIVERY OF THE PUBLIC ASSET, develop, publish and deploy TRANSACTION POLICIES WITH RELATED PARTIES, observing, as appropriate, the best practices recommended by the Brazilian Code of Corporate Governance - Publicly-Held Companies, edited by the Interagent Working Group, coordinated by the Brazilian Institute of Corporate Governance (IBGC), as well as the provisions of the New Market Regulation, or those who shall replace them as a reference before the Securities and Exchange Commission - CVM, and containing, at least, the following elements:
- I.criteria that shall be observed in order to carry out transactions between the CONCESSIONAIRE and its RELATED PARTIES, requiring the fulfillment of conditions that are equitable and compatible with market practices;
  - II.procedures to assist in the identification of individual situations that shall involve conflicts of interest and, consequently, determine voting impediments for the CONCESSIONAIRE's shareholders or administrators;
  - III.procedures and those responsible for identifying the RELATED PARTIES and classifying operations as transactions with RELATED PARTIES;
  - IV.indication of instances of approval of transactions with RELATED PARTIES, depending on the amount involved or other relevant criteria;
  - V.requirement to carry out a bidding process within the market, pursuant to regulations approved by the CONCESSIONAIRE's administration, as a condition for contracting with RELATED PARTIES; and
  - VI.requirement of the CONCESSIONAIRE's administration to formalize, in a written document to be filed at the CONCESSIONAIRE's headquarters, the grounds for selecting the RELATED PARTIES at the expense of other market options.
- 32.9. The TRANSACTION POLICY WITH RELATED PARTIES shall be updated by the CONCESSIONAIRE as deemed necessary, while taking note of updates on the best practices set forth under Clause 32.8, as well as the need to include or change specific provisions aimed at providing greater effectiveness to transparency and commutability of transactions with RELATED PARTIES.
- 32.10. The CONCESSIONAIRE's TRANSACTION POLICY WITH RELATED PARTIES shall provide the costs and transaction assumptions with RELATED PARTIES from which the CONCESSIONAIRE shall disclose on its homepage the following information about contracting that was undertaken:
- I.general information about the RELATED PARTY contracted;
  - II.contracting object;
  - III.contracting term;

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IV. general payment conditions and readjustment of contracting-related sums; and

V. description of the transaction negotiation with the RELATED PARTY and the decision on the conclusion of the transaction.

32.10.1. Disclosure in Clause 32.10 shall occur within thirty (30) days of the transaction of the celebration with the RELATED PARTY and at least five (5) working days from the beginning of the implementation of the obligations under said transaction.

32.10.2. For purposes of Clause 30.10, the CONCESSIONAIRE's TRANSACTION POLICY WITH RELATED PARTIES shall fulfill the need to disclose the transaction or the set of related transactions whose total cost exceeds the minimum levels provided for under CVM Instruction No. 480 of December 2009, or a rule that replaces it, for cases of communication of transactions between RELATED PARTIES.

**CLAUSE THIRTY- THREE – ON THE TRANSFER OF CONTROL FROM THE CONCESSIONAIRE**

33.1. The CONCESSIONAIRE shall obtain prior approval from the GRANTING AUTHORITY for any modification of its corporate structure involving direct shareholding TRANSFER OF CONTROL, under this contract.

33.1.1. The prior required consent specified in Clause 33.1 covers actions that imply direct shareholding TRANSFER OF CONTROL from the CONCESSIONAIRE, even when the indirect control remains with the same ECONOMIC GROUP.

33.1.2. For purposes of this CONTRACT, a direct holder of the CONCESSIONAIRE control is deemed an individual or legal person, or the group of persons bound by a voting agreement, or under common control, which are part of the CONCESSIONAIRE's direct shareholding structure, and which meet the conditions set forth under article 116 of Federal Act No. 6.404/1976.

33.2. Actions of modifying the CONCESSIONAIRE's shareholding structure are not subject to the prior consent of the GRANTING AUTHORITY in the event that the companies originally in direct control of the CONCESSIONAIRE remain in a sufficient shareholding position to continue exercising the company's control, without participation from third parties that did not comprise, prior to the act, the CONCESSIONAIRE's CONTROLLING GROUP.

33.3. The shareholding CONTROL TRANSFER of the CONCESSIONAIRE shall only be authorized by the GRANTING AUTHORITY when the transfer neither hinders nor jeopardizes the execution of the CONCESSION CONTRACT.

33.4. For the consent of the GRANTING AUTHORITY, in the cases set forth under this clause, the applicant shall submit to the GRANTING AUTHORITY a formal request of consent for intended transfer, and submit the minimum following information:

I. explanation of the intended corporate transaction and the proposed corporate structure for the moment after the TRANSFER OF CONTROL;

II. documents related to the intended corporate transaction, such as copies of CONCESSIONAIRE partner or shareholder meeting minutes, correspondence, auditing reports and financial statements;

III. justification for the change in CONTROL;



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- IV. appointing and qualifying the people who shall appear as CONTROLLERS or be part of the CONCESSIONAIRE's CONTROLLING GROUP, also submitting the list of members of the CONCESSIONAIRE's administration and its CONTROLLERS;
  - V. statement of the CONCESSIONAIRE's shareholding structure after the intended operation for the TRANSFER OF CONTROL;
  - VI. statement of the qualification of the companies that shall appear as CONTROLLERS or integrate the CONCESSIONAIRE's CONTROLLING GROUP, submitting documents equivalent to the QUALIFICATION DOCUMENTS, which are necessary for continuing with the exploitation of the CONCESSION;
  - VII. express commitment from those who will be the CONTROLLERS or integrate the CONCESSIONAIRE's CONTROLLING GROUP, signaling that they will fully comply with all the obligations hereunder, as well as support the CONCESSIONAIRE as is needed for the full and complete timely payment of obligations attributed to it; and
  - VIII. commitment from all those involved stating that the operation for the TRANSFER OF CONTROL shall be suspended until approval is obtained from the competent bodies, including CADE, according to the pertinence of each specific case.
- 33.5. The GRANTING AUTHORITY shall examine the request for prior approval, as required under this Clause, within ninety (90) days, extendable for an equal period, and if necessary, shall, at its discretion, require additional clarification and documents from the CONCESSIONAIRE and/or the LENDERS, notify the CONCESSIONAIRE's members or shareholding CONTROLLERS, and promote any and all remedies deemed appropriate.
- 33.6. In case, due to the stage of the CONCESSION, some of the technical capacity requirements and financial capacities required in the AUCTION NOTICE are no longer needed for the proper provision of services, the GRANTING AUTHORITY shall waive its corroboration.
- 33.7. The prior consent for the TRANSFER OF CONTROL FROM THE CONCESSIONAIRE, if granted by the GRANTING AUTHORITY, shall be formalized, in writing, signaling the conditions and requirements for its realization.
- 33.8. Prior consent procedures related to the events set forth under Clause 33.1 shall also comply with the following regulations:
- I. the request for prior consent shall be submitted by the CONCESSIONAIRE sufficiently in advance to allow for the due analysis and manifestation of the GRANTING AUTHORITY in a timely and reasonable manner, taking into account necessary measures to not jeopardize operation(s) initiated by the CONCESSIONAIRE, and which depend on authorization given by the GRANTING AUTHORITY;
  - II. the request for prior consent to be submitted by the CONCESSIONAIRE shall be sent along with the relevant documentation for the characterization and explanation of the intended operation, and other documents that shall be required by the GRANTING AUTHORITY, especially those that are necessary to demonstrate the following aspects: (I) evidence of not jeopardizing the continuity in the execution of the activities that are object of this CONTRACT; and (II) evidence of not jeopardizing the quality in the performance of the activities covered by this CONCESSION CONTRACT;
  - III. in case the GRANTING AUTHORITY rejects the request or requires additions, it shall do so by submitting justifications and an alternate proposal to comply with the intended operation.



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33.9. The implementation of corporate transactions attained through this Clause, without securing approval from the GRANTING AUTHORITY prior to formalizing the operations, shall result in the enforcement of the penalties provided for hereunder, and the GRANTING AUTHORITY, in addition to the penalties, shall:

I. determine, whenever the possibility for consent exists, that the applicant submits the pertinent documentation and resolves any pending issues, even if untimely;

II. determine that the CONCESSIONAIRE return to the *status quo ante*, by action of the CONCESSIONAIRE, dissolving the change to the incorporation documents or practicing corporate actions that imply the return of equity capital to the original company holding the shares, or, on the other hand, by an action of the GRANTING AUTHORITY, seeking to cancel the alteration of the incorporation documents; and

III. in case it is not possible to overcome the flaw in the change to the shareholding structure of the CONCESSIONAIRE or its CONTROLLERS, declaring forfeiture of the CONCESSION, with the consequences provided for hereunder.

33.10. The assumption of control of the CONCESSIONAIRE shall not alter the obligations of the CONCESSIONAIRE and its controllers to the GRANTING AUTHORITY.

### **CLAUSE THIRTY- FOUR – ON CONTRACTING WITH THIRD PARTIES**

34.1. The CONCESSIONAIRE shall enter into contracts with third parties to development inherent, accessory or complementary activities to those provided for hereunder, as well as the exploitation of CAMINHOS DO MAR, promoting its extensive visitation and public use within the guidelines of the law and MANAGEMENT PLAN, and following the guidelines in this CONTRACT and its ANNEXES.

34.1.1. Contracting of third parties shall not entail a reduction in the quality or safety of services or a transfer of the position of the CONCESSIONAIRE as per this CONTRACT, with the CONCESSIONAIRE remaining responsible for managing the provision of services.

34.1.2. The CONCESSIONAIRE shall remain fully responsible for services rendered, even if by third parties, including, but not limited to, performance evaluation purposes, damages caused to the GRANTING AUTHORITY, USERS or third parties for compensation, and subject to penalties set forth hereunder.

34.2. The CONCESSIONAIRE shall mandatorily notify about contracting third parties to provide relevant services and construction works for the development of inherent, accessory or complementary activities to the object of the CONCESSION, such as devising projects, maintenance, conservation, constructions, services and carrying out other activities that generate REVENUE for the CONCESSIONAIRE.

34.3. The fact that the contract with third parties is known to the GRANTING AUTHORITY cannot be used by the CONCESSIONAIRE as grounds for evading full compliance with all or part of its obligations under the CONCESSION, or to justify any delay or change in costs, or claim any responsibility of the GRANTING AUTHORITY.

34.4. The CONCESSIONAIRE holds itself accountable before the GRANTING AUTHORITY for all actions by third parties whom it contracts and cannot invoke any provision to the contrary.

34.5. The contract between the CONCESSIONAIRE and third parties shall be governed by private law, without establishing ties of any nature between the third party and the GRANTING AUTHORITY.

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- 34.5.1. Service contracts or any other counterpart executed with third parties shall ensure consideration of costs to the CONCESSIONAIRE that are compatible with the market.
- 34.6. In case a subsidiary to of the CONCESSIONAIRE is created for exploiting any of the economic activities in the CONCESSION AREA, the consolidation of revenues shall be made for purposes of calculating the cost of the VARIABLE GRANT and the cost of INSPECTION COSTS.
- 34.7. The CONCESSIONAIRE is responsible for charges from labor, pension, tax and business resulting from execution of this CONTRACT, as well as contracting third parties.
- 34.8. Any type of sub-concession in regard to the assets and services covered by the CONTRACT hereunder is prohibited.

### **CLAUSE THIRTY-FIVE – ON TECHNICAL AND THIRD PARTY RESPONSIBILITIES**

- 35.1. The services required for the perfect adaptation, exploitation, operations, conservation and maintenance of CAMINHOS DO MAR shall be performed under the technical responsibility of the professionals trained to do so, with the CONCESSIONAIRE being fully responsible for said professionals' performance, as indicated: [●].
- 35.2. The CONCESSIONAIRE shall respond in accordance with the applicable legislation for any damages caused to third parties, for themselves or their directors, employees, agents, service providers, contractors or subcontractors or any other person or entity bound to it, in the course of the activities covered by the CONCESSION, and the GRANTING AUTHORITY does not take on any kind of responsibility of this nature.

## **CHAPTER VI – ON INSURANCE AND GUARANTEES**

### **CLAUSE THIRTY- SIX – ON GENERAL REGULATIONS**

- 36.1. The guarantees and insurances listed in the INSURANCE PLAN, which shall be OPPORTUNELY contracted by the CONCESSIONAIRE as a condition for performing the corresponding constructive or operational steps, shall not contain clauses excluding responsibility, other than those resulting from legal or regulatory demands, and shall appoint the GRANTING AUTHORITY as the beneficiary, guaranteeing the possibility of claiming insurance and guarantees automatically through simple communication to the insurance company, in accordance with the legislation in force concerning the CONCESSIONAIRE's default in regard to a specific guaranteed contractual obligation.
- 36.2. Effectively to enter into a contract or formalize the documents which constitute the structure of insurance and guarantees for investments to be made, whether directly or indirectly by the CONCESSIONAIRE, the latter shall submit to the GRANTING AUTHORITY, within no more than 60 (sixty) days prior to start of the corresponding construction stages, all documentation thereby allowing the GRANTING AUTHORITY time to consent to approve and sign all necessary documents for contracting of the insurance and guarantee structure required to begin each of the investments or operations of services and activities.
- 36.3. Once approved, the insurance and guarantees shall be contracted and necessarily renewed and kept current, under conditions previously approved by the GRANTING AUTHORITY, at least throughout the entire period during which the main insured obligations persist.

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36.4. The eventual unfeasibility or unjustified difficulty in claiming of insurance and guarantees by the GRANTING AUTHORITY, in hypotheses giving rise to execution thereof, shall result in expiry of the CONCESSION CONTRACT, under terms foreseen herein.

**CLAUSE THIRTY-SEVEN – ON INSURANCE**

37.1. The CONCESSIONAIRE shall, throughout the CONCESSION TERM, contract and maintain with an insurance company authorized to function and operate in Brazil and of size compatible with the insured purpose, the insurance policies required to cover the risks inherent to the development of construction works, including RESTORATION works, and provision of services that are object of the CONCESSION, as offered in the Brazilian market, without prejudice to insurance required under the applicable legislation, on pain of expiry of the CONCESSION, under the terms of Clause Fifty .

37.1.1. The INSURANCE PLAN, which integrates the CONTRACT hereunder as ANNEX XV, shall be periodically revised in order to be compatible with the need to make adjustments or new investments and observe the regulations of the federal insurance regulation and inspection entities in Brazil, it being prohibited to impose additional and/or delaying procedures upon payment of the guaranteed amounts;

37.1.2. The insurance policies contracted by the CONCESSIONAIRE shall expressly contain clauses that automatically and unconditionally restructure the amounts insured, including for Civil Responsibility, while respecting the regulations established by the federal bodies that regulate and supervise insurance in Brazil, unless this coverage is not available on the insurance market, which shall be confirmed by a letter sent to the GRANTING AUTHORITY and signed by the reinsurance company.

37.1.3. In the event that there is no coverage and/or no automatic and unconditional restoration of amounts which are the object of insurance, and/or execution of the aggregate limit clause of the policy, as described in the INSURANCE PLAN, the GRANTING AUTHORITY shall demand alternatives to guarantee the main obligations taken on by the CONCESSIONAIRE, which shall be structured through a contract instrument containing provisions established by the GRANTING AUTHORITY or suggested by the CONCESSIONAIRE and approved by the GRANTING AUTHORITY.

37.2. The INSURANCE PLAN shall contain the grounds for contracting at least the following types of insurance, but not limited to them, indicating the estimated policy period, the risks to be mitigated by the respective policies, as well as the maximum limits for compensation in the case of claims:

I. "Full risk" insurance for material damage covering loss, destruction or damage to all or any of the CONCESSION ASSETS, and such insurance shall encompass that which is normally covered in accordance with international standards for companies of this nature, in the following modalities:

- a. property damage;
- b. small engineering construction works;
- c. riots, vandalism, wrongful acts;
- d. fire, lightning and explosions of any kind;
- e. damage to electronic equipment (low voltage);
- f. robbery and aggravated theft (except costs);

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- g. electrical damage;
- H. windstorm, smoke damage;
- i. material damage to equipment;
- j. damage caused to glass objects;
- k. accidents of any nature; and
- l. flooding, inundations.

II. Insurance for civil responsibility:

- a. damage caused to third parties;
- b. additional coverage for joint responsibility;
- c. accidents of any nature involving third parties;
- d. work accidents for employees involved, in compliance with the current legislation; and
- e. damage stemming from sudden pollution.

III. "Full-risk" insurance for engineering which shall be in effect throughout the entire performance of works involving coverage of any investments, costs and/or expenses pertinent to civil works and infrastructure (construction and assembly of facilities, encompassing all acceptance trials), as well as at least:

- a. basic coverage of engineering risk;
- b. environmental damage caused by the construction works; and
- c. property damage.

37.3. The insurance coverage established in this Clause shall include coverage for damages classified as force majeure or fortuity events, whenever insurable.

37.4. All insurance contracted for purposes of this CONTRACT shall be signed with insurance and reinsurance companies authorized to operate in Brazil, presenting, always, the Certificate of Operating License (Certidão de Regularidade Operacional) issued by the Superintendency for Private Insurance (Superintendência de Seguros Privados – SUSEP), in the name of the insurance company that issues each policy.

37.5. The GRANTING AUTHORITY shall feature as co-insured/beneficiary of all insurance policies contracted by the CONCESSIONAIRE, and shall pre-authorize any modification, cancellation, suspension or substitution of any insurance contracted by the CONCESSIONAIRE for purposes of this CONTRACT, and the CONCESSIONAIRE shall pledge to maintain the same conditions previously authorized by the GRANTING AUTHORITY, on pain of expiry of the CONCESSION, under the terms of this CONTRACT.

37.5.1. The insurance policies shall also foresee advance compensation directly to the GRANTING AUTHORITY in cases in which it is held responsible as a consequence of a claim.

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- 37.6. The coverage amounts of insurance indicated in the INSURANCE PLAN shall be sufficient to restitute or correct damage caused in the event of a claim.
- 37.7. The premiums contracted shall be those practiced by the Brazilian insurance market in businesses of this kind.
- 37.8. Upon contracting insurance, the CONCESSIONAIRE shall also observe the following:
- I. all insurance policies shall be valid for at least twelve (12) months, excepting for certain engineering works and/or services with an execution period shorter than twelve (12) months;
  - II. the CONCESSIONAIRE shall provide, at the end of the term of the insurance policy and in the event that there is no new policy, a certificate issued by the respective insurance company confirming that the risks involved were put on the insurance market for the determined period and in accordance with the required coverage and policies, pending only authorization from SUSEP to issue the new policy;
  - III. the CONCESSIONAIRE shall ensure that insurance policies state the obligation of the insurance company to inform in writing, at least thirty (30) days prior to the actual occurrence, to the CONCESSIONAIRE and to the GRANTING AUTHORITY, on any factors which may result in total or partial cancellation of the insurance contracted, reduction of coverage, increase in premiums or reduction in the amounts insured, observing situations foreseen in law;
  - IV. the CONCESSIONAIRE is responsible for the full payment of premiums and deductibles of the policy, in the event that any insurance claim foreseen in this CONTRACT is made. The CONCESSIONAIRE shall provide, within no more than thirty (30) days as of the start of each CONCESSION year, a certificate issued by the insurer(s) confirming that all contracted insurance policies are valid, and that the respective premiums have been paid;
  - V. any differences between the contracted amounts and payment of claims shall neither entail the right to economic-financial restructuring of this CONTRACT nor remove the obligation of the CONCESSIONAIRE to maintain ADEQUATE SERVICE;
  - VI. differences mentioned in item V above shall not constitute grounds to avoid making any investment under this CONTRACT, including additional investments that may prove necessary, owing to occurrence of a claim of an amount not fully covered by the policy.
- 37.9. The CONCESSIONAIRE may alter coverage and policies, and any conditions in the contracted policies, to adapt them to development of activities under the CONCESSION, however, such changes require prior approval from the GRANTING AUTHORITY.
- 37.10. The insurance policies issued shall not contain obligations, restrictions or conditions that contradict clauses of this CONTRACT or the sectoral regulation, and shall contain an express declaration that the insurance company is fully aware of this CONTRACT, including clauses referring to limits of the CONCESSIONAIRE's rights.
- 37.11. The insurance company shall waive all rights to appeal against the GRANTING AUTHORITY, SIMA or FF, even when applicable.
- 37.12. The CONCESSIONAIRE shall assume full responsibility for the scope or omissions stemming from signing of the insurance policies listed in this CONTRACT, including for purposes of risks assumed.
- 37.13. In the event that the CONCESSIONAIRE fails to comply its obligation to contract and fully maintain the policies updated and in effect, the GRANTING AUTHORITY, regardless of its option to decree

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intervention or expiry of the CONCESSION, under the terms of this CONTRACT, may contract and directly pay the respective premiums, attributing the totality of the costs and expenses to the CONCESSIONAIRE, which shall reimburse the GRANTING AUTHORITY, depending on the case, within 05 (five) business days as of the date the notification was received, on pain of incurring atualização of the IPC/FIPE index as well as default interest corresponding to 1% per month, *pro rata temporis*, as of the respective expiration date and up to the the date of effective reimbursement, without prejudice to execution of the PERFORMANCE BOND to reimburse costs of contracting said insurance, as well as the other applicable penalties.

### CLAUSE THIRTY- EIGHT – GUARANTEES PROVIDED BY THE CONCESSIONAIRE

- 38.1. Thorough and timely fulfillment by the CONCESSIONAIRE together with the the GRANTING AUTHORITY shall be guaranteed under the terms, amounts and conditions established in this Clause by means of a PERFORMANCE BOND.
- 38.2. The CONCESSIONAIRE, as a condition for signing this CONTRACT, shall establish and maintain, in favor of the GRANTING AUTHORITY, throughout the entire CONCESSION TERM, a PERFORMANCE BOND covering the sum of R\$ 989,476.13 (nine hundred and eighty-nine thousand, four hundred and seventy six reais and thirteen cents), under the terms required by the AUCTION NOTICE, and shall comply with the provisions hereunder.
- 38.2.1. The sum designated in Clause 38.2 above shall be adjusted monetarily, on an annual basis, using the IPC/FIPE index in the month of the CONTRACT's anniversary.
- 38.2.2. ORDINARY REVIEWS may give rise to new investments made by the CONCESSIONAIRE, which shall be considered for purposes of adjusting the PERFORMANCE BOND.
- 38.3. In addition to the bonds in favor of the GRANTING AUTHORITY, the CONCESSIONAIRE pledges to maintain fully in effect the guarantees provided in favor of contracted companies for performance of the services and other activities to be performed at CAMINHOS DO MAR, including the GRANTING AUTHORITY as the beneficiary.
- 38.3.1. The CONCESSIONAIRE shall inform the GRANTING AUTHORITY if it chooses to demand the guaranteed established in this item, on the terms and conditions of the guarantee instruments signed with the companies contracted to execute the services and other activities to be performed at CAMINHOS DO MAR.
- 38.4. The purpose of the PERFORMANCE BOND is compensation and reimbursement of costs and expenses incurred, in the event of a possible breach of obligations assumed by the CONCESSIONAIRE, and may also be executed to pay fines applied to the CONCESSIONAIRE or for payment of other sums it owes to the GRANTING AUTHORITY.
- 38.4.1. Should the PERFORMANCE BOND be insufficient to cover all obligations foreseen in Clause 38.11, the CONCESSIONAIRE shall respond for the difference.
- 38.5. The documents that effectively formalize the PERFORMANCE BOND shall be previously approved by the GRANTING AUTHORITY, under the terms of this CONTRACT, and any alterations, substitutions and renewals that may be necessary, and the CONCESSIONAIRE shall, in all cases, be responsible for the risks related to non-contracting, inappropriate contracting or insufficiency of required guarantees.



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38.6. The PERFORMANCE BOND shall be offered and/or replaced, by prior and express approval of the GRANTING AUTHORITY in one of the following modalities, in accordance with article 56 of Federal Act No. 8.666/1993:

- I. Bonds in current Brazilian currency;
- II. Public Debt Bonds issued by the National Treasury (government bonds);
- III. Guarantee Insurance;
- IV. Bank-bonds/securities; or
- V. A combination of two or more of the modalities stated in items I to IV above.

38.6.1. The PERFORMANCE BOND offered shall be unconditional and shall not contain any proviso which may hinder or obstruct their execution, or which may raise doubts concerning their claimability, respecting the rules of the federal bodies responsible for regulation and supervision of Insurance in Brazil, if offered in this modality.

38.6.2. Expenses referent to provision of the PERFORMANCE BOND shall be the sole responsibility of CONCESSIONAIRE.

38.6.3. It is the full responsibility of the CONCESSIONAIRE to maintain and ensure sufficiency of the PERFORMANCE BOND offered in this CONTRACT, including TAKING FULL RESPONSIBILITY for all costs stemming from their contracting.

38.6.4. The PERFORMANCE BOND, if offered in current Brazilian currency, shall be deposited into the Bank [●], Branch number [●], account number [●], in the name of SIMA, CORPORATE TAXPAYER ID NUMBER [●], presenting the deposit slip or an administrative check from a national financial institution.

38.6.5. The PERFORMANCE BOND, if offered as Public Debt Bonds issued by the National Treasury (government bonds), shall not be encumbered with unenforceability, non-transferability or compulsory acquisition.

38.6.6. Bonds offered shall be issued in the form of securities/debentures, duly registered on the central system for liquidation and custody, authorized by the Brazilian Central Bank, at market price and accompanied by proof of current validity with respect to their liquidity and value.

38.6.7. Only the following titles shall be accepted:

- I. National Treasury Bills (LTN);
- II. National Financial Treasury Bills (LFT);
- III. National Treasury Notes Series B Principle (NTN-B Principle);
- IV. National Treasury Notes Series B (NTN-B);
- V. National Treasury Notes Series C (NTN-C); and

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VI. National Treasury Notes Series F (NTN-F).

38.6.8. The PERFORMANCE BOND, if presented in the guarantee-insurance modality, shall be proven by presentation of guarantee-insurance policies, accompanied by receipt of premium payment, when pertinent, and a Certificate of Operational License (Certidão de Regularidade Operacional) issued by the Superintendency of Private Insurance - SUSEP, in the name of the insurance company issuing the policy, valid for at least 12 (twelve) months.

38.6.8.1. When the modality is guarantee-insurance, the policy shall be issued by an insurance company authorized to operate in Brazil and shall be accompanied by proof of contracted reinsurance, under the terms of current legislation at the time of the presentation, valid for at least 12 (twelve) months.

38.6.8.2. The policy shall be compliant with the SUSEP Circular 477/2013 and shall not contain any clause exempting the CONCESSIONAIRE or the insurer from any liability, even in its special or private conditions, other than those resulting from legal or regulatory requirements.

38.6.8.3. The special terms or private conditions of the respective policy shall expressly state the coverage of all events described in Clause 38.11 of this CONTRACT, or, exceptionally, be accompanied by a declaration, signed by the insurer issuing the policy, attesting that the insurance guarantee presented is sufficient to cover all events described in Clause 38.11 of this CONTRACT.

38.6.8.4. THE PERFORMANCE BOND, when in the form of an insurance guarantee, shall encompass all facts occurring during its term, even if the event is notified by the GRANTING AUTHORITY after lapsing of the final term of the PERFORMANCE BOND, and shall encompass the coverage hypotheses foreseen in SUSEP Circular 477/2013, or another that may alter or succeed it, and also the hypotheses of the GRANTING AUTHORITY's liability for any act or fact stemming from actions of the CONCESSIONAIRE, its agents or subcontractors, including, but not limited to, environmental damages, civil, fiscal or labor liabilities, regulatory penalties, among others.

38.6.9. The PERFORMANCE BOND, if presented in the bank-bond modality, shall be issued by a financial institution duly organized and authorized to operate in Brazil, and presented as originals along with proof of power of representation in the name of the person responsible for signing the document.

38.6.10. The PERFORMANCE BOND, if provided as a guarantee-insurance or bank-bond, shall be valid for at least one (01) year as of signing of the policy, and the CONCESSIONAIRE shall be fully responsible for the necessary renewals and updates, and shall notify the GRANTING AUTHORITY of each renewal and update, on pain of applying the applicable sanctions.

38.7. The CONCESSIONAIRE shall present to the GRANTING AUTHORITY proof of renewal and update of the PERFORMANCE BOND at least thirty (30) days prior to the end of their validity, on pain of expiry of the CONCESSION, under the terms of Clause 50.

38.8. The PERFORMANCE BOND shall remain fully valid until the FINAL ACCEPTANCE CERTIFICATE is signed, as established in ANNEX XIV, and may be executed under the terms of this CONTRACT.

38.9. The PERFORMANCE BOND, provided in any of the modalities foreseen in Clause 38.6, shall not contain clauses excluding any of the responsibilities contracted by the CONCESSIONAIRE, relating to the provisions of this CONTRACT, and neither shall they contain any type of waiver or conditions that may

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hamper or impede their execution, or that may leave doubts as to the firmness of the guarantee provided, other than those waivers or exclusion clauses resulting from legal or regulatory requirements.

38.10. Whenever the PERFORMANCE BOND is totally or partially executed, the CONCESSIONAIRE shall be obliged to reimburse its full value, within 10 (ten) business days as of the notification given by the GRANTING AUTHORITY.

38.10.1. If the reimbursement does not take place within the deadline determined in Clause 38.10, the GRANTING AUTHORITY may declare expiry of the CONTRACT, under the terms of Clause 50.

38.10.2. The renewal, in a timely manner to guarantee its continuity, as well as the periodic replacement and readjustment of the PERFORMANCE BOND, shall be carried out by the CONCESSIONAIRE, regardless of previous notification given by the GRANTING AUTHORITY for constitution in arrears.

38.11. Notwithstanding other hypothesis in this CONTRACR or in legislation, the PERFORMANCE BOND may be executed, totally or partially, by the GRANTING AUTHORITY, following a standard administrative procedure, under the following circumstances:

I. for payment of sums owed by the CONCESSIONAIRE to the GRANTING AUTHORITY, not settled spontaneously, as a consequence of failure to execute any investment established in this CONTRACT meet any additional obligations signed by both parties, or executed in an inappropriate manner, is unjustifiably not in compliance with established specifications and deadlines, or if it refuses or fails to correct the flaws pointed out by the GRANTING AUTHORITY, in the manner established in this CONTRACT;

II. for default of sums not settled spontaneously, stemming from fines, compensation or other penalties which may be applied under this CONTRACT and within the established timeframes;

III. for payment of sums owed by the CONCESSIONAIRE to the GRANTING AUTHORITY not settled spontaneously, as a consequence of failure to comply with contractual obligations or the measures necessary to meet the PERFORMANCE INDICATORS, refusing or failing to correct flaws pointed out by the GRANTING AUTHORITY, as established in this CONTRACT;

IV. for payment of variable monthly sum owed by the CONCESSIONAIRE to the GRANTING AUTHORITY, not settled spontaneously;

V. for payment of sums owed by the CONCESSIONAIRE to the GRANTING AUTHORITY not settled spontaneously, in the hypotheses of reversion of assets, if REVERSIBLE ASSETS are not delivered to the GRANTING AUTHORITY or to an appointed third party, in full operational and technical working order, also considering the specifications hereunder, including the hypothesis of failing to correct flaws pointed out by the GRANTING AUTHORITY, as established hereunder;

VI. for reimbursement of costs and expenses incurred by the GRANTING AUTHORITY or successor as a result of suing CAMINHOS DO MAR to the conditions defined in ANNEX XIV;

VII. for payment of sums owed by the CONCESSIONAIRE to the GRANTING AUTHORITY, including for settlement of penalties, not settle spontaneously, if the CONCESSIONAIRE fail to contract the insurance required or refuses to do so, under the terms of this CONTRACT;

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VIII. for reimbursement of expenses paid if the GRANTING AUTHORITY is held unduly responsible for any act or fact resulting from actions of the CONCESSIONAIRE, its employees or subcontractors, including but not limited to, environmental damages, and civil, tax and labor responsibilities, regulatory penalties, among others.

38.12. The CONCESSIONAIRE shall remain fully responsible for complying with the object of this CONTRACT, as well as other obligations inherent to it, including payments of fines, damages and other penalties that apply to it, fulfilling, primarily, the payment of debts upon total or partial execution of the PERFORMANCE BOND.

38.13. THE PERFORMANCE BOND, upon the termination of the CONCESSION, shall only be satisfied after evidence that the CONCESSIONAIRE has complied with any and all amounts owed to the GRANTING AUTHORITY.

### **CLAUSE THIRTY- NINE - FINANCING AND FINANCERS' GUARANTEES**

#### **Financing**

39.1. The CONCESSIONAIRE is solely responsible for obtaining the financing necessary for normal development of the services encompassed by the CONCESSION so as to fulfill in a total and timely manner, all the obligations assumed under this CONTRACT.

39.1.1. The CONCESSIONAIRE shall not claim any provision, clause or condition(s) of the Financing Contract(s), or any delay in the disbursement of funds, to exempt all or part of the obligations set forth hereunder, whose terms the financing institution(s) shall be fully aware of.

39.2. After prior consent given by the GRANTING AUTHORITY, the financing Contract(s) of the CONCESSIONAIRE shall grant to FINANCERS, according to applicable private law regulations, the right to assume control of the CONCESSIONAIRE in the event of contractual default by the CONCESSIONAIRE, of said Financing contracts or of this CONTRACT, observing the provisions of Article 27-A of Federal Act No. 8.987/1995.

39.3. The CONCESSIONAIRE shall also provide the FINANCER(S), after prior approval by the GRANTING AUTHORITY, with bonds under the rights arising from the CONCESSION in art. 28 and art. 28-A of Federal Act No. 8.987/1995.

#### **On Structuring of guarantees and signing of a Contract for Administration of the Centralizer Account Contract**

39.4. The LENDER(S), by means of their trustee (s), shall join the contractual relationship between the GRANTING AUTHORITY, the CONCESSIONAIRE and the financial institution that maintains the CENTRALIZER ACCOUNT, as parties, upon executing the addendum contract to the account management contract set forth as ANNEX X .

39.4.1. If the LENDER(S), by means of their trustee(s), make use of this power, the parties shall enter into the addendum contract for the aforementioned CONTRACT in order to adapt the referred contract to the regulations, policies and internal approvals of LENDER(S), provided that such changes do not impair the rights, bonds and faculties granted to the GRANTING AUTHORITY by way of the CONCESSION CONTRACT and the ANNEXES hereunder.

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39.4.2. In any case, the GRANTING AUTHORITY's preference to receive payable credits by way of deductions arising from the performance indicators, as well as from the VARIABLE GRANT and INSPECTION COSTS, shall be complied with.

**On bonds constituted based on the CONCESSION's emerging rights**

39.5. The CONCESSIONAIRE shall provide bonds arising from the CONTRACT hereunder to its LENDERS, to the extent permitted by law, provided they do not jeopardize the continuity and the adequate performance of the services hereunder, and after obtaining prior consent from the GRANTING AUTHORITY.

39.5.1. The CONCESSIONAIRE shall offer credit rights that it may potentially hold to the GRANTING AUTHORITY as a guarantee for loans, credit operations, market fundraising, debt operations or the like by way of assignment, including fiduciary, usufruct or pledge or secured fiduciary sales of shares, securities, their respective returns, related to the Special Purpose Company, provided the financing operation is directly related to this CONTRACT.

39.5.2. The bonds set forth under Clause 39.5, with prior consent from the GRANTING AUTHORITY, shall be provided in contracts that are of an accessory or complementary nature to the financing contracts, when intended to ensure the financing of the CONCESSION itself or to mitigate risks taken on by the CONCESSIONAIRE, as in the case of contracts executed to grant collateral or personal warranties, for market fundraising, to obtain insurance or to protect the CONCESSIONAIRE against changes in the cost of an asset (hedge).

39.5.3. Rights arising from the CONCESSION CONTRACT are considered to be any and all rights, receipts and receivables from the CONCESSION, including all REVENUE from the CONCESSIONAIRE.

39.6. Any payments payable by the GRANTING AUTHORITY to the CONCESSIONAIRE as indemnities and compensation shall be paid directly to LENDERS.

39.6.1. In the case that the GRANTING AUTHORITY makes direct payments to LENDERS, said payments shall fully discharge the obligations of the GRANTING AUTHORITY towards the CONCESSIONAIRE, for the amount actually disbursed to LENDERS.

**CHAPTER VII - INSPECTIONS**

**CLAUSE FORTY – ON INSPECTION PAYMENTS**

40.1. For the execution of CONCESSION inspections, the GRANTING AUTHORITY shall be entitled to receive the INSPECTION COSTS set forth under Clause Fourteen.

**CLAUSE FORTY-ONE – ON INSPECTIONS UNDERTAKEN**

41.1. The GRANTING AUTHORITY, represented by SIMA, and FF, exercise full and comprehensive inspection on the CONTRACT hereunder, compliance with the obligations set forth thereunder, as well as on the CONCESSIONAIRE, and in the exercise of the inspection, have free access at any time, to areas, facilities and sites related to the CONCESSION, books and documents related to the CONCESSIONAIRE, as well as the books, records and documents related to the activities and services covered by the CONCESSION, data relating to the administration, accounting and technical, economic and financial resources of the CONCESSIONAIRE, and shall request clarifications or modifications in case it considers nonconformities with obligations set forth under the CONTRACT,

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particularly in the fulfillment of PERFORMANCE INDICATORS and quality parameters set forth under the CONTRACT hereunder and its ANNEXES.

- 41.1.1. The inspection during the term of the CONCESSION CONTRACT, covering all the activities of the CONCESSIONAIRE, shall be performed by the GRANTING AUTHORITY, which shall comprise a commission indicated in a SIMA resolution.
- 41.1.2. The CONCESSIONAIRE shall provide, within the established term, all formally requested information.
- 41.1.3. Notwithstanding the inspection object of Clause Forty-One hereunder, the GRANTING AUTHORITY shall establish, together with CONCESSIONAIRE, a timetable of inspection activities and monitoring of the execution of the construction works that are carried out in the CONCESSION AREA.
- 41.2. Determinations relevant to services where there are flaws, defects and/or inaccuracies that shall be issued under inspections, shall be immediately applicable and binding to the CONCESSIONAIRE, notwithstanding other consequences set forth under the contract, as well as provisions on settling controversies established hereunder.
- 41.3. The GRANTING AUTHORITY's inspection shall comply with the standards set in ANNEX XVI of the CONTRACT hereunder with regard to applicable procedures and penalties pursuant to the CONCESSION's inspection.
  - 41.3.1. The inspection shall record, in a specific registration form, all occurrences found during inspections carried out at CAMINHOS DO MAR, at the SPECIAL PURPOSE COMPANY and/or at the CONCESSION, sending the INSPECTION TERM to the CONCESSIONAIRE for purposes of rectifying verified violations or flaws, notwithstanding the institution of administrative sanctioning proceedings.
  - 41.3.2. Sanctioning administrative proceedings shall follow the procedures of State Law No. 10.177/1998, or any other that shall replace it.
  - 41.3.3. Rectification of breaches set forth under the INSPECTION TERM does not exclude non-compliance and, consequently, the application of the corresponding penalty.
- 41.4. The inspection shall also be able to follow the work of the INDEPENDENT VERIFIER to verify the compliance of the PERFORMANCE INDICATORS by the CONCESSIONAIRE.
  - 41.4.1. The GRANTING AUTHORITY shall follow the provision of services and shall request clarifications or modifications in detail, in a circumstantial manner, in the event of inconsistency with the obligations set forth hereunder, in particular the fulfillment of PERFORMANCE INDICATORS, timetables in force and quality parameters set forth hereunder.
- 41.5. Notwithstanding the application of the PERFORMANCE INDICATORS, the preparation of the INSPECTION TERMS and issuance of the INFRACTION NOTICE, the CONCESSIONAIRE is obliged to repair, correct, interrupt, suspend or replace, at its expense and within the term stipulated by the GRANTING AUTHORITY, any services or activities pertinent to CONCESSION in which there are flaws, defects and/or inaccuracies.
  - 41.5.1. The GRANTING AUTHORITY may request the CONCESSIONAIRE to submit an action plan to repair, correct, interrupt, suspend or replace any service or activity performed in a flawed, defective and/or incorrect manner related to the object hereunder, within a term to be set.



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41.5.2. In the event that the CONCESSIONAIRE fails to comply with the GRANTING AUTHORITY's determinations, the latter shall be allowed to rectify the situation, to remedy flaws, defects and/or inaccuracies verified or to carry out the delinquent investment obligations, directly or through third parties, including making use of BONDS set forth hereunder, with costs to be borne by the CONCESSIONAIRE.

**On the obligations of the CONCESSIONAIRE to support inspections**

41.6. For the proper exercise of inspections and contractual monitoring by the GRANTING AUTHORITY, and notwithstanding any other obligation to provide information established hereunder, under the applicable legislation or regulations, the CONCESSIONAIRE undertakes to:

I. immediately notify the GRANTING AUTHORITY on any event that may hinder or prevent the prompt and timely fulfillment of the obligations set forth hereunder, and which may establish cause of intervention in the CONCESSIONAIRE, declaration of forfeiture of the CONCESSION or contractual rescission, configure acceleration of payment of financing contracted, or significantly alter the normal development of the services for exploiting CAMINHOS DO MAR;

a. The notification referred to in the item hereunder shall be submitted in writing, in the form of a detailed report on such situation, and notified in the minimum term in advance, including, if applicable, the contribution of expert entities external to the CONCESSIONAIRE, with measures taken or underway to overcome or rectify it;

II. submit, by August 31st of each year, an audited report on its accounting situation, including, among other things, the Balance Sheet and Income Statement, corresponding to the semester ending on June 30 of the respective year;

III. submit, by April 30th of each year, taking into account the provisions of Federal Act 6404/ 1976 and Federal Act number 11,638/2007, the financial statements for the year ending December 31st of the immediately preceding year, including, among others, the Management Report, the Balance Sheet, the Accumulated Profits and Losses Statement, the Income Statement for the Year and the Cash Flow Statement, the explanatory notes of the Balance Sheet, opinion and Working Papers of the Independent Auditors and the Fiscal Council of the SPECIAL PURPOSE COMPANY, if any, and even if the SPECIAL PURPOSE COMPANY is a publicly held Company, the Statement of Value Added;

IV. submit a report to the GRANTING AUTHORITY on a monthly basis with detailed information on the verified visitation and REVENUE earned in the period, and the GRANTING AUTHORITY shall, if it deems necessary, establish standards and/or forms for filling out said information by the CONCESSIONAIRE;

V. submit, within 90 (ninety) days after the end of each calendar semester, updated information on the CONCESSION's financial projections, understood as the set of projections of all financial elements related to the execution of the CONTRACT, considering the actual results obtained since the beginning of CONCESSION until the semester ended, and the projected results until the end of the CONCESSION TERM;

VI. submit within 45 (forty-five) days, effective the end of each quarter, financial statements in accordance with corporate legislation, as well as monthly closing balance sheets, duly signed by the responsible accountant;

VII. submit, on a quarterly basis to the GRANTING AUTHORITY, an updated timetable of activities relating to the execution of construction works and interventions at the CAMINHOS DO MAR, including the ratio

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of completed construction works in progress, with indication of the respective stage and expectation for completion, as well as construction works yet to be started;

VIII.submit, on a quarterly basis, a report with all measures adopted to resolve USER complaints submitted by the GRANTING AUTHORITY, as well as the period necessary for their implementation.

**CLAUSE FORTY-TWO – ON THE RELATIONSHIP WITH EMAE S.A.**

42.1. The PARTIES acknowledge that CAMINHOS DO MAR is located in an area with assets owned by EMAE SA. In view of this, the PARTIES acknowledge that EMAE S.A. is an INTERVENING PARTY of the CONTRACT hereunder for the exact limits set by the regulations regarding necessary interfacing between CONCESSIONAIRE and EMAE S.A. for the harmonious coexistence of all undertakings and respective operations, endeavoring the PARTIES and EMAE S.A. to employ their greatest efforts in order to ensure such coexistence.

42.2. Regulations for interfacing between CONCESSIONAIRE and EMAE S.A. are consolidated in ANNEX V of the CONTRACT hereunder, hereby assured and agreed upon that the participation of EMAE S.A. in matters referring to the CONTRACT hereunder is limited to the content of said ANNEX; thus, EMAE S.A.'s participation in measures pursuant to this contract shall only be required when these actions entail matters set forth under ANNEX V.

42.3. EMAE S.A. shall not be part of, or subscribe to, any addendum to the CONTRACT hereunder if the provisions of the addendum do not imply any change to the regulations set forth under ANNEX V.

**CLAUSE FORTY- THREE – ON ACTIONS DEPENDENT ON THE GRANTING AUTHORITY'S PRIOR CONSENT OR NOTIFICATION**

**Events that require prior approval from the GRANTING AUTHORITY**

43.1. Notwithstanding other events set forth hereunder and the applicable laws and regulations, the following actions that may be potentially performed by the CONCESSIONAIRE are conditional on the GRANTING AUTHORITY's prior approval, under penalty of sanctions set forth under ANNEX XV, including being able to give effect to declaring forfeiture of the CONCESSION:

I.change to the articles of incorporation of the SPECIAL PURPOSE COMPANY, except those eminently formal and/or procedural, which shall be the subject of subsequent simple notification to the GRANTING AUTHORITY;

II.merger, consolidation, scission, transformation or any corporate reconstruction involving TRANSFER OF CONTROL;

III.provided they can, individually or collectively, characterize changes in the CONCESSIONAIRE shareholding CONTROL, directly or indirectly, the following are included, for instance, as an act(s) subject(s) to prior approval by the GRANTING AUTHORITY;

- a. Entering into of shareholders agreement;
- b. Issuance of securities convertible into shares; and
- c. Establishing bonds and rights to third parties in shares.

IV.alienation of CONTROL or transfer of the SPECIAL PURPOSE COMPANY, operated by LENDERS and/or Guarantors, for purposes of financial restructuring of the CONCESSIONAIRE;

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- V. creation of subsidiaries, including for exploitation of REVENUE;
  - VI. reduction of the SPECIAL PURPOSE COMPANY's capital stock to levels below the minimum established hereunder;
  - VII. contracting or changes in insurance coverage, in the insurance company contracted and/or in the bonds contracted by the CONCESSIONAIRE and pursuant to the CONTRACT hereunder, including those whose contracting is due to what is established in accordance with ORDINARY REVIEW procedures;
  - VIII. alienation, constitution of encumbrances or transfer, of any nature, of REVERSIBLE ASSETS, by the CONCESSIONAIRE to third parties, including its LENDERS or guarantors, as set forth under Clause 16.12.
- 43.2. Requests for prior consent shall be submitted by the CONCESSIONAIRE in sufficient time to allow for proper analysis and statement to be issued by the GRANTING AUTHORITY in a timely and reasonable manner, considering due diligence so as not to jeopardize operation(s) intended by the CONCESSIONAIRE, which depend on approval given by the GRANTING AUTHORITY.
- 43.3. Requests for prior consent submitted by the CONCESSIONAIRE shall be accompanied by the relevant documentation for the characterization and explanation of the intended operations, and other documents that shall be requested by the GRANTING AUTHORITY, especially those that are necessary to represent the following aspects:
- I. evidence of not jeopardizing the continuity of the provision of services connected to the asset object of the CONTRACT hereunder; and
  - II. evidence of not jeopardizing the quality in the provision of services connected to the asset object of the CONTRACT hereunder;
- 43.3.1. If the request for prior approval has the scope of any operation that impacts the CONCESSION's ASSETS, the CONCESSIONAIRE's commitment to perform, if necessary, immediate replacement of assets to be sold or transferred to new property, featuring equal functionality and equal or superior technology, shall be submitted, unless the GRANTING AUTHORITY expressly agrees not to perform it.
- 43.3.2. The GRANTING AUTHORITY shall have 60 (sixty) days, effective the receipt of the prior consent of claim submitted by the CONCESSIONAIRE, to provide a written response to the request, and shall grant approval to reject the request or formulate requirements for granting it.
- 43.4. If the GRANTING AUTHORITY rejects the request or requires additions, it shall do so in a reasoned manner, and may submit an alternate proposal to the intended operation to be heeded.

**Operations and situations to be reported to the GRANTING AUTHORITY**

- 43.5. The following actions and operations occasionally practiced by the CONCESSIONAIRE depend on notifying the GRANTING AUTHORITY first, within 15 (fifteen) days, under penalty of applying the sanctions described hereunder:
- I. changes in the shareholding structure of the SPECIAL PURPOSE COMPANY which do not entail TRANSFER OF CONTROL, but which do involve transferring at least 20% (twenty percent) of the shares with voting rights from the SPECIAL PURPOSE COMPANY, held by only one shareholder;

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- II.in the shareholding structure of the SPECIAL PURPOSE COMPANY which do not imply TRANSFER OF CONTROL, but which do involve transferring at least 0% (ten percent) of the shares with voting rights from the SPECIAL PURPOSE COMPANY, held by only one shareholder;
- III.changes made to voting arrangements applicable to any CONTROLLING GROUP, provided they do not imply TRANSFER OF CONTROL;
- IV.changes to the SPECIAL PURPOSE COMPANY's Articles of Incorporation, of an eminently formal and/or procedural nature;
- V.contracting any financing, issuance of bonds and securities, any and all debt operations contracted by the SPECIAL PURPOSE COMPANY;
- VI.application of penalties to the SPECIAL PURPOSE COMPANY, by any agency or entity that has the competence to do so, especially regarding default in relation to tax, social security, safety and occupational medicine obligations, or applied by any entity with the competence to regulate and inspect the CONCESSIONAIRE'S activities, or of an environmental nature;
- VII.substitution of the RESPONSIBLE TECHNICIAN of the SPECIAL PURPOSE COMPANY;
- VIII.loss of any condition essential to the provision of services by the SPECIAL PURPOSE COMPANY;
- IX.reorganization petition; and
- X.subcontracting or outsourcing construction works and services related to the exploitation of REVENUE and compliance with assignments specified hereunder and its ANNEXES .

**CLAUSE FORTY- FOUR – ON PENALTIES**

- 44.1. Penalties applicable hereunder, as well as their gradation, shall follow the regulations established by ANNEX XVI, and their enforcement shall be carried out by administrative sanctioning proceedings, which shall apply to the procedure established in State Law No. 10.177/1998, being granted full right to defense and adversarial proceeding, under legal terms.
- 44.2. The application of penalties is not to be confused with the assessment of PERFORMANCE INDICATORS and their consequences.
- 44.3. For purposes of this CONTRACT, recidivism is considered to be the practice of the same offense within a period of three (03) years.
  - 44.3.1. For recidivism characterization purposes, it is important that at the time of the practice of the repeated offense, there had been no conviction, or even institution of administrative sanctioning proceedings, in reference to the previous offense.
  - 44.3.2. Conviction for the previous offense is a condition for the application of the aggravating factor of recidivism in the penalty of the subsequent offense.
    - 44.3.2.1. In case, when applying the penalty of the subsequent offense, the conviction for the previous offense is not definitive in the administrative sphere, application of aggravating circumstance of recidivism of the previous offense, whose effects shall be automatically disregarded, regardless of request from CONCESSIONAIRE, shall be considered on a temporary basis, in the event that the conviction for the previous offense no longer exists, at any time and for any reason.

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44.4. Failure to comply with the provisions set forth hereunder, in the ANNEXES and the AUCTION NOTICE, with regard to applicable laws and/or regulations, constitutes a breach of contract and shall, notwithstanding administrative, civil and penal responsibilities that shall be applicable, apply the following contractual penalties:

I.warning;

II.pecuniary fine;

III.temporary suspension of the right to carry out the bidding process and impediment to enter into contract with, directly or indirectly, the Government of the State of São Paulo, for a period not exceeding 2 (two) years ;

IV.statement of ineligibility to carry out the bidding process or enter into contract with the Government, while the reasons for the punishment persist or until rehabilitation is promoted before the authority that applied the penalty.

44.4.1. The penalties provided for hereunder shall be applied separately or cumulatively, depending on the severity of the act.

44.4.2. Classification of offenses in ANNEX XVI do not rule out the possibility of characterizing offenses that are not defined in the norms of the CONTRACT, the AUCTION NOTICE and the ANNEXES, as well as the applicable laws and regulations, as set forth under ANNEX XVI.

44.4.3. In the event of forfeiture of the CONCESSION, the penalty set forth under items III and/or IV of Clause 44.4. shall be applied both to the CONCESSIONAIRE and to its CONTROLLER shareholder(s) who exercised CONCESSIONAIRE CONTROL at the moment the illegal act that gave rise to the punishment occurred.

44.5. The GRANTING AUTHORITY shall, in the cases specified hereunder, grant additional time for the CONCESSIONAIRE to correct irregularities, thus promoting the suspension of the application of penalties to the CONCESSIONAIRE.

44.5.1. The additional period for correcting irregularities shall not suspend the sanctioning proceeding(s), unless expressly agreed otherwise.

44.5.2. The additional period for correcting irregularities shall extend for a term of up to 180 (one hundred and eighty) days, extendable at the discretion of the GRANTING AUTHORITY.

44.5.3. Once the additional period to correct irregularities has come to an end and the aggravating circumstances that caused it remain unresolved, the application of penalties shall resume by computing daily fines due throughout the entire period of suspension, and assessing the appropriateness of introducing a forfeiture proceeding, as set forth hereunder, in case it was not already in progress.

44.5.4. At the conclusion of the additional period for correcting irregularities, granted as per Clause 44. 5 and having resolved the aggravating circumstances that originated it, ceasing the situation of breach of contract, the sanctioning proceeding related to the rectified irregularity shall be terminated, without application of penalty.

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- 44.6. When the penalty arises from non-compliance with the initial or intermediate terms of the MINIMUM STARTING INVESTMENT, RESTORATIONS or ADDITIONAL INVESTMENTS, the GRANTING AUTHORITY shall accept a new timetable of services not yet performed in order to allow for the recovery of the breach of time, provided the original end date on the timetable is not changed.
- 44.6.1. The decision on the acceptance of a new schedule, as set forth under Clause 44.6, shall be based on and guided by technical criteria.
- 44.6.2. Regardless of the acceptance of a new schedule set forth under sub clause 44.6.1, the penalty application procedure set forth hereunder shall be observed, with the suspension of the penalty application or enforceability in the case of a fine.
- 44.6.3. Submission, by the CONCESSIONAIRE, of a request for rescheduling the services not yet performed, set forth under Clause 44.6, shall be equivalent to the recognition that the breach of the initial or intermediary time is in fact its responsibility, and the CONCESSIONAIRE shall not adopt, in the sanctioning process, behavior incompatible with this recognition.
- 44.6.4. The suspension of the application of penalty or enforceability fine shall be granted only when the time intended in the timetable set forth in Clause 44.6 does not imply prescription for punitive claim of the GRANTING AUTHORITY.
- 44.6.5. Compliance with the term established in the new timetable, as set forth under 44.6, and the recovery of the original timetable, shall matter in filing the administrative sanctioning process and/or termination of the corresponding penalty.
- 44.6.6. In the event of non-compliance with the new timetable set forth under Clause 44.6, a collection document shall be drawn up on the working day immediately following the expiration term not complied with of the new timetable, accruing arrears as set forth under sub clause 44.6.6.2, and a new timetable shall not be allowed in this case.
- 44.6.6.1. Occasional defense submitted by the CONCESSIONAIRE due to the duty set forth in subclause 44.6.6 shall be restricted to the statement that non-compliance with the term foreseen under the new timetable was due to a factor whose risk or responsibility was attributed to the GRANTING AUTHORITY, and cannot relitigate facts that have already been the object of analysis and irrecoverable decision in the sanctioning process.
- 44.6.6.2. The cost of the fine due by the CONCESSIONAIRE shall be adjusted for inflation by *pro rata* index variation set forth under clause 3.2, plus the application of interest at 1% (one percent) per month, calculated *pro rata*, comprising the term set forth under subclause 44.6.3 and the date of the drafting of the billing document.
- 44.7. The benefit that shall be earned by the CONCESSIONAIRE due to the practice of an action deemed an offense, shall be passed on to the GRANTING AUTHORITY in order to avoid the illicit enrichment of the CONCESSIONAIRE, notwithstanding the applicable penalty.
- 44.8. The monetary amounts resulting from the application of fines proven to be due in an unappealable administrative proceeding shall revert in favor of the GRANTING AUTHORITY, being preferably offset with amounts that the GRANTING AUTHORITY recognizes, administratively, as payable to the CONCESSIONAIRE, or discounted directly from the CENTRALIZER ACCOUNT, subject to the discount limit of 0.5% (five tenths percent) of the amount contained in the CENTRALIZER ACCOUNT, at the intervals defined in the management contract of the CENTRALIZER ACCOUNT, according to ANNEX X, until the debt has been fully settled.



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- 44.8.1. The fines, when applied, shall be adjusted for inflation using the *pro rata die* index variation set forth under Clause 3.2, in addition to the application of default interest of 1% (one percent) per month, calculated *pro rata die*, effective the expiration of the payment term specified in subclause 44.8.2, until the date of the actual payment.
- 44.8.2. In the event that a direct discount from the CENTRALIZER ACCOUNT or compensation with payable costs by the GRANTING AUTHORITY is not possible, the CONCESSIONAIRE shall make the payment within 30 (thirty) consecutive days, effective the notification of the final administrative decision, and the payment receipt shall be submitted in the records of the administrative sanctioning proceeding within the same period.
- 44.8.3. Failure to collect any fine due, when direct discount from the CENTRALIZER or compensation with payable costs by the GRANTING AUTHORITY is not possible, under the set terms and deadlines, shall characterize a serious violation, giving rise to the execution of the PERFORMANCE BOND, as set forth under Clause Thirty Eight, without further steps being necessary.
- 44.9. In the event of any type of contractual breach in the exercise of oversight, which shall result in the potential application of penalties to the CONCESSIONAIRE, the responsible party for overseeing the CONTRACT shall draw up the OVERSIGHT TERM, containing:
- I.description of the verified fact(s);
  - II.indication of possible recidivism, including the date of the last occurrence, if applicable;
  - III.classification of the verified fact with the triggering facts set forth under ANNEX XVI , or with noncompliance with obligations set forth under the CONTRACT, the AUCTION NOTICE and its ANNEXES, under the applicable legislation and/or regulations;
  - IV.photographic records, when compatible with the nature of the offense;
  - V.indication and gradation of the applicable penalty, observing the criteria of ANNEX XVI; and
  - VI.oversight agent identification.
- 44.9.1. Any errors in classification or indication of the applicable fee by the oversight agent shall be settled in administrative sanctioning proceedings, and the CONCESSIONAIRE's period of defense shall be returned, in case the pretrial stage results in any new information of a factual nature.
- 44.9.2. After the OVERSIGHT TERM has been drawn up, it shall be forwarded:
- I. to the competent administrative department of SIMA for purposes of evaluation as to the initiation of administrative sanctioning proceedings, followed by the regular legal process set forth under Article 63 of State Law 10.177/1998;
  - II. to the CONCESSIONAIRE, indicating the term to rectify the verified violations or defects, notwithstanding the concomitant establishment of administrative sanctioning proceedings under State Law No. 10.177/1998.
- 44.9.3. The rectification of the violations set forth in the OVERSIGHT TERM does not dismiss the configuration of breach, and hence, the application of the corresponding penalty, in accordance

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with the CONTRACT hereunder, set forth under ANNEX XVI and the applicable legislation, notwithstanding events set forth under Clauses 44.6 and 44.7, when applicable.

44.10. It is possible to gather, in the same administrative sanctioning proceeding, related cases involving infractions of the same type, in which case the eventual application of a penalty shall consider the number of infractions committed.

44.10.1. Given the occurrence of extenuating and/or aggravating circumstances for only one or part of the verified infractions, the GRANTING AUTHORITY shall impose penalties separately.

44.11. If the PERFORMANCE BOND in force is in the form of a completion bond, the GRANTING AUTHORITY shall, at its discretion, bring the insurer to open administrative sanctioning proceedings.

44.12. Notified by receipt or by electronic means, the CONCESSIONAIRE shall be responsible for submitting its defense within the period set forth under article 63, item III of State Law No. 10.177/1998, producing any evidence it deems convenient.

44.12.1. The CONCESSIONAIRE's requests for production of evidence shall only be considered, pursuant to article 63, item IV, of State Law No. 10.177/1998, if the CONCESSIONAIRE, in its defense, specifically signals which evidence it intends to produce, its purpose, and the justification for the evidentiary stage.

44.13. In the event that the CONCESSIONAIRE's arguments are not accepted, or upon expiration of the statutory period without presentation of a defense, and concluding occurrence of contractual breach, the appropriate sanction shall be applied, serving the CONCESSIONAIRE with a subpoena.

44.13.1. The subpoena on the application of penalties shall be made by written notification, upon receipt or sent electronically.

44.13.2. The CONCESSIONAIRE shall keep the GRANTING AUTHORITY informed about the electronic mail address to receive any citations, notifications or communications relating to the CONTRACT hereunder, adopting as the initial date for the term, the working day immediately following the sending of electronic communication.

44.14. In the event of a possible penalty applied by the GRANTING AUTHORITY, an appeal shall be made within 15 (fifteen) working days effective receipt of the notice by the CONCESSIONAIRE, only once, directly to the hierarchically superior authority, within the scope of the GRANTING AUTHORITY, to the one that rendered the decision, subject to the provisions of Articles 40 and 47, § 2, both of State Law No. 10.177/1998.

44.14.1. The term set forth under Clause 44.14 applies to reconsideration requests, which shall be filed only once, and exclusively in the cases set forth under Article 42 of State Law No. 10,177/1998.

44.15. Unless specifically stated, the terms shall be counted consecutively excluding the day of the beginning and including the day of maturity date, and the maturity of the term being on a day when there is no working day at the oversight entity, it shall result in its extension for the first subsequent working day.

44.15.1. Terms only start and expire on working days at the agency or entity.

44.15.2. The term is considered to be extended until the first subsequent working day in the event that on the day of expiration, working hours are concluded before normal hours.

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**Chapter VIII - INTERVENTION**

**CLAUSE FORTY-FIVE - INTERVENTION**

45.1. The GRANTING AUTHORITY shall, notwithstanding applicable penalties and responsibilities at any time, intervene in the CONCESSION to ensure the correctness and appropriateness of the construction works, the continuity of the provision of services and/or compliance by the CONCESSIONAIRE of contractual standards, regulations and relevant legal requirements. Situations that give effect to the intervention include:

I. cessation or interruption, of all or part of, the implementation of construction works concerning the MINIMUM STARTING INVESTMENT, RESTORATIONS or ADDITIONAL INVESTMENTS, or the provision of services and activities that are object of the CONTRACT hereunder, by the CONCESSIONAIRE;

II. serious deficiencies in the organization of the CONCESSIONAIRE that jeopardize the due fulfillment of the obligations assumed within the scope of the CONCESSION;

III. serious deficiencies in the development of the activities set forth hereunder;

IV. situations in which the CONCESSIONAIRE's operations of CAMINHOS DO MAR offer risks to the continuity of the adequate provision of services contracted;

V. situations that endanger the environment, the safety of persons or property, the funds or public health or population;

VI. serious and/or repeated breaches of the obligations set forth in the CONTRACT hereunder;

VII. failure to present or renew insurance policies necessary for full and regular contractual development;

VIII. inappropriate or inefficient recidivist efforts by the CONCESSIONAIRE in executing the object of the contract, based on the PERFORMANCE INDICATORS, identified by the attribution to the CONCESSIONAIRE of performance scores below (a) 30% (thirty percent) of the goals established by the PERFORMANCE INDICATORS in the provision of services, even without jeopardizing the CONCESSIONAIRE's financial situation, for 03 (three) consecutive years; or (b) 50% (fifty percent) of the goals established by the PERFORMANCE INDICATORS in the provision of services, even without jeopardizing the CONCESSIONAIRE's financial situation, for 05 (five) non-consecutive years; and

IX. using CONCESSION facilities for illicit purposes.

45.1.1. The GRANTING AUTHORITY's decision to carry out the intervention in the CONCESSION, in the event of one of the situations set forth in Clause 45.1, involves convenient and pertinent proceedings by the GRANTING AUTHORITY, and the GRANTING AUTHORITY shall, in view of the peculiarities of the situation, decide to apply other measures foreseen under the CONTRACT that, in its opinion, better serve the public interest, such as the application of penalties or declaring forfeiture of the CONCESSION, when admissible.

45.1.2. In the event of any situation that shall give effect to intervention in the CONCESSION, the GRANTING AUTHORITY shall notify the CONCESSIONAIRE so it may, within the required time period, remedy the irregularities indicated, notwithstanding the application of penalties.



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- 45.1.2.1. On the closing date without the CONCESSIONAIRE curing irregularities and taking action that, at the discretion of the GRANTING AUTHORITY, demonstrate effective ways of solving them, it shall propose the enactment of the intervention of the Governor of the State of São Paulo, which shall enact a decree.
- 45.2. The intervention in the CONCESSION shall be carried out by a motivated act by the Governor of the State of São Paulo, duly published in the Official Gazette/SP, indicating, at the minimum, the reasons for the intervention, the designation of the intervener, the term and limits of the intervention.
- 45.3. The intervention automatically entails the compulsory and temporary transfer of the INTERVENTOR to the CONCESSIONAIRE's administration.
- 45.3.1. The role of the intervener shall be exercised by an agent of the GRANTING AUTHORITY's staff, a person specifically appointed, collegiate or companies, with the CONCESSIONAIRE bearing all costs of the respective compensation.
- 45.4. After the intervention has been decreed, the GRANTING AUTHORITY, within 30 (thirty) days, shall institute administrative proceedings to determine the respective responsibilities and prove the causes of the intervention, ensuring the CONCESSIONAIRE the right to the payable legal process, especially the right to ample defense and the adversary proceeding.
- 45.4.1. The aforementioned administrative procedure shall come to conclusion within a maximum period of 180 (one hundred and eighty) days, under penalty of invalidation of the intervention.
- 45.5. With the intervention, the CONCESSIONAIRE undertakes to immediately make available to the GRANTING AUTHORITY the CONCESSION AREA, the CONCESSION ASSETS and everything needed for the full provision of the services that are object of the CONTRACT.
- 45.6. During the intervention period, REVENUE shall be collected in the manner defined by the interventor or by action of the intervention.
- 45.6.1. Revenue obtained during the intervention period shall be used to cover charges necessary for the normal development of the activities corresponding to the object of the CONTRACT, as well as the payment of charges for insurance and bonds, charges for financing and reimbursement of administrative costs.
- 45.7. Any additional costs resulting from the intervention shall be payable by the CONCESSIONAIRE, and the GRANTING AUTHORITY may use the PERFORMANCE BOND to obtain missing funds to cover the costs of continued proper operation, maintenance and operation of CAMINHOS DO MAR, under the intervention regime.
- 45.7.1. In the event that the PERFORMANCE BOND is not sufficient, the CONCESSIONAIRE shall reimburse the GRANTING AUTHORITY.
- 45.8. Once the intervention has ceased, if the CONCESSION is not terminated, provision of the services covered by the CONTRACT hereunder shall again be the responsibility of the CONCESSIONAIRE, with any surplus of the REVENUE earned over the intervention period being transferred, preceded by the rendering of accounts by the INTERVENTOR, who shall be responsible for the acts practiced during its management, returning to the CONCESSIONAIRE the possession of the assets that have been assumed by the interventor and the exercise of the contractual position, rights and obligations inherent to such provision.

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45.9. The intervention does not cause the cessation or suspension of any obligation of the CONCESSIONAIRE towards third parties, including LENDERS.

45.10. In the event of evidence that the legal and regulatory requirements for the decree of the intervention were not observed, its annulment shall be declared, and the service shall return immediately to the CONCESSIONAIRE, notwithstanding accounting by the INTERVENTOR and any indemnification that shall apply.

45.11. The GRANTING AUTHORITY shall indemnify the CONCESSIONAIRE for any direct damages caused during the period of intervention.

### CHAPTER IX – CONTRACT TERMINATION

#### CLAUSE FORTY- SIX - IN THE EVENT OF TERMINATION OF THE CONCESSION

46.1. The CONCESSION shall be terminated by:

I.expiry of the contractual term;

II.nationalization;

III.forfeiture;

IV.rescission;

V.annulment resulting from a defect or irregularity that cannot be confirmed, verified in the procedure or in the act of granting it;

VI.bankruptcy or termination of the CONCESSIONAIRE or reorganization that prevents implementation of the CONTRACT;

VII.fortuitous and force majeure events set forth in this Chapter; and

VIII.configuration of any event of anticipated termination listed in Clause 7.2 hereunder.

46.2. In the event of termination of the CONCESSION, the GRANTING AUTHORITY shall, depending on the event that caused termination of the CONTRACT, and according to the provisions in the Chapter hereunder:

I.assume, directly or indirectly, operations of CAMINHOS DO MAR on the site and in the state it is located, and;

II.occupate and utilize the premises, facilities, equipment, materials and avail itself of personnel employed in the provision of Services, necessary for its continuity;

III.enforce all applicable penalties; and

IV.retain and execute bonds and insurances, when pertinent, to receive administrative fines and reimburse losses caused by the CONCESSIONAIRE.

46.3. When the CONCESSION is terminated, immediate assumption of the activities that are object of the CONTRACT hereunder and the REVERSIBLE ASSETS shall be granted to the GRANTING AUTHORITY, reverting the relevant assets and rights, pursuant to Clause Fifty-Five.

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46.3.1. In the case set forth under Clause 46.3, the GRANTING AUTHORITY shall maintain contracts executed by the CONCESSIONAIRE with third parties for the term and under the conditions initially adjusted, in compliance with the current legislation.

46.4. The GRANTING AUTHORITY shall promote a new bidding process for the object of the CONTRACT, attributing the new winner the encumbrance of indemnification directly to LENDERS of the old CONCESSIONAIRE, or directly to this, as appropriate.

**CLAUSE FORTY-SEVEN - EXPIRY OF CONTRACTUAL TERM**

47.1. A CONCESSION expires when the final term of the CONCESSION TERM is verified, consequently concluding the contractual relationship between the Parties, except those expressly set forth under the CONTRACT hereunder and post-contractual obligations attributed to the CONCESSIONAIRE.

47.2. Having verified the expiry of the contractual term, notwithstanding any subrogation of the SUCCESSOR in the ongoing contracts, the CONCESSIONAIRE shall be fully and exclusively responsible for terminating any contractual relationships entered into with third parties of which it is a party, and the GRANTING AUTHORITY shall not assume any liability or burden in connection with such contracts.

47.2.1. The GRANTING AUTHORITY shall not assume, except when exercising the right to subrogate in contracts executed by the CONCESSIONAIRE, any responsibility or encumbrance as to the contracts executed by the CONCESSIONAIRE, not being due any indemnification to the CONCESSIONAIRE or third parties due to the termination of such contractual relationships.

47.2.2. The CONCESSIONAIRE shall take all necessary measures for the facilitation of negotiations between the GRANTING AUTHORITY and third parties contracted by it, so as to ensure the possibility of exercising the right set forth under sub clause 47.2.1.

47.3. The CONCESSIONAIRE is obliged to cooperate with the GRANTING AUTHORITY so that there is no interruption in the provision of services or visits to CAMINHOS DO MAR, with the expiry of the contractual term and the consequent termination of the CONTRACT hereunder according to ANNEX XIII, and, for example, it shall cooperate in the training of the GRANTING AUTHORITY's servers, or another GOVERNMENT entity appointed by it, or of a potential SUCCESSOR, collaborating in the transition and in whatever is needed for the continued exploitation and maintenance of the REVERSIBLE ASSETS, upholding duly justified business secrecy situations that possess the consent of the GRANTING AUTHORITY.

47.4. Three years before the CONCESSION TERM's closing date, the CONCESSIONAIRE shall submit the DEMOBILIZATION PLAN for the appreciation and approval of the GRANTING AUTHORITY, pursuant to Clause Forty-seven.

47.5. In the last ORDINARY REVIEW that precedes the end of the CONCESSION TERM, the PARTIES shall anticipate any investments necessary for demobilization, being certain that such investments shall be amortized until expiry of the CONCESSION TERM, as set forth under Clause Forty-Seven.

47.6. With the expiry of the contractual term, the CONCESSIONAIRE shall not be entitled to any indemnification related to investments in REVERSIBLE ASSETS.

**CLAUSE FORTY-EIGHT - GENERAL INDEMNIFICATION RULES**

48.1. In the event of anticipated termination of this CONTRACT, CONCESSIONAIRE shall be entitled to compensation for installments of investments bound to the REVERSIBLE ASSETS, and not yet



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amortized or depreciated, and shall consider, for purposes of calculating the compensation, the methodological premises below:

- I. costs related to the economic and financial imbalances of CONCESSION in favor of each of the PARTIES shall be considered.
  - II. the straight-line amortization method (constant amortization) shall be used in the calculation, considering the recognition of REVERSIBLE ASSETS and the shorter term between (I) the CONTRACT term or (II) the useful life of the respective REVERSIBLE ASSET.
  - III. no costs recorded as interest expenses and other financials during the construction stages shall be considered.
  - IV. no amounts recorded in respect of pre-operating expenses shall be considered..
  - V. no costs recorded under construction works margin shall be considered.
  - VI. no acquisition premiums shall be considered.
  - VII. no costs recorded as VARIABLE GRANT or INSPECTION COSTS shall be considered..
  - VIII. the cost of the installments of investments bound to the REVERSIBLE ASSETS that have not yet been amortized or depreciated shall be calculated based on the intangible asset of the CONCESSIONAIRE, and the end of the term being the notification date of the extinction of the CONTRACT to the CONCESSIONAIRE, according to Technical Interpretation ICPC 01 (R1), related pronouncements and guidelines and, also, respective reviews, all issued by the Accounting Pronouncements Committee - CPC, duly adjusted according to the IPC/FIPE of the contractual year from the investment recognition until the contractual year of payment of the indemnification.
  - IX. recorded costs, in accordance with the system in the previous paragraph, shall have as a maximum limit the costs provided for in the feasibility studies published by the GRANTING AUTHORITY, or the costs approved by the GRANTING AUTHORITY as set forth under the CONTRACT hereunder, provided there is no provision in the feasibility studies disclosed by the GRANTING AUTHORITY and, in both cases, duly adjusted in accordance with the IPC/FIPE of the contractual year of the investment recognition until the contractual year of payment of the indemnification.
- 48.2. REVERSIBLE ASSETS that have been incorporated into CONCESSIONAIRE assets via donation or through indemnification from the GRANTING AUTHORITY, shall not compose the indemnifiable amount.
- 48.2.1. Any costs from the repair and/or reconstruction of REVERSIBLE ASSETS delivered in a situation other than that established hereunder and its ANNEXES shall be deducted from the indemnification amount.
  - 48.2.2. Components indicated in items I and II of Clause 48.1 shall be adjusted in accordance with the IPC/FIPE for the period between (a) the beginning of the contractual year in which the investment is recognized or (b) the event that generates the charges and encumbrance, and the contractual year of the indemnification payment date.
- 48.3. The payment within the administrative scope carried out in the form established in the clause hereunder, when accepted by the CONCESSIONAIRE, shall correspond to the complete, general and unrestricted settlement regarding the payable amount by the GRANTING AUTHORITY as a result of the

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indemnification, and the CONCESSIONAIRE shall not demand, administratively or in litigation, in any way, other indemnities, including, for profit losses and consequential damages.

48.4. Indemnification due to the CONCESSIONAIRE in any case shall be deducted, always in the order of preference below and regardless of consent from the CONCESSIONAIRE:

I. the costs of fines imposed on the CONCESSIONAIRE in the context of the execution of the CONTRACT due to final and unappealable proceeding and/or sanctioning procedures already concluded;

II. the costs of damages caused by the CONCESSIONAIRE to the GRANTING AUTHORITY, duly determined and settled by means of a definitive decision in a regular administrative procedure, observing the right to full and comprehensive defense and to adversarial proceeding;

III. the debit balance payable to LENDERS relating to financing for investments bound to REVERSIBLE ASSETS, plus contractual interest agreed in the respective contractual instruments.

48.5. The exemption of the CONCESSIONAIRE regarding obligations arising from financing contracts incurred by it, for purposes of complying with the CONTRACT, shall be made by:

I. assumption, by the GRANTING AUTHORITY or by third parties, by subrogation, to LENDERS or creditors, of the remaining contractual obligations of the CONCESSIONAIRE, up to the limit of the cost payable to the CONCESSIONAIRE after the deductions set forth under Clause 48.4; or

II. prior indemnification to the CONCESSIONAIRE, limited to the costs of indemnification calculated as set forth under Clause 48.4, of the remaining debts that it maintains before the creditor LENDERS.

48.5.1. The cost referring to the exemption set forth under Clause 48.5 above shall be deducted from the cost of the indemnification due.

48.6. The general indemnification rule set forth in the clause hereunder is applicable to all cases of anticipated termination, and the payment of indemnification for specific items in each of the anticipated termination clauses set forth below shall always be observed.

**CLAUSE FORTY- NINE - NATIONALIZATION**

49.1. The GRANTING AUTHORITY may, during the term of the CONTRACT, promote its resumption due to duly justified public interest, by means of specific authorized law authorizing and previous payment of indemnification, in accordance with the CONTRACT hereunder.

49.2. In case of nationalization, beyond the provisions set forth under Clause 48.1, indemnification owed to the CONCESSIONAIRE shall cover:

I. all charges and encumbrances arising from fines, rescission and indemnifications that shall be payable to suppliers, contractors and third parties in general due to the disruption of the contractual relationship, and such costs shall be compatible with market costs, especially in case of RELATED PARTIES; and

II. profit losses.

49.2.1. Exclusively for purposes of indemnification for the case contemplated in the clause hereunder, costs accounted for by the recognition of the FIXED GRANT shall be considered, provided they are actually disbursed by the CONCESSIONAIRE.

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49.3. The component in item II of Clause 49.2 is calculated according to the following formula:

Where:

*LC* = loss of profits in item II of Clause 49.2.

*A* = the investments in Clause 48.1.

*NTNB'* = gross real interest rate on the sale of National Treasury Notes - Series B (NTN-B), *ex-ante* deduction of income tax, with maturity date compatible with the termination of the CONTRACT, in the event that there was no anticipated termination, published by the National Treasury Secretariat, considering the average of quotations available in the 12 months prior to the indemnification payment date.

*n* = remaining period, in years, between the indemnification payment date and expiry of the contractual term, provided there was no anticipated termination of the CONTRACT, on the same basis as *NTNB'*.

49.4. Proper indemnification due to nationalization is limited to costs set forth in the clause hereunder, and any other costs by way of indemnification, lost profits and/or consequential damages are not payable.

49.5. The indemnification shall be disbursed until the exact moment when the CONCESSION resumes.

**CLAUSE FIFTY - FORFEITURE**

50.1. The total or partial non-execution of the CONTRACT, or of the duties imposed by law or regulation, shall result, at the discretion of the GRANTING AUTHORITY, and in compliance with the provisions of the CONTRACT hereunder, in declaration of forfeiture of the CONCESSION, which shall be preceded by a competent administrative process, ensuring the payable legal process, especially the right to full and comprehensive defense and to adversarial proceeding, after exhausting the possibilities of solution provided for hereunder, notwithstanding the application of contractual sanctions.

50.2. The decision of the GRANTING AUTHORITY to declare forfeiture of the CONCESSION in the event of one of the situations set forth in clause 50.3, involves opportune and pertinent judgement by the GRANTING AUTHORITY, and the GRANTING AUTHORITY shall, given the peculiarity of the situation, decide on the applications of other measures set forth under the CONTRACT that it considers to better serve the public interest, such as the application of penalties or the decree of intervention in CONCESSION, when admissible.

50.3. The CONCESSION shall be declared forfeited in the following cases, in addition to those listed by Federal Act No. 8987/1995, with its amendments, and notwithstanding the other cases provided for hereunder:

I. loss or compromise of economic and financial conditions, technical or operational, necessary for the full performance of the CONCESSION;

II. total nonperformance of obligations or recidivist failure to comply with obligations under the CONTRACT;

III. failure to comply with contractual clauses, legal or regulatory provisions concerning the CONCESSION, which compromise the continuity of services or the safety of USERS, employees or third parties;

IV. cessation of services object of the CONTRACT due to the CONCESSIONAIRE's fault or willful misconduct, or if it has concurred for that, except in the case of fortuitous or force majeure events, as provided for hereunder;

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- V.the CONCESSIONAIRE's failure to comply with a request from the GRANTING AUTHORITY to submit documentation relating to tax and labor regulations in 180 (one hundred eighty) days, pursuant to art. 29 of Federal Act No. 8.666/1993;
- VI.failure to comply with the obligation to replace the full cost of the CONTRACT's PERFORMANCE BOND, in the event of cancellation or rescission of the bank-issued guarantee letter or the warranty insurance policy and/or non-renewal of these with a minimum advance of 30 (thirty) days of maturity date, pursuant to Clause 38.7;
- VII.failure to maintain the integrity of the required PERFORMANCE BOND and INSURANCE, and occasional impossibility or undue difficulty in implementing these by the GRANTING AUTHORITY, in the events that give effect to termination;
- VIII.inappropriate or inefficient recidivist action by the CONCESSIONAIRE executing the contractual object, based on the PERFORMANCE INDICATORS, qualified by the attribution to the CONCESSIONAIRE of performance scores below (a) 30% (thirty percent) of the goals established by the PERFORMANCE INDICATORS in the provision of the services, even without jeopardizing the CONCESSIONAIRE's financial situation, for 03 (three) consecutive years; or (b) 50% (fifty percent) of the goals established by the PERFORMANCE INDICATORS in the provision of the services, even without compromising the CONCESSIONAIRE's financial situation, for 05 (five) non-consecutive years;
- IX.noncompliance with penalties imposed by the GRANTING AUTHORITY within the prescribed term;
- X.changes to the shareholding CONTROL of the CONCESSIONAIRE or encumbrance of their shares without prior written consent from the GRANTING AUTHORITY, except in the case of assumption of CONTROL by LENDERS set forth hereunder;
- XI.transfer from the CONCESSION itself without prior written consent from the GRANTING AUTHORITY;
- XII.noncompliance with notifications from the GRANTING AUTHORITY to regulate the provision of services;
- XIII.in the occurrence of recidivist opposition to the exercise of inspection, failure to comply with the determinations of the GRANTING AUTHORITY, recurrence or disobedience to the regulations of operation, and if the other penalties set forth in the CONTRACT hereunder prove to be ineffective;
- XIV.misapplication of the CONCESSIONAIRE's business purpose;
- XV.incidence of administrative notification that gives effect to the application of contractual fines that add up to 30% (thirty percent) of the cost of the CONTRACT in its aggregate cost, considering fines that are not subject to appeal at the administrative level;
- XVI.installation of administrative proceedings or litigation relative to damages caused by the CONCESSIONAIRE to the GRANTING AUTHORITY, not insurable or whose cost exceeds the cost covered by insurance whose aggregate cost corresponds to 30% (thirty percent) of the CONTRACT cost; and
- XVII.sum of items XVI and XVII above corresponds to 40% (forty percent) of the cost of the CONTRACT.
- 50.4. In the event that the CONCESSIONAIRE performs an act that leads to an actual declaration of forfeiture of the CONCESSION, a fine in an amount equivalent to the PERFORMANCE BOND shall be applied,

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replacing the fine provided for the noncompliance that led to the forfeit, even if there is a specific fine provided for such action.

- 50.4.1. The application of the fine does not exempt the CONCESSIONAIRE from the indemnification payment for the losses it has caused to the GRANTING AUTHORITY or to third parties, even though its effects entrain after termination of the CONCESSION.
- 50.5. When the CONCESSIONAIRE's breach of CONTRACT characterizes a continuous breach or delay by the CONCESSIONAIRE in compliance with a contractual obligation, the fact that the GRANTING AUTHORITY applies, or has applied, any of the penalties provided for in the CONTRACT hereunder and ANNEX XVI, does not exclude the possibility of declaring forfeiture of the CONCESSION, when the CONTRACT hereunder permits, if the CONCESSIONAIRE, despite the penalty applied, persists in a situation of contractual violation.
- 50.6. The CONCESSION's declaration of forfeiture shall be preceded by the breach of CONTRACT verification by the CONCESSIONAIRE in a regular administrative proceeding, ensured the payable legal proceeding, especially the right to full defense and adversarial proceeding.
- 50.6.1. The initiation of the administrative proceeding to declare forfeiture of the CONCESSION shall be preceded by a notification to the CONCESSIONAIRE, pointing out, in detail, the contractual non-compliance and nonperformance situation, granting it a term of no less than 30 (thirty) days to rectify the irregularities pointed out.
- 50.6.2. After the established period without the CONCESSIONAIRE rectifying the irregularities or taking measures that, at the discretion of the GRANTING AUTHORITY, demonstrate the effective purpose of rectifying them, it shall declare forfeiture of the CONCESSION.
- 50.6.3. Once the administrative proceeding is established and the nonperformance is confirmed, forfeiture shall be declared by the Governor of the State of São Paulo, regardless of the payment of prior indemnification, the amount of which shall be determined in the course of said administrative proceeding or in a separate administrative proceeding.
- 50.7. Declaration of forfeiture shall entail immediate claim, by the GRANTING AUTHORITY, of the possession of all REVERSIBLE ASSETS, and the responsibility of the CONCESSIONAIRE for any and all kinds of liens, fines, penalties, indemnities, charges or commitments to third parties, notably in relation to labor, tax and social security obligations.
- 50.8. The CONCESSION's forfeiture shall result in withholding, by the GRANTING AUTHORITY, of any and all credits from the CONCESSIONAIRE arising from the CONTRACT, with the GRANTING AUTHORITY being responsible for:
- I. assuming the performance of the contractual object in the place and in the state it is located in;
  - II. occupying and utilizing the locations, facilities, equipment, materials and human resources employed in the execution of services necessary for its continuity;
  - III. withholding and performing contractual BONDS to compensate for losses encumbered by the GRANTING AUTHORITY;
  - IV. withholding any CONCESSIONAIRE credits arising from the CONTRACT, in events where the PERFORMANCE BOND is not sufficient to compensate the GRANTING AUTHORITY, and up to the limit of the losses incurred; and

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V. applying penalties.

50.9. From the amount set forth in clause 48.4, the following shall also be deducted:

- I. losses incurred by the GRANTING AUTHORITY, duly proven in a regular administrative proceeding;
- II. contractual fines applied to the CONCESSIONAIRE, which have not yet been paid;
- III. any amounts received by the CONCESSIONAIRE for insurance coverage related to the events or circumstances which give effect to a declaration of forfeiture; and
- IV. other costs, as REVENUE, that shall be perceived by the CONCESSIONAIRE following declaration of forfeiture.

50.10. Once forfeiture is declared and the respective indemnification that shall be due is paid, the GRANTING AUTHORITY shall not be liable for any kind of liability in regard to charges, encumbrances, obligations or commitments to third parties or to CONCESSIONAIRE employees, including labor and social security debts.

50.11. The indemnification due by the GRANTING AUTHORITY resulting from forfeiture is limited to the costs charged in the form established in the Clause hereunder and in Clause forty-eight, and no other costs are payable as indemnifications, lost profits and/or consequential damages.

**CLAUSE FIFTY-ONE - RESCISSION**

51.1. The CONTRACT hereunder shall be terminated at the initiative of the CONCESSIONAIRE, in the event of breach of contractual regulations by the GRANTING AUTHORITY, by means of a lawsuit or arbitral proceeding specifically filed for this purpose, except in the event of amicable rescission, as set forth under article 26 of State Law 7835/1992.

51.1.1. The CONCESSIONAIRE shall notify the GRANTING AUTHORITY of its intention to rescind the CONTRACT in case of noncompliance with the contractual regulations by the GRANTING AUTHORITY, exposing the reasons for filing a suit for this purpose, as set forth in the legislation.

51.2. Services provided by the CONCESSIONAIRE shall not be interrupted or suspended until a final legal or arbitration decision decreeing the contractual termination, except in the event of a common agreement between the CONCESSIONAIRE and the GRANTING AUTHORITY.

51.3. Upon court-ordered rescission of the CONTRACT, the indemnification due to the CONCESSIONAIRE shall be equivalent to that required in the event of nationalization, and is calculated in the same manner, in accordance with Clause Forty-Eight.

51.4. The assumptions described in Clause 7.2 shall give rise to amicable rescission, notwithstanding others that fall within the aforementioned legal provision.

51.5. In the event of amicable rescission, as set forth in Clause 51.4, upon the occurrence of the cases set forth in clause 7.2 of the CONTRACT hereunder, indemnifications due shall be calculated taking into account, for each case, the following elements:

- I. in the event of termination of the CONTRACT resulting from the event referred to in item I of Clause 7.2 taking place, the indemnification shall be calculated according to the provisions applicable to cases of anticipated termination of the CONTRACT due to forfeiture;



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II. in the event of termination of the CONTRACT resulting from the events referred to in items II, III and V of Clause 7.2 taking place, indemnification shall be calculated according to the same rule and formula established contractually for the cases of nationalization, except for loss of profits, which shall be calculated according to the formula set forth under Clause 49.3, adding to the cost of NTNB' a spread, or surcharge on interest, equivalent to 207.40% (two hundred and seven point forty percent), base 252 (two hundred and fifty-two) working days;

III. in the event of termination of the CONTRACT resulting from the event referred to in item IV of Clause 7.2 taking place, indemnification is calculated according to the same regulations and formula established in the contract for cases of forfeiture.

51.5.1. In any case, amounts earned as REVENUE, and perceived by the CONCESSIONAIRE after the declaration of the CONCESSION's extinction, shall be deducted from the indemnification amount payable.

51.6. Fines, indemnities and any other amounts payable by the CONCESSIONAIRE to the GRANTING AUTHORITY, duly determined and settled by a final decision in a regular administrative proceeding, subject to the full and comprehensive defense and the adversarial proceeding, shall be deducted from the indemnification provided for in case of rescission of the CONTRACT.

51.7. For purposes of calculating indemnifications set forth under Clauses 51.3 to 51.5, costs received by the CONCESSIONAIRE as insurance coverage related to events or circumstances that gave effect to the rescission shall be considered.

51.8. Once the rescission is declared, the GRANTING AUTHORITY shall be responsible for assuming the immediate provision of the contractual object, if it has not already done so, or promoting a new bidding process, awarding the CONCESSION to a winner, preferably before the final termination of this CONTRACT.

**CLAUSE FIFTY-TWO - ANNULMENT**

52.1. The CONTRACT shall be annulled in case of non ratifiable illegality in the bidding process in its formalization or essential clause that jeopardizes the provision of services, by means of the due administrative procedure, starting from the notification sent by the GRANTING AUTHORITY to the CONCESSIONAIRE, subject to full and comprehensive defense and adversarial proceeding.

52.1.1. In the event that the illegality mentioned in Clause 52.1 above does not result from actions taken by the CONCESSIONAIRE, and actions already undertaken can still be taken advantage of, the CONCESSIONAIRE and the GRANTING AUTHORITY shall communicate with each other, with the aim of maintaining the CONTRACT.

52.2. For purposes of calculating the indemnification, the regulations set forth under clause 48.1 shall be considered, and if the CONCESSIONAIRE or the WINNING BIDDER did not contribute to the flaw that led to the annulment, costs recorded for recognizing the FIXED GRANT shall also be considered, and the payment of loss of profits is prohibited.

52.3. Fines and any other costs payable by the CONCESSIONAIRE shall be deducted from the indemnification provided for hereunder, up to the limit of the balance due for financing contracted by the CONCESSIONAIRE to fulfill the investment obligations set forth hereunder, which shall have preemptive rights over costs due to the GRANTING AUTHORITY.

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52.4. For purposes of calculating indemnifications set forth under clause 52.2, costs received by the CONCESSIONAIRE as insurance coverage related to events or circumstances that gave effect to the annulment of the CONTRACT shall be considered.

52.5. The GRANTING AUTHORITY shall promote a new bidding process for concession involving CAMINHOS DO MAR, attributing to the future winner the responsibility of paying an indemnification directly to LENDERS of the old CONCESSIONAIRE, or directly to this one, as appropriate.

**CLAUSE FIFTY-THREE - BANKRUPTCY AND DISSOLUTION OF THE CONCESSIONAIRE**

53.1. The CONCESSION shall be terminated if the CONCESSIONAIRE declares bankruptcy by final decision or in the case of bankruptcy detrimental to the execution of the CONTRACT hereunder.

53.2. Once bankruptcy is declared, the GRANTING AUTHORITY shall be in possession of the CONCESSION AREA, and shall immediately assume the execution of the object of the CONTRACT hereunder.

53.3. In the event of CONCESSIONAIRE dissolution due to bankruptcy, financial recovery that impairs the execution of the CONTRACT hereunder, or demobilization of the CONCESSIONAIRE by resolution of its shareholders, the same provisions regarding the termination of the CONCESSION shall apply, with the establishment of a due administrative proceeding to determine the actual loss and decision on the applicable sanctions.

53.4. There shall be no sharing of potential net assets of the terminated CONCESSIONAIRE among its shareholders before the payment of all obligations to the GRANTING AUTHORITY, as well as without the issuance of a DEFINITIVE RECEIPT TERM, as set forth hereunder.

**CLAUSE FIFTY- FOUR – FORTUITOUS AND FORCE MAJEURE EVENTS**

54.1. Fortuitous or force majeure events, with the consequences established hereunder, are deemed events thus defined in the form of civil law and which have a direct impact on the development of the CONCESSION's activities.

54.1.1. Force majeure or fortuitous events are considered, for instance:

I.national or international wars that directly involve contractual execution;

II.acts of terrorism;

III.nuclear, chemical or biological contamination, unless resulting from acts of the CONCESSIONAIRE;

IV.foreign nation trade embargo; and

V.natural events, such as earthquakes, hurricanes or floods, when their impacts could not be avoided or mitigated by preventive measures reasonably required from the CONCESSIONAIRE .

54.2. Non-compliance with contractual obligations proven to result from fortuitous or force majeure events, as set forth hereunder and in the ANNEXES, shall not be subject to penalties.

54.3. The PARTY whose fulfillment of its obligations is affected by fortuitous or force majeure events shall inform the other PARTY of the occurrence of the event within 48 hours.

54.4. An event characterized as a fortuitous or force majeure event shall not be considered, for purposes of recovering the economic-financial balance of the CONTRACT if, at the time of its occurrence, it

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corresponds to an insurable risk in Brazil for at least 2 (two) years, up to the limit of the average of the indemnified costs for policies normally practiced in the market, by at least two companies in the industry, regardless of whether the CONCESSIONAIRE contracted them, observing the risk matrix established by the CONTRACT hereunder.

54.5. In the event of fortuitous or force majeure events, the consequences of which are not insurable in Brazil, or whose irreparable effects extend for more than 90 (ninety) days, or for a period defined by mutual agreement between the PARTIES, when verifying that the effects could irreversibly jeopardize the exploitation of CONCESSION, either PARTY shall make use of the option set forth under clause 7.2.

54.5.1. In the event of CONCESSION termination due to the occurrence of a situation characterized by fortuitous or force majeure events, the indemnification due to the CONCESSIONAIRE shall be determined in accordance with the regulations applying to forfeiture.

54.6. Unless the GRANTING AUTHORITY provides other written instructions, the CONCESSIONAIRE shall continue fulfilling its obligations set forth in the CONTRACT, as far as reasonably possible and shall seek, by all means available, to fulfill those obligations not prevented by force majeure or fortuitous events, and the GRANTING AUTHORITY shall likewise fulfill their obligations not prevented by force majeure or fortuitous events.

54.7. In the event of proven occurrence of fortuitous or force majeure events without termination of the CONCESSION, the requirements for assessing the PERFORMANCE INDICATORS related to the occurrence shall be suspended until the situation normalizes and its effects cease.

54.8. The PARTIES undertake to employ all necessary measures and actions in order to mitigate the effects arising from force majeure or fortuitous events.

## CHAPTER X - REVERSION

### CLAUSE FIFTY- FIVE – ON THE REVERSION OF ASSETS

55.1. Upon termination of the CONCESSION, reversible assets are returned to the GRANTING AUTHORITY, as well as rights and privileges related to the CONCESSION, transferred or made available under the CONTRACT hereunder, to the CONCESSIONAIRE, or built, deployed or acquired by it under the CONCESSION, free and clear of any liens or charges, regardless of any notifications or formalities.

55.2. The reversion shall be gratuitous and automatic, with the assets in proper operations, use and maintenance conditions, as well as free and clear of all liens, charges, residual cost, taxes, obligations, liens or collection of any cost by the CONCESSIONAIRE with the characteristics and technical requirements that allow for the full operations of CAMINHOS DO MAR.

55.3. The assets reverted to the GRANTING AUTHORITY shall be in proper conditions of conservation and functioning, allowing the continuity of the services that are object of the CONTRACT hereunder for a minimum additional period of 5 (five) years, effective the date of the CONTRACT termination, except for those with a shorter useful life under ANNEX XIV.

55.3.1. Any cost of these investments shall be amortized and depreciated before the CONTRACT expires, and the CONCESSIONAIRE shall not be entitled to indemnification to this end.

55.3.2. All information about REVERSIBLE ASSETS, including descriptions, state of conservation and remaining useful life, shall be included in the INVENTORY to be maintained by the

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CONCESSIONAIRE throughout the CONCESSION and delivered, at the end, to the GRANTING AUTHORITY.

55.3.3. In the event of non-conformity between the INVENTORY and the actual situation of the REVERSIBLE ASSETS, the CONCESSIONAIRE shall, if such difference is to the detriment of the GRANTING AUTHORITY, take all appropriate measures, including the acquisition of new assets or construction works, in order to deliver the REVERSIBLE ASSETS under the same conditions as stated in the INVENTORY.

55.4. If reversion of the assets does not occur under the conditions set forth hereunder, the CONCESSIONAIRE shall indemnify the GRANTING AUTHORITY, according to the replacement cost of the assets, notwithstanding the applicable sanctions and the execution of any INSURANCE and BONDS.

55.4.1. During the procedure for CONCESSION termination and contractual transition, the GRANTING AUTHORITY shall carry out the inspection of the assets to be reversed, with the participation of at least one representative from the CONCESSIONAIRE to check the state of preservation and maintenance of assets, applying, as appropriate, the provisions in ANNEX XIV.

**CLAUSE FIFTY-SIX – ON DEMOBILIZATION (DISPOSAL OF ASSETS)**

56.1. Within 36 (thirty six) months before the end of the CONCESSION, or immediately, in case of early termination of this instrument, the CONCESSIONAIRE shall submit for approval, by the GRANTING AUTHORITY, the demobilization plan for CAMINHOS DO MAR, which shall provide the procedure for carrying out demobilization and due reversion of the REVERSIBLE ASSETS without any interruption to services provided occurring.

56.2. The DEMOBILIZATION PLAN shall include at least:

I.a method for reverting reversible assets;

II.conservation and maintenance status of the REVERSIBLE ASSETS, with technical reports and opinions issued by a qualified professional;

III.depreciation status of the REVERSIBLE ASSETS;

IV.a method for replacing CONCESSIONAIRE employees for GRANTING AUTHORITY server and/or SUCCESSOR employees;

V.term and method for training servers of the GRANTING AUTHORITY and/or the SUCCESSOR to operate CAMINHOS DO MAR .

56.3. The GRANTING AUTHORITY shall carry out all inspections it deems necessary for the full execution of its activities, to ensure the contractual transition without any prejudice to the continuity of the services that are object of the CONTRACT, as well as overseeing the implementation of technical opinions and reports.

56.4. When 12 (twelve) months remain before the end of the CONTRACT term, the CONCESSIONAIRE shall train personnel indicated by the GRANTING AUTHORITY, as well as forwarding the technical, administrative documentation and operational guidelines related to CAMINHOS DO MAR that have not yet been turned in.

56.5. The CONCESSIONAIRE shall be entirely and exclusively responsible for terminating any contracts that it is a party to at the end of the term of the CONCESSION, and the GRANTING AUTHORITY shall not

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assume any responsibility or responsibility for these contracts, and no indemnification shall be owed to the CONCESSIONAIRE, unless otherwise agreed upon, under the terms authorized by the CONTRACT hereunder.

56.5.1. In order to ensure continuity in the maintenance and exploitation of the CONCESSION's ASSETS, the PARTIES shall make their best efforts to ascertain the possibilities of subrogation, by the GRANTING AUTHORITY or by a future concessionaire, in the current contracts of interest to the CONCESSION which have been entered into by the CONCESSIONAIRE.

56.6. While the DEFINITIVE DELIVERY TERM has not been issued, the PERFORMANCE BOND of the CONTRACT shall not be cleared.

56.7. Any indemnities owed to the CONCESSIONAIRE upon the termination of the CONCESSION shall not prevent resumption of the CONCESSION, subject to the provisions in Clause 49.7.

56.8. The definitive receipt of the CONCESSION AREA does not exclude civil and ethical-professional liability arising from the development of the activities covered by the CONTRACT hereunder, within the limits established by law.

56.9. With the DEMOBILIZATION PLAN, transition and reversion shall occur without any mishaps or unforeseen setbacks and the operation of CAMINHOS DO MAR shall not be impaired.

56.10. The CONCESSIONAIRE's omission in submitting the DEMOBILIZATION PLAN shall be considered a serious offense and shall give effect to the applicable penalties to the CONCESSIONAIRE.

**CLAUSE FIFTY- SEVEN – ON THE TRANSITION**

57.1. Notwithstanding the provisions contained in ANNEX XIV, the CONCESSIONAIRE's obligations for the proper operations of the transition from CAMINHOS DO MAR to the GRANTING AUTHORITY or SUCCESSOR are:

- I.to provide documents and contracts related to the object of the CONCESSION;
- II.to provide operational documents related to the object of the CONCESSION;
- III.to provide other information about the operation of CAMINHOS DO MAR;
- IV.to cooperate with the SUCCESSOR and the GRANTING AUTHORITY for the adequate transmission of knowledge and information;
- V.to allow the GRANTING AUTHORITY and/or the SUCCESSOR to monitor operations of CAMINHOS DO MAR and regular activities of the CONCESSIONAIRE;
- VI.to promote the training of the GRANTING AUTHORITY and/or SUCCESSOR personnel regarding operations of CAMINHOS DO MAR;
- VII.to collaborate with the GRANTING AUTHORITY and/or SUCCESSOR in devising reports required for the transition;
- VIII.to indicate professionals from the relevant areas of knowledge for operational transition during the assumption of services by the GRANTING AUTHORITY or the SUCCESSOR;

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IX.to provide a physical space for accommodating the GRANTING AUTHORITY and/or the SUCCESSOR working groups during this period;

X.to aid in personnel planning;

XI.to interact with the GRANTING AUTHORITY, the SUCCESSOR and other actors and agents involved in the operation of CAMINHOS DO MAR .

**CHAPTER XI – ON SETTLING CONTROVERSIES**

**CLAUSE FIFTY-EIGHT – ON AMICABLE SOLUTIONS TO CONTROVERSIES**

58.1. The PARTIES shall use their best efforts to amicably resolve any divergence or conflict of interest that shall arise as a result of this CONTRACT, using the principle of good faith, through direct negotiation.

58.2. In the event of divergences or conflicts of interest as set forth under this Clause, the interested PARTY shall notify the other PARTY in writing, submitting all its allegations about the divergence or conflict of interest, and shall be sent along with a suggestion for its solution and/or clarification.

58.2.1. The notified PARTY shall have a period of 10 (ten) working days, effective the receipt of the notification, to answer whether it agrees or not with the proposed solution or clarification.

58.2.2. If the notified PARTY agrees with the solution or clarification submitted, the PARTIES shall end the divergence or conflict of interest, and shall take the necessary measures to implement what has been agreed upon.

58.2.3. In case the notified PARTY does not agree, it shall submit to the other PARTY, also within 10 (ten) working days, the reasons for which it disagrees with the solution or clarification submitted, and shall, in this case, submit an alternative proposal for the case.

58.3. The adoption of the procedures indicated above does not exempt the PARTIES from following up and complying with their contractual obligations, and it is the duty of the PARTIES to ensure the continuity of the provision of services and the fulfillment of construction work timetables.

58.3.1. The interruption of construction works or services shall only be allowed when the object of the divergence or conflict of interest implies risks to the safety of people and/or the venture, securing, whenever possible and without compromising safety, the prior consent for stoppage from the GRANTING AUTHORITY.

58.4. Resolution of the dispute by the party themselves may still occur before a chamber for the prevention and administrative resolution of conflicts or through mediation, as set forth under Law 13.140/2015.

58.5. Upon compliance with the contractual regulations, the Parties may rely on joint techniques, independent rapporteur or other forms of amicable settlement of disputes over which the PARTIES shall formally agree upon, to resolve technical issues and even any doubts, request explanations or require advice or technical manifestations that serve the perfect understanding of aspects related to:

I.the exploitation of REVENUE that originate impacts, even though still potential, on the services that are object of the CONTRACT, the GRANTING AUTHORITY and/or CAMINHOS DO MAR;

II.the incorporation of technological innovations that are relevant to the provision of services or charges that are the object of CONCESSION;



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III.the transition from CAMINHOS DO MAR to the GRANTING AUTHORITY or the SUCCESSOR;

IV.the calculation of indemnities that shall be due to the CONCESSIONAIRE in the events regulated hereunder.

**CLAUSE FIFTY-NINE - ARBITRATION**

59.1. The PARTIES undertake to seek an amicable solution to any dispute arising during the execution of the CONTRACT hereunder.

59.2. The PARTIES shall meet within 10 (ten) working days effective the notification of either PARTY to the other, establishing the dispute, and aiming to resolve it.

59.2.1. The requirement of prior meeting is waived in urgent cases where there is risk of extinction of rights or aggravating the situation.

59.3. If the meeting does not take place or the PARTIES do not reach a consensus within 10 (ten) working days after the meeting, any of them may bring a lawsuit before the District Court of the Capital or request the establishment of arbitration proceedings, under the terms in Federal Act No. 9.307/1996 and State decree 64356/2019.

59.4. The PARTIES may submit to arbitration only disputes related to available equity rights related to the interpretation or execution of the CONTRACT hereunder, as defined by article 18, item 4 of State Law 16.933/2019.

59.4.1. Either PARTY may choose to submit the dispute to arbitration or legal review, and the other PARTY shall not invoke the arbitration clause to prevent this choice.

59.4.2. The choice of the method of solution of disputes envisaged in subclause 59.4.1 is definitive and irreversible, effective the filing of the application before the Court or from the presentation of the request for arbitration before the chamber selected to administer the procedure, and all other disputes that have a connection or *continência* shall follow the same route.

59.5. The initiation of an arbitration proceeding does not relieve the parties from fulfilling their contractual obligations.

59.6. The PARTY requesting the initiation of the arbitration proceeding shall indicate, at the time of submitting its claim, the chamber responsible for the administration of the dispute, which shall be selected from among those registered by the State of São Paulo to resolve disputes involving the Direct Administration and its municipalities.

59.6.1. In the event that there is no arbitration chamber registered in the State of São Paulo, the choice shall be made by the PARTY that requests the initiation of the arbitration procedure, based on the following criteria:

I.to present a space available for holding hearings and secretarial services, at no additional cost to the parties, in the city of São Paulo;

II.to be regularly constituted for at least five years;

III.to tend to the legal requirements for receiving payment by the Public Administration of the State of São Paulo ;

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IV.to have recognized trustworthiness, competence and experience in the administration of arbitration proceedings with the GOVERNMENT.

59.7. The arbitration proceeding shall comply with the Regulations of the Arbitration Chamber chosen, as well as the provisions of Federal Act No. 9.307/1996 and subsequent amendments, in addition to the provisions set forth hereunder.

59.8. The ARBITRATION COURT shall be composed of three members, appointed in accordance with the regulations of the arbitration chamber, and a single arbitrator shall be chosen, upon agreement between the parties.

59.9. The ARBITRATION COURT shall be installed in the city of São Paulo, State of São Paulo, and shall meet in any location, provided the PARTIES are notified.

59.10. The arbitration shall be carried out in Portuguese, in accordance with the laws of the Federative Republic of Brazil, not preventing the use of technical documents written in another language, with the possibility of sworn translation in case of disagreement between the parties as to their meaning.

59.10.1. By request of the CONCESSIONAIRE, and with the consent of the GRANTING AUTHORITY, arbitration shall be partly bilingual, and decisions are produced in versions in Portuguese and English or another foreign language.

59.10.2. If the arbitration is partially bilingual, the CONCESSIONAIRE shall bear the expenses related to translation of documents, even when the material translated arises from actions performed by the GRANTING AUTHORITY, and these costs do not make up the costs and legal expenditures for loss of suit.

59.10.3. If there are divergences between the content of the decisions or documents in the Portuguese and foreign language versions, the content of the versions in Portuguese shall prevail.

59.11. The ARBITRATION COURT cannot use equity in its decisions related to the CONTRACT hereunder.

59.12. The payment of costs and expenses related to the arbitration proceeding shall, by analogy, observe the loss of suit regime provided for in the Civil Procedure Code, and awarding the reimbursement of the winning PARTY's attorney fees against the unsuccessful PARTY is prohibited.

59.12.1. Regardless of the PARTY that has triggered the establishment of the arbitration procedure, the advance of expenses and costs that shall be requested by the chosen arbitration chamber shall, pursuant to article 18, item 2, of State Law 16.933/2019, be complied with by the CONCESSIONAIRE, which shall, when appropriate, be refunded according to a later final decision in an arbitration body.

59.13. In the event that one of the PARTIES refuses to take the appropriate steps for the arbitration proceeding to begin, the PARTY that has requested the establishment of the arbitration shall appeal to the District Court of São Paulo, State of São Paulo, to obtain the appropriate legal measures, based on article 7, of Federal Act No. 9.307/1996 and subsequent amendments.

59.14. The sentence shall be considered as a final decision in regard to the dispute between the PARTIES, unappealable and binding between them.

59.15. The records of the arbitration proceedings shall be public, except for the legal events of secrecy or closed proceeding.



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- 59.16. Either PARTY shall appeal to the District Court of São Paulo, State of São Paulo, to settle any dispute not subject to arbitration, as well as to obtain (a) the necessary precautionary measure before the formation of the ARBITRATION COURT, subject to the provisions in articles 22A and 22B of Federal Act No. 9.307/1996; or (b) promote the execution of a precautionary measure, preliminary injunction or sentence issued by the ARBITRATION COURT.
- 59.17. The decisions rendered by the ARBITRATION COURT that impose a pecuniary obligation on the GRANTING AUTHORITY shall be complied with according to the system of court-issued registered warrant or small cost bond, under the same conditions imposed on other legal executive titles.
- 59.18. The PARTIES acknowledge that the decisions rendered by the ARBITRATION COURT shall be regularly enforced in Brazil, following the procedure for inspection against the Public Treasury, with the GRANTING AUTHORITY not having any sovereign immunity that inhibits inspection.

### CLAUSE SIXTY - JURISDICTION

- 60.1. Jurisdiction shall be the District Court of São Paulo, State of São Paulo, to resolve any dispute not subject to submission to arbitration, or to exercise the option in subclause 59.4.1, as set forth hereunder.

## CHAPTER XIII - FINAL DISPOSITIONS

### ARTICLE SIXTY- FIRST - FINAL DISPOSITIONS

- 61.1. On all matters set forth in the CONTRACT hereunder as well as decisions made by the GRANTING AUTHORITY, the CONCESSIONAIRE shall be entitled to follow the due administrative proceedings under State Act 10.177/1998.
- 61.2. The CONTRACT hereunder is binding on the PARTIES and their successors in all its aspects.
- 61.3. Changes that shall be promoted to the CONTRACT hereunder shall only be valid if entered into and executed by both PARTIES through contractual Amendments and Modifications, except for the possibility of unilateral modification of the CONTRACT by the GRANTING AUTHORITY, in accordance with the applicable law.
- 61.4. If any PARTY allows for, even by omission, the breach, in whole or in part, of any of the Clauses or conditions of CONTRACT hereunder and its ANNEXES, this fact shall not release, relieve, or in any way affect or impair the validity and effectiveness of the same clauses and conditions, which shall remain unchanged, as if no forbearance had occurred.
- 61.4.1. A PARTY's waiver of any right shall not be valid in the event that it is not expressed in writing and shall be interpreted restrictively, not allowing its extension to any other right or obligation established in the CONTRACT hereunder.
- 61.4.2. The annulment or invalidation of any Clause of the CONTRACT hereunder shall not prevent the validity and the effects of any other Clause of the CONTRACT hereunder.
- 61.5. All communications related to the CONTRACT hereunder shall be sent in writing, at the addresses and on behalf of the people indicated below, according to the recipients' pertinence in each case:
- For the CONCESSIONAIRE: [ • ]  
For the GRANTING AUTHORITY: [ • ]  
For FF: [•]  
For EMAE SA: [•]



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- 61.6. The PARTIES shall modify the data set forth under Clause 61.5 via simple written communication to the other PARTY.
- 61.7. Notifications and communications shall be deemed to have been duly received on the date (I) of the acknowledgment of receipt; (II) delivery of the judicial or extrajudicial notice; (III) evidence of facsimile delivery; (IV) evidence of delivery of e-mail with acknowledgment of receipt to the address set forth under Clause 61.5; (V) of protocol at the GRANTING AUTHORITY or at the address of the CONCESSIONAIRE specified Clause 61.5; or (VI) evidence of delivery by internationally known courier service.
- 61.8. All documents related to the CONTRACT hereunder and the CONCESSION shall be written in Portuguese, or translated into it, by means of a sworn translation, in the case of foreign documents.
- 61.9. In counting the terms established in the CONTRACT hereunder, the starting date shall be excluded and the expiration date shall be included, counting the calendar days, unless specified otherwise.
- 61.9.1. When the expiration term is on weekends, holidays or days when there are no GOVERNMENT office hours in the State of São Paulo, the expiration term shall be automatically postponed to the first subsequent working day.
- 61.10. The CONCESSIONAIRE shall, within fifteen (15) days from the DATE OF EXECUTION of the CONTRACT, submit in writing, the names and positions of employees or representatives designated to be responsible for managing the CONTRACT, in the technical and administrative aspects and for receipt of correspondence provided for hereunder.
- 61.10.1. The GRANTING AUTHORITY shall appoint a technical unit responsible for overseeing and monitoring the CONTRACT hereunder, designating its manager.

IN WITNESS WHEREOF, the PARTIES have executed this Agreement in four (4) counterparts of equal contents, in the presence of the witnesses below.

São Paulo, [●].

**PARTIES AND SIGNATURES:**