



**CONTRACT No. [●]/2022**

**SPONSORED CONCESSION AGREEMENT DRAFT**

**INTERNATIONAL COMPETITION Nº 01/2022**

**SPONSORED CONCESSION OF PUBLIC SERVICES OF EXPANSION, OPERATION, MAINTENANCE AND MAKING OF INVESTMENTS FOR EXPLORATION OF THE ROAD SYSTEM CALLED RODOANEL NORTE LOT**

**SÃO PAULO – SP**

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## CONCESSION AGREEMENT

The purpose of this AGREEMENT is to regulate the delegation relationship, by the GRANTING AUTHORITY to the CONCESSIONAIRE, through the Department of Logistics and Transport and with the intervention of Companhia Paulista de Parcerias – CPP and the Regulatory Agency for Public Services Delegates of Transportation of the State of São Paulo - ARTESP, of the public services of operation, conservation, maintenance and realization of the necessary investments for the exploration of the road network composed by the ROAD SYSTEM described in ANNEX 02, called, for the purposes of this SPONSORED CONCESSION, of RODOANEL NORTE LOT, and is entered into in [•], between the PARTIES qualified below:

On one side, in the capacity of **CONTRACTING PARTY**:

the **STATE OF SÃO PAULO**, through the State Department of Logistics and Transport of São Paulo – SLT, hereby represented by its Secretary, Mr. [•], bearer of RG No. [•] and CPF No. [•].

The other party, in the capacity of **CONCESSIONAIRE** or **CONTRACTOR**:

### CONCESSIONAIRE [•]

With the intervening consent of:

**REGULATORY AGENCY FOR PUBLIC SERVICE DELEGATES OF TRANSPORTATION OF THE STATE OF SÃO PAULO - ARTESP**, registered with the CNPJ under No. 05.051.955/0001-91, headquartered at Rua Iguatemi, 105 - Itaim Bibi - São Paulo/SP, herein represented by its General Director, [•], bearer of RG No. [•] and CPF No. [•], hereinafter referred to simply as ARTESP;

and of

**STATE DEPARTMENT OF RODAGEM -DER**, autarchy linked to the State Department of Logistics and Transport of São Paulo - SLT, headquartered at Avenida do Estado, No. 777, Ponte Pequena, Zip Code 01107-901, in the City of São Paulo, in the State of São Paulo, in this act represented by its Superintendent, bearer of RG No. [•] and CPF No. [•], hereinafter referred to simply as DER;

And as **INTERVENING GUARANTEE**:

**COMPANHIA PAULISTADE PARCERIAS – CPP**, legal entity governed by private law, registered with the CNPJ/ME under No. [•], headquartered at Avenida Rangel Pestana No. 300, 6th floor, Ala Central, in the City of São Paulo, State of São Paulo, herein represented by its Directors [•], [nationality], [marital status], [profession], bearer of ID No. [•], registered with the CPF/ME under No. [•] and [•], [nationality], [marital status], [profession], bearer of ID number [•], registered with the CPF/ME under number [•], both with address at Avenida Rangel Pestana No. 300, 6th floor, Ala Central.

**WHEREAS:**

A) Since the creation of the State Privatization Program in 1996, and from the concession of lots of the São Paulo road network since 1998, the State of São Paulo has been developing studies and acquiring experience that have led them to decide on the feasibility, especially under technical, financial and administrative aspects, of continuing the process of granting to the private initiative the activities of exploration, operating, preserving and maintaining the São Paulo State road network;

B) These studies and experience, combined with current economic circumstances, point to the concession as the most appropriate model of delegation for the State to ensure the provision of public services, concentrating efforts and resources on fulfilling the State's own functions;

C) Duties of the Directing Council of the Privatization Program -CDPED, created by Law No. 9.361, of July 5, 1996 and the Management Council of the Public-Private Partnership Program - CGPPP, authorized the structuring and consolidation of a new concession model of public services of the RODOANEL NORTE LOT road section, contemplating the execution of the necessary works to complete the section, within the scope of the 18th Joint Ordinary Meeting of CDPED and CGPPP, held on December 10, 2020, approving its development and, after further deepening, agreed with the disclosure to society through Public Hearings and Public Inquiry, as resolved and agreed at the 21st Ordinary Joint Meeting, concerning the 257th Joint Ordinary Meeting of the CDPED and the 104th Ordinary Meeting of the CGPPP, held on April 30, 2021;

D) The Digital Partnership Platform was fed with the main modeling information, being succeeded by the other modeling stages, which was formalized through Protocol No. 10007/2019;

E) The proposal for a SPONSORED CONCESSION of public services for the exploration of the road and transport infrastructure of the new lot of the São Paulo road network was authorized by means of Decree No. 66,445 of January 22, 2022 which also approved the CONCESSION Regulation, contained in ANNEX 01, as well as the minimum parameters for the bidding process and the delegation of public services object of the REQUEST FOR BIDS;

F) The project was presented to society at a PUBLIC HEARING held on May 28, 2021, in a virtual environment, previously communicated by publication in the DOE/SP, edition of May 14, 2021, in addition to disclosure on the website [www.artesp.sp.gov.br](http://www.artesp.sp.gov.br) and in large circulation newspapers;

G) The drafts of the REQUEST FOR BIDS, CONTRACT, and ANNEXES were submitted for PUBLIC CONSULTATION, with notice published in the DOE/SP, in the May 28, 2021 edition (Executive I, page 42), and in the newspapers Folha de São Paulo, Jornal da Cidade, and Folha Metropolitana, in the respective editions of May 28, 2021, May 29, 2021, and May 28, 2021. The documents were made available to all interested parties on the [website www.artesp.sp.gov.br](http://www.artesp.sp.gov.br), during the period from May 28, 2021 to June 30, 2021. During the period of the PUBLIC CONSULTATION, contributions, doubts and suggestions to the available minutes were received.

H) After analyzing all contributions received at the PUBLIC HEARING and PUBLIC CONSULTATION, the necessary adjustments were made, and the final documents were approved by ARTESP, according to the Minutes of the 55th Extraordinary Meeting of the Board

of Directors, held on January 27, 2021. The CGPPP also decided to approve the project, according to the Minutes of the 28th Ordinary Joint Meeting, concerning the 264th Ordinary Meeting of the CDPED and the 111th Ordinary Meeting of the Management Council of the State Program for Public-Private Partnerships - CGPPP, whose minutes were published in the Official Gazette of December 28, 2021;

I) Motivated by the aforementioned decisions, ARTESP, in the exercise of the powers granted by Complementary Law No. 914, of January 14, 2002, as well as in Decree No. 66,445, of January 21, 2022, carried out regular BIDDING in the form of INTERNATIONAL COMPETITION, its result was approved by act published in DOE/SP of [•] and its object awarded to [WINNING BIDDER], by act published in DOE/SP, edition of [•]; and

J) As a condition for the execution of this CONTRACT, the ADJUDICATORY constituted a SPECIAL PURPOSE ENTERPRISE - SPC and duly and timely complied with the other necessary obligations, especially those provided for in item 16.5 of the REQUEST FOR BIDS.

K) All conditions precedent to the signing of the AGREEMENT, provided for in the REQUEST FOR BIDS, were fulfilled.

The above-described PARTIES mutually agree to execute this AGREEMENT, which shall be ruled by the clauses and conditions herein.



## CHAPTER I – GENERAL PROVISIONS

### FIRST CLAUSE – DEFINITIONS

- 1.1. For the purposes of this AGREEMENT, unless expressly provided otherwise, the terms, phrases and expressions listed below, when used in this AGREEMENT and ANNEXES and written in capital letters or initial capital letters, shall be understood and interpreted in accordance with the meanings provided in ANNEX 20, and may be used both in the plural and singular, without any change in meaning.

### SECOND CLAUSE – INTERPRETATION OF THE CONTRACT

- 2.1. For the purpose of this AGREEMENT, except as otherwise stated:
- i. The definitions of this AGREEMENT, expressed in ANNEX 20, have the meanings assigned in that ANNEX, whether in the plural or singular;
  - ii. All references in this AGREEMENT referring to Clauses, subclauses or other subdivisions hereof refer to Clauses, subclauses or other divisions in this AGREEMENT, except as otherwise expressly stated;
  - iii. The pronouns of both genders should be understood as covering, as the case may be, the other pronoun forms;
  - iv. All references to this AGREEMENT or to any other document in connection with this SPONSORED CONCESSION shall consider occasional amendments and/or addendums that may be entered into between the PARTIES;
  - v. every reference to legislation and regulations shall be construed as the legislation and regulations effective at the time of the actual case, and applicable thereto, of any level of the Brazilian Government, including any amendments;
  - vi. The use in this contract of the terms “including” or “even” means “including, but not limited to” or “inclusive, but not limiting to”;
  - vii. every deadline established in this AGREEMENT shall consider calendar days, unless the use of working days is expressly stated. When the deadlines end on weekends, holidays or days when there is no time in the STATE PUBLIC ADMINISTRATION, the period will be automatically postponed to the first subsequent business day;
  - viii. The deadlines counted in months will always follow the calendar months, unless expressly provided otherwise, observing the following rules:
    - a. if the starting date of the respective term is verified until the 10th (tenth) day, inclusive, of the month in question, the first month of the respective term will be considered to be complete by the end of the calendar month in question.
    - b. in case the initial milestone of the respective period occurs from the 11th (eleventh), inclusive, of the month in question until the last day of the said calendar month, the initial milestone of the period in question will be counted



from the first day of the month immediately subsequently.

- ix. Any references to this AGREEMENT refer both to this document and to other documents listed as ANNEXES or APPENDIX, subject to the rules of interpretation established in this clause.
- x. The mention, in this CONTRACT, in the ANNEXES or in the APPENDICES, to the term ANNEXES, must be understood as referring, without any distinction, to the set of ANNEXES and APPENDICES; and
- xi. The titles of the clauses of this AGREEMENT and of the ANNEXES are intended to facilitate the organization and content and must not be used, in isolation, in the application or interpretation of the rules relating to the SPONSORED CONCESSION.

2.2. Any controversies in the application and/or interpretation of instruments and/or documents relating to this AGREEMENT shall be settled as follows:

- i. The wording of this AGREEMENT shall take precedence over all other documents of the contractual relationship, except for the provisions of ANNEX 08, if signed, which shall take precedence over the terms of this CONTRACT;
- ii. Secondly, the wording of the ANNEXES will be considered, and, in case of discrepancies between them, the ANNEXES indicated below will prevail, in the order in which they appear in the table:

ANNEX 18
ANEX 24
ANNEX 2
ANEX 12
ANEX 21
ANNEX 3
ANNEX 5
ANNEX 7
ANEXO 6

- iii. Secondly, the wording of the APPENDIXES will be considered, and, in case of discrepancies between them, the APPENDIXES indicated below will prevail, in the order in which they appear in the table:

APPENDIX B
APPENDIX C
APPENDIX D
APPENDIX E
APPENDIX H

2.3. The intelligence of contractual provisions must:

- i. keep coherence with the socioeconomic function of the CONTRACT, to the detriment of the literal meaning of the language;

- ii. prioritize the search for an equitable result for both PARTIES from the economic and financial point of view;
- iii. observe the initial risk allocation of the CONTRACT;
- iv. to value the context of the celebration of the AGREEMENT and the purposes pursued by the PARTIES;
- v. consider the set of contractual provisions, instead of the isolated interpretation of specific clauses; and
- vi. privilege objective good faith and the spirit of collaboration between the PARTIES.

### CLAUSE THIRD – APPLICABLE LAW AND GENERAL CONTRACT CONDITIONS

- 3.1. This AGREEMENT is governed by the rules established herein in the body of this text and in its ANNEXES, as well as by State Law No. 11.688/2004, Federal Law No. 11.079/2004, State Law No. 7.832/1992 and Federal Law No. 8.987/ 1995. Subsidiarily, this AGREEMENT also governs Federal Law No. 8.666/1993, State Law No. 6,544/1989, State Law No. 9,361/96, and State Law No. 10,177/1998, as well as other rules in force and applicable to the present case, especially, but not limited to, the regulation emanating from ARTESP.
- 3.2. Unless otherwise stated in this Contract, the base date for the amounts in this AGREEMENT shall be September 2021, which shall be corrected using the IPCA or another index that may replace it.

### CLAUSE FOURTH - ANNEXES AND APPENDICES

- 4.1. ANNEXES are the following documents:

<b>Annex 1</b>	Concession Regulation
<b>Annex 2</b>	Road System
<b>Annex 3</b>	Performance Indicators in the services provided
<b>Annex 4</b>	Tariff Structure
<b>Annex 5</b>	Services Corresponding to Operational Duties
<b>Annex 6</b>	Services Corresponding to Maintenance Duties
<b>Annex 7</b>	Services Corresponding to Expansion Duties
<b>Annex 8</b>	Guidelines for the THREE-PARTY Contract
<b>Annex 9</b>	Signed Transfer Terms
<b>Annex 10</b>	Conditions for Return
<b>Annex 11</b>	Penalties

<b>Annex 12</b>	Engineering Projects relating to the Road System
<b>Annex 13</b>	Capital Stock Payment Schedule
<b>Annex 14</b>	ORIGINAL INVESTMENTS PLAN ( <i>ORIGINAL INVESTMENT PLAN submitted by Concessionaire as a condition to sign the Contract and other plans, as edited or submitted, duly approved by ARTESP</i> )
<b>Annex 15</b>	INSURANCE PLAN and Insurance Policies ( <i>submitted by the Concessionaire and duly approved by ARTESP</i> ).
<b>Annex 16</b>	Performance Bond ( <i>delivered by the Concessionaire and duly approved by ARTESP</i> )
<b>Annex 17</b>	SPC documents
<b>Annex 18</b>	Transition Conditions
<b>Annex 19</b>	Public Contribution Disbursement Flow
<b>Annex 20</b>	Glossary
<b>Annex 21</b>	Technical and Economic Feasibility Study (EVTE)
<b>Annex 22</b>	Document Templates
<b>Annex 23</b>	The technical conditions compatible with the initial investments and necessary for the execution of the Contract
<b>Annex 24</b>	Report of Liabilities Identified in the Road System
<b>Annex 25</b>	B3 Procedures Manual
<b>Annex 26</b>	Mechanism for Payment of Financial Consideration

4.2. The following documents are APPENDICES, which, for all purposes of this CONTRACT, will have the same treatment as the ANEXES:

<b>A</b>	Retigraphic
<b>B</b>	Environmental liabilities
<b>C</b>	Sheets Relative to Performance Indicators
<b>D</b>	Account Management Contract
<b>E</b>	Operation of Concession Accounts
<b>F</b>	Digital Systems
<b>G</b>	Procedure for the Presentation, Review and Approval of Projects, Commencement and Receipt of Works
<b>H</b>	Service Levels

## CHAPTER II – SPONSORED CONCESSION

### CLAUSE FIFTH – OBJECT OF THE SPONSORED CONCESSION

5.1. The object of this AGREEMENT is the SPONSORED CONCESSION of services for operation, maintenance, and making the necessary investments for exploration the ROAD SYSTEM, in accordance with the provisions of this AGREEMENT and the

ANNEXES, in addition to the exploration of AACCESSORY REVENUE

- 5.2. The ROAD SYSTEM consists of the specification of the road detailed in ANNEX 02, in addition to the other investments and sections that may be incorporated and that must compose the updated inventories under the responsibility of the CONCESSIONAIRE, according to ANNEX 06.
- 5.3. This SPONSORED CONCESSION presumes RENDERING ADEQUATE SERVICES, which shall be the service provided in accordance with the AGREEMENT herein, subject to the perfect fulfillment of PERFORMANCE INDICATORS and service levels, that meet the conditions of compliance, efficiency, safety, updating, generality, courtesy, equity, reasonable pricing of TARIFFS and continuity, under the terms of the legislation.
- 5.4. For the performance of the contractual object, the CONCESSIONAIRE will be entitled to receive remuneration for the exploration of the public service granted, by charging USERS TOLL TARIFFS, pursuant to ANNEX 04, in addition to the PUBLIC CONTRIBUTION and the FINANCIAL CONSIDERATION paid by the GRANTING AUTHORITY.

#### **CLAUSE SIXTH – CONTRACTUAL TERM, INITIAL TRANSFER AND CONDITIONS FOR FULL EFFECTIVENESS OF THE CONTRACT**

- 6.1. The AGREEMENT will become effective as of publication in the DOE/SP and will be effective for the period corresponding to 31 (thirty-one) years, counted from the signing of the INITIAL TRANSFER TERM.
- 6.2. The PARTIES shall, within 30 (thirty) days from the execution of the CONTRACT, sign the INITIAL TRANSFER TERM, initiating the PRE-CONSTRUCTION PERIOD, which will last for up to 6 (six) months, extendable for another 6 (six) months.
  - 6.2.1. The conditions for signing the INITIAL TRANSFER TERM are set out in ANNEX 18.
  - 6.2.2. THE PRE-CONSTRUCTION PERIOD comprises the following activities, pursuant to ANNEX 18:
    - i. Preparation and delivery of PARTIAL SURVEY REPORTS, CONSOLIDATED SURVEY REPORT and FINAL SURVEY REPORT by the INDEPENDENT REPORTER;
    - ii. Elaboration and certification of the updated EXECUTIVE PROJECTS mentioned in the Clause 16.2.1.1;
    - iii. Transfer of the INSTALLATION LICENSES for the current IMPLEMENTATION WORKS, owned by DERSA/DER, to the CONCESSIONAIRE according to the model available in ANNEX 22;
    - iv. Effectiveness of the actions to vacate occupied areas of the ROAD SYSTEM, necessary to carry out the IMPLEMENTATION WORKS, in compliance with the regulations provided for in Clause 15 and in ANNEX 18;

- v. Identification of objects, equipment, supplies and/or parts that have been previously used and that do not make up the list of REVERSIBLE GOODS, but that remain in the area where the ROAD SYSTEM will be implemented;
- vi. Implementation and operation of the Environmental and Social Management System, as provided for in ANNEX 06.

6.2.2.1. The activities included in the Clause 6.2.2 above must be completed by the deadline set for the end of the PRE-CONSTRUCTION PERIOD, and are conditions for signing the DEFINITIVE TRANSFER TERM.

6.2.2.2. The deadline for completing the PRE-CONSTRUCTION PERIOD may be extended by means of a reasoned decision by ARTESP.

6.2.2.2.1. If the extension was caused by the action or omission of the CONCESSIONAIRE or due to the risk attributed to it, the CONCESSIONAIRE will be subject to the application of the relevant penalties, as regulated in ANNEX 11.

6.2.2.2.2. The extension of the deadline will not give rise to the application of a penalty to the detriment of the CONCESSIONAIRE, if the need for extension was caused by the action or omission of the GRANTING AUTHORITY or ARTESP, that is, resulting from the materialization of risk imputed to the GRANTING AUTHORITY, ensuring to the CONCESSIONAIRE the right to economic-financial rebalancing in the event of proven economic-financial impacts, determined in accordance with Clause Twenty-Third et seq.

6.2.2.3. If the PRE-CONSTRUCTION PERIOD is completed before the deadline indicated in Clause 6.2, the CONCESSIONAIRE may request the signature of the DEFINITIVE TRANSFER TERM to start the CONSTRUCTION PERIOD, pursuant to ANNEX 18.

6.2.2.3.1. ARTESP will not be able to deny the early signature of the DEFINITIVE TRANSFER TERM, provided that all activities included in the PRE-CONSTRUCTION TERM have been satisfactorily completed, through ARTESP's certification.

6.2.3. THE CONSTRUCTION PERIOD begins with the signature of the DEFINITIVE TRANSFER TERM and will last for up to 24 (twenty-four) months, including the execution of the IMPLEMENTATION WORKS.

6.2.3.1. In case of anticipation of the beginning of the CONSTRUCTION PERIOD, the remaining and unused period of the PRE-CONSTRUCTION PERIOD will be added to the CONSTRUCTION PERIOD, maintaining the final term of validity of the CONTRACT, provided for in Clause 6.1.

6.2.3.2. The CONSTRUCTION PERIOD ends with ARTESP's authorization for FULL COMMERCIAL OPERATION of the ROAD SYSTEM, pursuant to Clause 17.2 and ANNEX 04.

6.2.3.3. The PARTIAL COMMERCIAL OPERATION of the ROAD SYSTEM, if authorized

by ARTESP, will not lead to the end of the CONSTRUCTION PERIOD.

6.3. The period provided for in the Clause 6.1 may be extended, exceptionally and at the sole discretion of the GRANTING AUTHORITY, in the following cases, subject to the applicable legal limitations:

- i. to restore the economic-financial balance of the CONTRACT;
- ii. to ensure the continuity of the provision of the public service, provided that the economic-financial balance of the adjustment is preserved, in the cases in which, prior to the end of the CONCESSION TERM, the conclusion of a new bidding process for the concession of services is not achieved, in terms of article 16 of State Law No. 16,933/2019;
- iii. for the inclusion of investments not provided for in the AGREEMENT and in the ANNEXES, pursuant to articles 4 and following of State Law No. 16.933/2019, observing the legal requirements required for early extension of the concession, provided that the economic-financial balance of the adjustment is preserved and observed the provisions of Clause 27.2.

6.3.1. The application of the clause iii of the Clause will 6.3 not waive the required qualification of the SPONSORED CONCESSION as a project entitled to early extension by the competent body or entity of the GRANTING AUTHORITY, pursuant to article 2 of State Law No. 16,933/2019.

6.3.2. Any extension of the final term of the CONCESSION TERM will occur through the execution of an Addendum, in accordance with the legislation in force on the date of its execution.

6.4. From the INITIAL TRANSFER TERM onwards, until the CONCESSION expires, rendering ADEQUATE SERVICES shall be the exclusive responsibility of CONCESSIONAIRE, by performing the DELEGATED SERVICES and supporting SERVICES NOT DELEGATED, as well as managing SUPPLEMENTARY SERVICES and other activities specified herein, as per CONCESSION REGULATION, with the right to charge toll fees and for services rendered to USERS, under the terms of the AGREEMENT herein.

6.5. The CONTRACT may be terminated early by any PARTY, provided regulations established herein are respected, in the event this AGREEMENT:

- i. Appearance of fortuity or force major events, when said events were uninsurable under the regulations established in the AGREEMENT herein, and whose irreparable consequences extend over ninety (90) days, or for a period agreed upon by both PARTIES, when it is verified that the effects may irreversibly compromise the exploration of the CONCESSION.
- ii. Identification, in the twenty-fourth (24th) month as of the date the INITIAL TRANSFER TERM was signed, of the CONCESSIONAIRE's impossibility to take out long-term financing, in the event such financing is required to continue the SPONSORED CONCESSION;

6.5.1. The hypothesis provided for in ii Clause, section, will 6.5 not be applied if the



CONCESSIONAIRE demonstrates that its financial structure does not require obtaining long-term financing (s).

#### **CLAUSE SEVENTH – ESTIMATED CONTRACTUAL AMOUNT**

- 7.1. THE ESTIMATED VALUE OF THE AGREEMENT is R\$ 2,949,230,245.00 (two billion, nine hundred and forty-nine million, two hundred and thirty thousand, two hundred and forty-five reais), on the base date of September/2021.
- 7.2. The estimated CONTRACTUAL AMOUNT shall be merely for reference purposes, and shall not be used, by any PARTY, as basis for re-structuring the economic-financial balance of the AGREEMENT herein, or for any other purpose implying the use of the ESTIMATED CONTRACTUAL AMOUNT as a parameter for indemnifications, reimbursements and similar purposes.

#### **CLAUSE EIGHTH – REMUNERATION**

- 8.1. The CONCESSIONAIRE'S remuneration shall be composed of the DUE TARIFF REVENUE, the FINANCIAL CONSIDERATION, the PUBLIC CONTRIBUTION and the ACCESSORY REVENUES, in accordance with the rules established in this AGREEMENT, in ANNEX 04, in ANNEX 19 and in ANNEX 26.
- 8.2. CONCESSIONAIRE declares to be aware of the values, risks and conditions related to obtaining the TARIFF REVENUE, the EFFECTIVE FINANCIAL CONSIDERATION, the PUBLIC SUPPLY and the ACCESSORY REVENUE, agreeing to be sufficient to remunerate all investments, costs and expenses related to the object of this AGREEMENT, so that the conditions originally established here confer economic and financial balance to the SPONSORED CONCESSIONAIRE

#### **CLAUSE NINTH - TARIFF REVENUE AND TARIFF CHARGED THROUGH THE FREE FLOW SYSTEM**

- 9.1. TOLL TARIFFS may be charged from USERS, in accordance with the terms of ANNEX 04, and the CONCESSIONAIRE is fully responsible for the implementation of all equipment, systems and sensors necessary for the FREE FLOW SYSTEM to function.
- 9.2. The CONCESSIONAIRE shall observe all the specifications presented in ANNEX 04, including with regard to the procedure and deadline for entering FULL COMMERCIAL OPERATION of the PORTICOS, their location and respective TOLL TARIFFS, as well as other relevant provisions.
- 9.3. The TOLL TARIFF chargeable by USERS through the PORTIONS will be calculated based on the rules established in ANNEX 04.
- 9.3.1. The CONCESSIONAIRE's performance in executing the contractual object shall be assessed on a monthly basis by ARTESP, pursuant to the rules established in ANNEX III hereto;
- 9.3.2. The discount amounts of the GROSS TARIFF REVENUE, resulting from the



incidence of PERFORMANCE INDICATORS, will be directed to the CONCESSION ADJUSTMENT ACCOUNT, according to the rules in APPENDIX D.

**CLAUSE TENTH - ADJUSTMENT OF THE KILOMETRIC TARIFF, FINANCIAL CONSIDERATION AND PUBLIC CONTRIBUTION**

10.1. The KILOMETRIC TARIFF, the FINANCIAL CONSIDERATION and the PUBLIC CONTRIBUTION will be readjusted annually, considering the variation of the IPCA/IBGE in the period, with reference to the base date of September 2020, in the anniversary month of the AGREEMENT, according to the rules established by ANNEX 04.

**CLAUSE ELEVENTH - PAYMENT AND GUARANTEE ON THE FINANCIAL CONSIDERATION DUE**

11.1. The CONCESSIONAIRE shall be entitled on a monthly basis to the EFFECTIVE FINANCIAL CONSIDERATION, as provided for in ANNEX 26, ANNEX 04 and APPENDIX D. The EFFECTIVE FINANCIAL CONSIDERATION is the result of deductions made on the FINANCIAL CONSIDERATION, pursuant to Clause 11.1.2 below.

11.1.1. The FINANCIAL CONSIDERATION is composed of the FINANCIAL CONSIDERATION and the adjustments provided in ANNEX 26.

11.1.2. Deductions arising from the QUALITY AND PERFORMANCE INDEX (IQD) and the INSPECTION FEE will be applied to the FINANCIAL CONSIDERATION, pursuant to ANNEX 04 and APPENDIX D.

11.1.3. The EFFECTIVE FINANCIAL CONSIDERATION will only be due to the CONCESSIONAIRE after the start of the FULL COMMERCIAL OPERATION.

11.2. The GRANTING AUTHORITY undertakes to ensure the resources necessary for the payment of the DUE FINANCIAL CONSIDERATION, as well as to include in the annual budget proposal a specific allocation for the subsequent year, linked to the Department of Logistics and Transport - SLT, with sufficient amount to meet the DUE FINANCIAL CONSIDERATION, in addition to vetoing changes in said proposal that reduce or restrict the allocation intended for the payment of said pecuniary obligations.

11.3. Without prejudice to the provisions of Clause 11.2, the CONCESSIONAIRE, at its sole discretion, and on an optional basis, may demand the constitution of the guarantee provided for in Clause 11.4, within a maximum period of up to 60 (sixty) days after signing the AGREEMENT.

11.3.1. In order to provide the guarantee provided for in Clause 11.4, CPP will be entitled to an annual remuneration in the amount corresponding to 0.2% (two tenths percent) of the total guaranteed amount, to be paid from the signing of the PLEDGE AGREEMENT and under the conditions that this instrument specify.

11.4. Notified by the GRANTING AUTHORITY of the demand for guarantee, CPP, as the intervening guarantor, will assume, irrevocably and irreversibly, upon the execution of a PLEDGE AGREEMENT between the CONCESSIONAIRE and CPP, the condition of

guarantor jointly and severally responsible for faithful compliance of the obligation attributable to the GRANTING AUTHORITY, with regard exclusively to the payment of the maximum amount of BRL 365,961,736.26 (three hundred and sixty-five million, nine hundred and sixty-one thousand, seven hundred and thirty-six reais and twenty-six cents), which will be in force, in accordance with the limits and conditions established in this Clause and in the PLEDGE AGREEMENT, until the final settlement, by the GRANTING AUTHORITY, of the last installment of the DUE FINANCIAL CONSIDERATION.

11.4.1. CPP will expressly waive, in the PLEDGE AGREEMENT, the benefit provided for in art. 827, of the Civil Code.

11.5. The guarantee mentioned in the Clause 11.411.4 will be guaranteed by means of a pledge, established under the terms of articles 1,431 and 1,432 of the Brazilian Civil Code, within a maximum period of 60 (sixty) days from the receipt, by the CPP, of notification from the CONCESSIONAIRE or the GRANTING AUTHORITY informing the beginning of the CONCESSION TERM, on financial investments deposited or held in custody at a financial institution where the CPP has its investments, which may be used in isolation or accumulated, at the discretion of the CPP, backed by the following options:

- i. National public debt securities held by the CPP;
- ii. Fixed-income Investment Fund shares, backed by national public debt securities, or by Bank Deposit Certificate - CDB or other credit securities, issued by a financial institution, or even in Securities, the latter three investment hypotheses are classified with a low credit risk rating, with a risk rating grade equivalent to or greater than AA on the national scale, issued by one of the credit risk rating agencies listed here: Standard and Poor's (S&P), Moody's or Fitch Ratings;
- iii. Bank Deposit Certificate – CDB, as well as other securities issued by a financial institution, whose rating is considered to be of low credit risk, with a risk rating grade equivalent to or higher than AA on the national scale, issued by one of the credit risk rating agencies. credit listed here: Standard and Poor's (S&P), Moody's or Fitch Ratings.

11.6. In order to comply with the obligations set forth in this Clause, the CONCESSIONAIRE shall hire, subject to the motivated veto of the CPP, a financial institution, authorized by the Central Bank or by the CVM, to act as a FIDUCIARY AGENT, with the function of administering and managing the guarantee provided under the terms of Clause 11.5, being responsible for the execution of the guarantee as established in the PLEDGE AGREEMENT and, supplementarily and subsidiarily, in the proper instrument of its contract. The CONCESSIONAIRE shall bear all contracting expenses, registration of the instrument, pursuant to art. 1,432 of the Brazilian Civil Code, as well as all expenses arising from acts or operations carried out in the interest of the CONCESSIONAIRE.

11.7. The amount of the guarantee to be initially pledged will be BRL 365,961,736.26 (three hundred and sixty-five million, nine hundred and sixty-one thousand, seven hundred and thirty-six reais and twenty-six cents), which will be brought to present value through the application of the projected rate of return expected from the financial investment for the period between the formation of the pledge and the expected date for the maturity of the first installment of the DUE FINANCIAL CONSIDERATION, which, for the purposes

strictly of the projection in question, will be assumed to be at least equivalent to the projected variation of the SELIC rate for the period, based on the best publicly available estimates.

- 11.8. The value of the pledged guarantee will be adjusted to the value of the 11.4 guarantee mentioned in the Clause at least 30 (thirty) days in advance of the expected due date of the first installment of the DUE FINANCIAL CONSIDERATION or within 36 (thirty-six) months of the SIGNATURE DATE, whichever occurs first, and, thereafter, will be adjusted annually on the dates set for the readjustment of the DUE FINANCIAL CONSIDERATION, in order to maintain the correspondence with the guarantee provided, which may matter, depending on the income obtained in the period, in the completion of the pledge originally established or in the withdrawal of the pledge levied on financial investments, in whatever is necessary for the maintenance of said correspondence.
- 11.9. Notwithstanding items 24 and 24.1 of APPENDIX E and Clause 11.15.1, in the event of default by the GRANTING AUTHORITY in the payment of the DUE FINANCIAL CONSIDERATION, the CONCESSIONAIRE may, after 10 (ten) days of the finding, by the DEPOSITORY BANK, that the FREE FLOW ACCOUNT does not have sufficient balance to meet the payment of the DUE FINANCIAL CONSIDERATION, pursuant to APPENDIX E, execute the guarantee provided by the CPP, initially granting it a period of 10 (ten) business days for spontaneous payment.
- 11.10. In the absence of spontaneous payment, the CONCESSIONAIRE may directly request the FIDUCIARY AGENT, vested with powers of representation jointly conferred by the CPP and the CONCESSIONAIRE, under the terms of article 653 et seq. of the Civil Code, as regulated in a specific instrument to be signed, the redemption of the amount necessary to satisfy the defaulted obligation and the subsequent transfer of the funds to a current account for free movement.
- 11.11. In the event that the CPP makes any payment to the CONCESSIONAIRE as a result of the guarantee provided, it will communicate the fact to the GRANTING AUTHORITY, requesting reimbursement, within 90 (ninety) days, of the amount spent. After this period has elapsed without the full reimbursement of the amount of the joint and several liability paid by the CPP, the corresponding amount will be increased by default interest corresponding to the *pro rata temporis* variation of the SELIC rate, as of the payment made by the CPP to the CONCESSIONAIRE, until the effective reimbursement date.
- 11.12. The guarantee provided by CPP will be reduced by an amount corresponding to the amount executed by the CONCESSIONAIRE, insofar as it is not reimbursed by the GRANTING AUTHORITY under the terms of Clause 11.11, until its eventual termination, regardless of the term established in Clause 11.411.4.
  - 11.12.1. In the event of total or partial reimbursement by the GRANTING AUTHORITY, the CPP shall reestablish the guarantee, in the amount equivalent to the reimbursed installments, within a maximum period of 30 (thirty) days.
- 11.13. CPP may, at any time and upon contract of the CONCESSIONAIRE, which may not refuse without justified reason, include another guarantee option, among those provided for in Clause 11.5, provided that it is provided by a FINANCIAL INSTITUTION with a risk rating note, local scale, equal to or greater than AA by Fitch Ratings or, equivalently, by Standard and Poor's (S&P) or Moody's, or by guarantee offered by a multilateral credit

institution with a risk rating of at least AA or equivalent, or, still, provide other forms of guarantee personal or real.

- 11.13.1. A justified reason for not accepting the CPP's proposal to replace the guarantee is the demonstration, by the CONCESSIONAIRE, of its insufficiency, lack of liquidity or aggravation of risk.
- 11.14. In the event of default of the DUE FINANCIAL CONSIDERATION by the GRANTING AUTHORITY for 3 (three) consecutive or alternate months, giving rise to the execution of the guarantee provided by the CPP without its recomposition by the GRANTING AUTHORITY, the SLT, the Department of Finance and Planning and the of Budget and Management of the State of São Paulo must present to the Management Council of the Public-Private Partnerships Program detailed justifications, exposing the reasons for the default and the measures adopted to solve it.
  - 11.14.1. In the event that the justifications presented show the impossibility or serious difficulties of resuming the regular payment of the DUE FINANCIAL CONSIDERATION by the GRANTING AUTHORITY, it must present a plan for resuming the services object of this AGREEMENT, in order to ensure its continuity and regularity, the GRANTING AUTHORITY being unable to enter into new Public-Private Partnership contracts until this obstacle has been overcome.
- 11.15. DER/SP undertakes to cede, as a guarantee, to the CONCESSIONAIRE the flow of collection of specific traffic fines referring to art. 209-A of the Brazilian Traffic Code (Law No. 9,503/97, as amended), resulting from USER traffic in RODOANEL NORTE LOT, in compliance with the guidelines in APPENDIX E, and DER/SP, the GRANTING AUTHORITY, ARTESP and CONCESSIONAIRE enter into the competent legal instruments, together with a trustee, in order to make feasible the provisions of this Clause.
  - 11.15.1. Any delay, legal unfeasibility determined by control or jurisdictional bodies or any other act beyond the control of the PARTIES, ARTESP or DER/SP, which renders unfeasible or alters the commitment established in the 11.15 above Clause shall not represent any obstacle to the full development of the AGREEMENT, nor can it be presented by the CONCESSIONAIRE as a reason for exemption, extinction or modification of the CONCESSIONAIRE's obligations in this AGREEMENT, nor will it represent any form of IMBALANCE EVENT.

## **CLAUSE TWELFTH- PUBLIC CONTRIBUTION**

- 12.1. This SPONSORED CONCESSION will rely on PUBLIC CONTRIBUTION by the GRANTING AUTHORITY, whose perception by the CONCESSIONAIRE will be in accordance with ANNEX 19, in installments that will be due to the effective fulfillment, by the CONCESSIONAIRE, of the DISBURSEMENT EVENTS to release the installments of PUBLIC CONTRIBUTION, corresponding to the investments foreseen for the IMPLEMENTATION WORKS, observing the proportionality with the steps actually performed.
- 12.2. The disbursements of the PUBLIC CONTRIBUTION will comply with what is specified in ANNEX 19.

- 12.2.1. The disbursement flow of the PUBLIC CONTRIBUTION installments contained in ANNEX 19 will result from the PHYSICAL-EXECUTIVE SCHEDULE and the PHYSICAL-FINANCIAL SCHEDULE presented by the CONCESSIONAIRE as a condition for signing the AGREEMENT, and may be changed during the PRE-CONSTRUCTION PERIOD and/or during the IMPLEMENTATION WORKS, as provided for in item 12 of ANNEX 19, without prejudice to the possibility of early fulfillment of DISBURSEMENT EVENTS, as provided for in item 9 of ANNEX 19.
- 12.3. As a condition for signing the AGREEMENT, the GRANTING AUTHORITY deposited, in the RESERVE ACCOUNT, the total amount of the PUBLIC CONTRIBUTION.
- 12.4. ARTESP will be responsible for inspecting and verifying the actual compliance, by the CONCESSIONAIRE, of the DISBURSEMENT EVENTS, and may, at its discretion, hire an inspector or certifying entity to assist it in these attributions.
- 12.5. Regardless of the deadlines set for the DISBURSEMENT EVENTS contained in ANNEX 19, or the disbursement of each installment of the PUBLIC CONTRIBUTION, the CONCESSIONAIRE, in the evolution of the IMPLEMENTATION WORKS, may anticipate the execution of the DISBURSEMENT EVENTS at its discretion, anticipating the payment of the corresponding installment of the PUBLIC CONTRIBUTION.

### **CLAUSE THIRTEENTH - ACCESSORY REVENUES**

- 13.1. The CONCESSIONAIRE, by its exclusive responsibility, directly or indirectly, may explore alternative and complementary sources of revenue, with a view to obtaining ACCESSORY REVENUE, provided that these activities do not compromise the safety of the operation and the quality standards of the DELEGATED SERVICE, as provided for in the norms and procedures included in this AGREEMENT and in the current legislation.
- 13.2. They constitute sources of ACCESSORY REVENUE, subject to the conditions established by ARTESP due to the AGREEMENT, among others, those contained in the following example list:
- i. Charging for publicity permitted by law, pursuant to the government regulation;
  - ii. Charge for the use of the RIGHT OF WAY, in the manner regulated by the Government and in compliance with the provisions of the applicable legislation, including Law No. railway; or (b) in which there is a legal impossibility of collection, either by law, rule or applicable court decision;
  - iii. Revenues from the commercial use of electronic data network system, including as provided for in ANNEX 05 and APPENDIX F hereto, or another system provided to USERS;
  - iv. Revenues from rendering SUPPLEMENTARY SERVICES.
  - v. Other applicable income and permitted by the legislation in force.

- 13.2.1. ACCESSORY REVENUE will not be considered as resulting from investments in the



financial market, amounts received as indemnity or insurance coverage, or payments as pecuniary penalties resulting from contracts entered into between the CONCESSIONAIRE and third parties, except for any indemnities due by third parties to the CONCESSIONAIRE whose amounts originally would be considered as ACCESSORY REVENUE for the purposes of this AGREEMENT.

13.2.2. ACCESSORY REVENUES will not be considered, including for the purposes of incidence of the amounts provided for in Clause 13.3, the revenues earned by RELATED PARTIES of the CONCESSIONAIRE, based on legal instruments regularly signed with the CONCESSIONAIRE, unless identified that the contract between the CONCESSIONAIRE and the RELATED PARTY was entered into in violation of the obligations contained in Clause 29.10, in which case the entire revenue earned by the RELATED PARTY will be considered, for the purposes of this AGREEMENT, as ACCESSORY REVENUE of the CONCESSIONAIRE.

13.2.3. The exploration of advertising must observe the legislation in force and the CONAR regulations, not violating morals and good customs, and cannot be of a religious or political party nature, or refer to any kind of injury, discrimination or prejudice, of any kind. order, including prejudices of race, color, creed, gender, sexuality, or social or xenophobic nature.

13.3. Any and all ACCESSORY REVENUE will be part of the CONCESSIONAIRE GROSS REVENUE, which will serve as a calculation basis for the incidence of the percentage of 3% (three percent) due to ARTESP as an INSPECTION FEE.

13.3.1. Within 5 (five) days after the end of each month, the CONCESSIONAIRE shall send ARTESP proof of the payments mentioned in Clause 13.3, related to the incidence on the ACCESSORY REVENUE, as well as accounting documentation that allows ARTESP to verify that the payments were made pursuant to this AGREEMENT.

13.3.2. For the purposes of the provisions of clause 13.3.1, ARTESP will have broad access to the financial statements related to the ACCESSORY REVENUE contracts, in order to verify the adequacy of the transfers made by the CONCESSIONAIRE.

13.3.3. If ARTESP, within the scope of its inspections, certifies that the CONCESSIONAIRE has not made the payments mentioned in the Clause 13.3 under the terms of this AGREEMENT, ARTESP will notify the CONCESSIONAIRE so that it immediately pays the verified difference, without prejudice to the application of the penalties provided for in the ANNEX 11.

13.3.4. ARTESP's authorization to start the exploration of ACCESSORY REVENUES in areas object of this SPONSORED CONCESSION will not imply, by the GRANTING AUTHORITY or by ARTESP, responsibility for the investments or guarantee regarding the estimated remuneration to be earned by the CONCESSIONAIRE.

13.3.5. For the purposes of this AGREEMENT, the ACCESSORY REVENUES are considered random, their projection being a risk assumed exclusively by the CONCESSIONAIRE, which will not be entitled to the economic and financial rebalancing, nor to any compensation for the investments made, even if the associated enterprise has been accepted by ARTESP, except in cases of risk sharing related to PUBLIC BUSINESSES in which there is joint exploration between the CONCESSIONAIRE and the GRANTING AUTHORITY.

13.4. In the exploration of ACCESSORY REVENUES, the CONCESSIONAIRE shall be responsible for any and all legal infractions or offenses to specific regulations, before third parties and all competent inspection and regulation bodies, excluding ARTESP and the GRANTING AUTHORITY from any claim in this regard, unless the exploration to take place jointly.

13.4.1. The CONCESSIONAIRE, in the exploration of ACCESSORY REVENUE, must observe the competition legislation and the current rules of ARTESP and the GRANTING AUTHORITY whenever they require, restrict or condition the exploration of certain activities, and must prohibit and refrain from practicing discriminatory and abusive conduct, both in the exploration and in the remuneration of ANCILLARY REVENUES.

13.5. In the event third parties intend to explore any activities generating ACCESSORY REVENUE, such parties shall enter into an AGREEMENT with the CONCESSIONAIRE, which shall be governed by private law, and no legal relationship shall be established between such third parties and ARTESP and/or the GRANTING AUTHORITY.

13.5.1. PUBLIC BUSINESS may be proposed on the initiative of ARTESP, the GRANTING AUTHORITY and/or the CONCESSIONAIRE, and will depend on a consensus between the PARTIES and ARTESP, with the purpose of constituting projects/undertakings associated with the exploration of the ROAD SYSTEM and for the purposes of exploration and joint generation of additional income for the benefit of the CONCESSIONAIRE and the GRANTING AUTHORITY.

13.5.1.1. Potential PUBLIC BUSINESSES are those arising from the exploration of lawful activities that are not affected by the DELEGATED SERVICE.

13.5.2. PUBLIC BUSINESS that provide additional income may be materialized through any legal arrangements that make possible the joint exploration between the CONCESSIONAIRE and the GRANTING AUTHORITY, of activities, services, assets and any other structured operations, provided that: (i) compatible with the relevant legislation; and (ii) subject, always, to the fulfillment of the requirements related to the nature of the associated project/enterprise, as well as other conditions aimed at serving the public interest, established by ARTESP or by the GRANTING AUTHORITY.

13.5.2.1. In the event of exploration of additional revenues through PUBLIC BUSINESS, the risk-sharing rules will be freely negotiated between ARTESP, the GRANTING AUTHORITY and the CONCESSIONAIRE.

13.5.3. PUBLIC BUSINESS shall be of a random and when-needed nature, and shall not represent the GRANTING AUTHORITY or ARTESP's commitment to authorize and agree with possible business proposals, of any kind, made by the CONCESSIONAIRE, and shall be entirely conditional to ARTESP's authorization, and assessment of such proposals shall depend not only on compatibility with law, levels of service and technical-operational requirements established in contracts, but also convenience and opportunity for the government.

13.5.4. The ARTESP and GRANTING AUTHORITY, at its sole discretion, may draw on the expertise of third parties to support the analysis of the structuring of PUBLIC



BUSINESS, and related legal arrangements, including to identify whether the rules related to the sharing of risks, costs and revenues proposed are configured appropriate in the light of the public interest and compatible with this AGREEMENT.

13.5.5. The additional revenues obtained by the CONCESSIONAIRE from the exploration of PUBLIC BUSINESSES must be accounted for separately from the other exploration projects of ASSOCIATED REVENUES, and will not compose the gross revenue of ASSOCIATED REVENUES, for the purposes of Clause 13.3, being shared with GRANTING AUTHORITY, exclusively, under the terms provided for in the legal arrangement defined between the PARTIES.

13.6. No contract entered into between the CONCESSIONAIRE and third parties that has the objective of exploration ANCILLARY REVENUES under this AGREEMENT may exceed the CONCESSION TERM, unless previously and expressly authorized by the GRANTING AUTHORITY, and the CONCESSIONAIRE must adopt all the relevant measures for the delivery of the areas object of exploration of ANCILLARY REVENUES to the GRANTING AUTHORITY free and unobstructed from any encumbrances and charges, the CONCESSIONAIRE's liability being exclusive and integral, due to contracts of that nature, for any taxes, charges, obligations, encumbrances, encumbrances, residual values or other origins charged by its subcontractors, the CONCESSIONAIRE being prohibited from imposing such responsibility on the to ARTESP GRANTING AUTHORITY, as well as from charging any amount that it considers to be directly due to it as a result of the contracts signed with private individuals.

13.6.1. In the event of entering into contracts with a term longer than the CONCESSION period, in addition to the authorization provided for in Clause 13.6, the following conditions must be observed: (i) the ARTESP and GRANTING AUTHORITY must be part of the adjustment as an intervener, the CONCESSIONAIRE not being entitled to any remuneration, in any capacity, during the period that exceeds the CONCESSION's term; (ii) proportionality must be established between the remuneration perceived by the CONCESSIONAIRE, over the remaining term of the CONCESSION, and the remuneration foreseen for the GRANTING AUTHORITY, in the period after the final term of the CONCESSION's term, being prohibited the advance of the installments that extrapolate the CONCESSION TERM 13.6.5; 13.6.7 and (iii) at the end of the SPONSORED CONCESSION, the remuneration will be due to the GRANTING AUTHORITY, with the commercial conditions and the form of the contract observing the conditions initially agreed with the CONCESSIONAIRE, any alteration that implies the reduction or the aggravation of such conditions to the detriment of the GRANTING AUTHORITY.

13.6.2. The authorization provided for in the 13.6 Clause will be conditioned to the analysis of convenience and opportunity of the GRANTING AUTHORITY, and the negative will not, in any case, lead to economic and financial rebalancing of the AGREEMENT.

13.6.3. Once the authorization provided for in the Clause has been granted 13.6, the authorized contract may be maintained even if there is a chance of early termination of the SPONSORED CONCESSION, observed, in this case, to the option referred to in the Clause 13.6.4.

13.6.4. In the event of termination of the SPONSORED CONCESSION, including in the event of early termination, the GRANTING AUTHORITY or the SUCCESSOR may

terminate the contracts entered into by the CONCESSIONAIRE related to the exploration of ACCESSORY REVENUES, including those that have obtained the authorization provided for in Clause 13.6, ensuring in these cases the indemnification in the event of investments not yet amortized made by the CONCESSIONAIRE or by the third party.

- 13.6.5. The contracts previously authorized under the terms of the Clause 13.6 shall provide for periodic remuneration in equal or increasing installments throughout their term, and must be monetarily corrected by the official inflation index, with the anticipation of installments that extrapolate the CONCESSION TERM.
- 13.6.6. If the commercial contract that goes beyond the CONCESSION TERM, signed between the CONCESSIONAIRE and third parties, provides for variable remuneration proportional to the business's turnover, this must have an equal or increasing percentage value and constant frequency throughout the entire contract.
- 13.6.7. If the commercial contract that exceeds the CONCESSION TERM, signed between the CONCESSIONAIRE and third parties, provides for forms of remuneration other than those provided for in Clauses 13.6.5 and 13.6.6, this must be informed in the authorization request provided for in Clause 13.6.
- 13.6.8. The information to be provided by the CONCESSIONAIRE, when submitting the authorization request provided for in the Clause 13.6, shall include, among other elements relevant to the analysis of the GRANTING AUTHORITY, the forms of remuneration of the contract whose authorization is to be obtained.
- 13.7. For any new SUPPLEMENTARY SERVICE that the CONCESSIONAIRE wishes to see exploited, at its own risk, including any activity capable of generating ACCESSORY REVENUE, it must, subject to the exception provided for in Clause 13.7.1, previously request the consent of ARTESP, forwarding a copy, in to be defined, of the drafts of all contracts to be entered into, and other relevant documents, and presenting and indicating, at least:
- i. the term of the contract (s);
  - ii. the source and estimated values of ANCILLARY REVENUES to be generated with the exploration of COMPLEMENTARY SERVICE, per year or per act, when it is punctual / individualized;
  - iii. The nature of the SUPPLEMENTARY SERVICE to be explored, or of the activity capable of generating ACCESSORY REVENUE, with a description of the object of the contract and the business model;
  - iv. That exploration the ACCESSORY REVENUE shall not generate any dispute and/or negative impact on the SPONSORED CONCESSION;
  - v. Prices to be practiced and the parameters for periodic adjustments;
  - vi. The commitment that any changes in the exploration of the activity or the COMPLEMENTARY SERVICES will be communicated and duly justified to ARTESP.

- 13.7.1. The consent referred to in Clause is 13.7 not necessary for the exploration of the services provided for in items i a iii of Clause 13.2.
- 13.8. In the event ARTESP rejects the proposal to exploration the SUPPLEMENTARY SERVICES, it shall be rejected on reasonable grounds, and ARTESP may present an alternative proposal so exploration may be accepted.
- 13.9. All activities capable of generating ACCESSORY REVENUE and SUPPLEMENTARY SERVICES whose exploration is permitted under the terms of this AGREEMENT must be operated with quality and efficiency, in view of their primary purpose of convenience to the provision of the ADEQUATE SERVICE.

#### **CLAUSE FOURTEENTH - CONCESSION ASSETS SYSTEM**

14.1. The SPONSORED CONCESSION includes:

- i. All properties, works under construction, buildings, equipment, machines, appliances, accessories, works of art and, in general, all other assets related to the implementation, operation and maintenance of the ROAD SYSTEM transferred to the CONCESSIONAIRE in the current state. ;
  - ii. The goods, movable or immovable, acquired, incorporated, expanded, installed, prepared or built by the CONCESSIONAIRE, throughout the CONCESSION TERM, including buildings, equipment, machines, appliances, vehicles and accessories, as well as all improvements, even if useful or voluptuous, accessions, physical or intellectual, due to works or investments made by the CONCESSIONAIRE, even if resulting from non-mandatory investments, and that are used in the operation and maintenance of the ROAD SYSTEM.
- 14.2. All assets that make up or come to be part of this SPONSORED CONCESSION will be considered REVERSIBLE ASSETS for the purposes of this CONCESSIONAIRE and the applicable legislation, and all relevant provisions will apply to them, except for those assets for use restricted to the execution of IMPLEMENTATION WORKS, such as machinery and equipment that are not used during the FULL COMMERCIAL OPERATION.
- 14.3. Possession, custody, maintenance and surveillance of the REVERSIBLE ASSETS are the responsibility of the CONCESSIONAIRE, as of the execution of the INITIAL TRANSFER TERM, subject to the provisions of Clause 19.1xi..
- 14.4. All REVERTIBLE ASSETS shall be kept in good conditions and in perfect state by CONCESSIONAIRE over the entire CONCESSION TERM.
- 14.5. The CONCESSIONAIRE undertakes to maintain, in full conditions of use, conservation and safety, at its own expense, the REVERSIBLE ASSETS, during the term of the AGREEMENT, carrying out, for that purpose, the repairs, renovations and adaptations necessary for the good performance of the SERVICES DELEGATES, under the terms of this AGREEMENT.
- 14.6. The CONCESSIONAIRE is expressly authorized to propose, on its own behalf, legal measures to ensure or recover the possession of the REVERSIBLE ASSETS.

- 14.7. The CONCESSIONAIRE is fully responsible for maintaining the INVENTORY OF REVERSIBLE ASSETS under current conditions, and any act that may characterize the attempt or consummation of fraud, through intent or fault, in the characterization of the REVERSIBLE ASSETS, will be considered an infraction subject to the penalties described in this AGREEMENT.
- 14.8. The REVERSIBLE ASSETS must be duly recorded in the CONCESSIONAIRE accounting, in order to allow their easy identification by ARTESP, including their distinction in relation to exclusively private assets, in compliance with the accounting rules in force.
- 14.9. At the end of the useful life of REVERTIBLE assets, the CONCESSIONAIRE shall immediately replace them with new and similar assets, of equal or better quality, subject to the obligations of continuing the services under this AGREEMENT and, especially, the mandatory technology updating and the fulfillment of PERFORMANCE INDICATORS, following the relevant contractual provisions.
- 14.10. The replacement of REVERSIBLE ASSETS throughout the CONCESSION TERM does not authorize any claim to recompose the economic-financial balance of the AGREEMENT by any of the PARTIES, unless it is proven that the replacement results from the materialization of risk allocated to the GRANTING AUTHORITY.
- 14.10.1. The CONCESSIONAIRE does hereby declare, on the date the AGREEMENT herein is signed, that all amounts required to replace and maintain the REVERTIBLE ASSETS have already been considered in their PRICE PROPOSAL, and that is why it agrees that the Remuneration amount under the terms of this AGREEMENT is sufficient for such replacement and maintenance over their respective useful life spans.
- 14.11. All investments originally foreseen in this AGREEMENT and ANNEXES, including the maintenance and replacement of REVERSIBLE ASSETS, must be depreciated and amortized by the CONCESSIONER during the TERM OF THE CONCESSION, considering possible extensions, and no claim or demand for compensation for any unamortized balance at the end of the CONCESSION TERM, related to these assets, shall apply.
- 14.12. Investments that may be incorporated into the AGREEMENT in the ORDINARY REVISIONS or in the EXTRAORDINARY REVISIONS, to maintain the current and continuity of the public service, must be amortized CONCESSION TERM, taking into account any extension given to restore the economic and financial balance.
- 14.13. In the event of early termination of the AGREEMENT, the CONCESSIONAIRE indemnification for the investments made and not amortized shall comply with the provisions of CHAPTER IX.
- 14.14. All of the intellectual property rights regarding the road infrastructure and the exploration of public transportation service (including copyrights, patents, brands, trade secrets and other proprietary rights) remain property of the party that produced them.
- 14.15. The CONCESSIONAIRE does hereby grant, without any burden and definitively, to ARTESP and future SUCCESSORS of this ROAD SYSTEM, license to use, including in

future CONCESSION AGREEMENTS, the studies, projects, and other works of intellectual nature created and used to develop the project and its respective intellectual property rights (including the right to make and use works deriving therefrom), including in future CONCESSION AGREEMENTs, and without any restrictions in the event the continuity of services, and its updating and/or revision, is conditioned thereto;

- 14.15.1. The CONCESSIONAIRE agrees to the use, by ARTESP, of all the information shared and collected, in the scope of its inspection activities, including those that have been generated, stored and made available through the Digital Systems described in this AGREEMENT and described in APPENDIX F, as well as the information generated in the terms of APPENDIX H, for the purpose of research, development and transparency, in addition to improving its regulation and inspection activities.
- 14.16. The REVERSIBLE ASSETS AGREEMENT shall be prepared by the CONCESSIONAIRE after completion of the IMPLEMENTATION WORKS and will comprise the INVENTORY OF REVERSIBLE ASSETS of the SPONSORED CONCESSION, together with the FINAL INSPECTION REPORT, pursuant to ANNEX 18, and shall be kept updated by the CONCESSIONAIRE during the entire CONCESSION TERM, in accordance with the established rules, including the carrying out of video-record-type surveys, under penalty of applicable penalties.
- 14.17. The alienation, encumbrance or transfer to third parties, in any capacity, of the REVERSIBLE ASSETS, will depend on the previous consent of ARTESP, under the terms of this AGREEMENT, except for the replacement of movable assets in order to maintain their useful life within the limits set forth in AGREEMENT and ANNEXES.
- 14.17.1. The goods must be replaced by others with equivalent or superior technological up-to-dateness and provided that they have the same operating and operating conditions, pursuant to Clause Seventeenth.
- 14.17.2. In the event of authorization by ARTESP for the disposal of REVERSIBLE ASSETS, such assets will no longer be reversible, without prejudice to the reversibility of the assets that replace or replace them.
- 14.17.3. The REVERSIBLE ASSETS, including the movable or immovable assets acquired by the CONCESSIONAIRE, in any way, for the performance of the DELEGATED SERVICES, affected to the operation, will be considered assets outside the trade, and cannot be, under any circumstances, assigned, alienated, encumbered, leased, given in loan or guarantee, or in any other way their occupation is allowed, arrested, pledged or subject to any liens of the same nature, except when ARTESP has previously agreed, or in the event of mere replacement or replacement of goods, in the form of Clause 14.17.
- 14.17.4. ARTESP may, throughout the term of the AGREEMENT, communicate to the CONCESSIONAIRE situations in which the previous consent referred to in Clause 14.17, provided that the requirements established in this communication are met.
- 14.18. All legal business of the CONCESSIONAIRE with third parties involving the REVERSIBLE ASSETS must expressly mention the link between the REVERSIBLE ASSETS involved to the SPONSORED CONCESSION.



- 14.18.1. The other assets used by CONCESSIONAIRE not included in the DEFINITIVE TERM and not qualified as 14.7 REVERTIBLE ASSETS shall be deemed exclusively as private assets and may be freely used and transferred by CONCESSIONAIRES, with no effect on the duty to satisfy PERFORMANCE INDICATORS and other provisions herein.
- 14.18.2. When consent is necessary, ARTESP will issue its decision on the disposal, the constitution of liens or the transfer, of any nature, of the REVERSIBLE ASSETS, by the CONCESSIONAIRE to third parties, within a period compatible with the complexity of the situation, not exceeding 60 ( sixty) days, counted from the receipt of the previous consent request sent by the CONCESSIONAIRE.
- 14.19. Any disposal of movable assets that qualify as REVERSIBLE ASSETS and that the CONCESSIONAIRE intends to carry out in the last 2 (two) years of the CONCESSION TERM, must have ARTESP's non-objection, unless there is an immediate replacement.

## **CLAUSE FIFTEENTH - THE GENERAL RULE OF EVACUTION**

- 15.1. The GRANTING AUTHORITY is responsible for the costs, delays and burdens in general resulting from actions and measures of eviction necessary to release the area where the IMPLEMENTATION WORKS must be carried out, provided that: (i) the occupations have taken place before the execution of the TERM OF INITIAL TRANSFER; and, cumulatively, (ii) the occupations have been identified in the THEMATIC INSPECTION REPORT specific to vacancies, pursuant to item 6.5.1 of ANNEX 18.
- 15.2. The GRANTING AUTHORITY shall inform the CONCESSIONAIRE, within the period provided for in ANNEX 18, whether to delegate to the CONCESSIONAIRE the eviction actions referred to in Clause 15.1.
- 15.2.1. If the CONCESSIONAIRE does not delegate the execution of the eviction actions, it will be responsible for carrying out the REINTEGRATION OF POSSESSION or RESETTLEMENT on the identified properties, in compliance with the provisions contained in ANNEX 18.
- 15.2.2. If the GRANTING AUTHORITY delegates to the CONCESSIONAIRE the execution of the eviction actions, it must carry out RESETTLEMENT, in accordance with the rules provided for in ANNEX 18 and in compliance with the provisions of ANNEX 06, constituting an IMBALANCE EVENT in its favor.
- 15.2.3. In case occupations in the RIGHT OF WAY that do not interfere (i) with the implementation of the IMPLEMENTATION WORKS, (ii) with the execution of the DELEGATED SERVICES are identified in the THEMATIC INSPECTION REPORT, under the terms of Clause 15.1; or (iii) in the operation of NON-DELEGED SERVICES, the GRANTING AUTHORITY may proceed with the DISAFFECTION of said area, pursuant to ANNEX 18.
- 15.2.3.1. The occupations referred to in the Clause 15.2.3 above will not be considered an obstacle to the beginning of the CONSTRUCTION PERIOD and, therefore, to the rules applicable to this period, including the deadline for the beginning of the FULL COMMERCIAL

OPERATION, not constituting an IMBALANCE EVENT.

15.3. CONCESSIONAIRE The CONCESSIONAIRE will be fully responsible for the eviction actions concerning occupations that: (i) have taken place after the INITIAL TRANSFER TERM is signed; or (ii) have not been mentioned in the THEMATIC SURVEY REPORT, pursuant to Clause 15.1 and ANNEX 18.

15.3.1. Costs and delays arising from the events indicated in the Clause 15.3 will be fully borne by the CONCESSIONAIRE, not being the object of economic and financial rebalancing of the AGREEMENT.

15.4. Any vacancies necessary for the IMPLEMENTATION WORKS resulting from the alteration of the engineering project by the CONCESSIONAIRE, which does not have as a triggering event any of the factors listed in items (i) or (ii) of item 5.1 of ANNEX 18, will receive the same treatment provided for in Clause 15.3.

## **CLAUSE SIXTEENTH – INVESTMENT PLANS, ENGINEERING PROJECTS AND INVESTMENTS IN THE ROAD SYSTEM**

16.1. The CONCESSIONAIRE undertakes to perform, at its own risk, the services included in the ORIGINAL INVESTMENT PLAN, in this AGREEMENT and in the ANNEXES, within the terms and conditions established therein, without prejudice to any other investments, even if not provided for in the PLAN INVESTMENT ORIGINAL or in the INVESTMENT PLANS, which are necessary to meet the PERFORMANCE INDICATORS.

16.2. As a condition for signing the AGREEMENT, the CONCESSIONAIRE presented the ORIGINAL INVESTMENT PLAN, which must contain the PHYSICAL-EXECUTIVE SCHEDULE and PHYSICAL-FINANCIAL SCHEDULE.

16.2.1. The engineering projects for carrying out the investments related to the IMPLEMENTATION WORKS are available in ANNEX 12 and have a referential nature. If the CONCESSIONAIRE wishes to provide a solution other than that provided for in the projects in ANNEX 12, it must present the engineering projects, pursuant to APPENDIX G.

16.2.1.1. If, in the FINAL INSPECTION REPORT, discrepancies between the engineering projects contained in ANNEX 12 and the current situation of the ROAD SYSTEM and/or liabilities and incompatibilities to be corrected by the CONCESSIONAIRE are pointed out, the CONCESSIONAIRE shall prepare the respective updated EXECUTIVE PROJECTS, including of any necessary interventions to address the liabilities and incompatibilities identified by the INDEPENDENT REPORTER, with subsequent certification and presentation to ARTESP, pursuant to APPENDIX G.

16.2.2. The approval procedure for the ORIGINAL INVESTMENT PLAN is regulated through ANNEX 07 and APPENDIX G.

16.3. When new investments are included based on ORDINARY REVISIONS or EXTRAORDINARY REVISIONS of this AGREEMENT, the CONCESSIONAIRE shall prepare new INVESTMENT PLANS or revise existing INVESTMENT PLANS, and, after approval from ARTESP and the corresponding amendment is signed, the respective



SCHEDULES shall be binding.

- 16.3.1. Approval from ARTESP for projects or studies presented by the CONCESSIONAIRE does not imply any responsibility for ARTESP, nor exempt the CONCESSIONAIRE, fully or partially, from its obligations arising out of the AGREEMENT herein, or from the relevant legal or regulatory provisions, and the latter shall remain responsible for any imperfections in the project or for the quality of services rendered.
- 16.3.2. The CONCESSIONAIRE may not impose on the GRANTING AUTHORITY any exceptions or means of defense to exempt itself, fully or partially, from contractual obligations, based on the facts resulting from any contractual relations established with subcontractors.
- 16.3.3. Obtaining a QUALITY CERTIFICATE for the EXECUTIVE PROJECT, by the CONCESSIONAIRE, does not require the approval of the respective EXECUTIVE PROJECT by ARTESP, pursuant to APPENDIX G.
- 16.4. All milestones and stages, including initial and intermediary milestones presented in INVESTMENT PLANS, established for follow-up of each investment, as required, shall be duly and timely complied with by CONCESSIONAIRE, subject to the penalties provided for herein and to other applicable consequences.
- 16.4.1. Delays in the deadlines established for carrying out the investments, both those that indicate the beginning and those that establish the end of each constructive stage of the works, will give rise to the application of the relevant penalties to the CONCESSIONAIRE, as established in ANNEX 11.
- 16.5. Together with the preparation and revision of INVESTMENT PLANS, CONCESSIONAIRE shall prepare the respective INSURANCE PLANS and GUARANTEE PLANS that shall list the arrangements and instruments to be entered into by CONCESSIONAIRE, in order to assure the unconditional fulfillment of its obligations and investments.
- 16.5.1. Contracting corresponding insurance and guarantees is a condition for the beginning of each investment or construction stage;

## **CLAUSE SEVENTEENTH – OPERATION AND WORKING CONDITIONS OF THE ROAD SYSTEM**

- 17.1. The CONCESSIONAIRE shall be obliged to render the ROAD SYSTEM operational service, as well as maintain its continued and permanent operation, fulfilling the operational and minimum preservation conditions, on its own account and at its own risk, and shall comply with the applicable legislation, the provisions hereof, the best practices recognized for such activities, in addition to the PERFORMANCE INDICATORS.
- 17.2. From the OPERATION START DATE, the CONCESSIONAIRE will assume the operation of the ROAD SYSTEM, as defined in ANNEX 02, until the end of the CONCESSION TERM or the termination of this CONTRACT, whichever occurs first.
- 17.3. The CONCESSIONAIRE may request ARTESP the PARTIAL COMMERCIAL OPERATION of the set formed by TCP 1 and TCP 5 or, alternatively, of the set formed by

TCP 2 and TCP 4, pursuant to ANNEX 4, after compliance with the requirements set forth below:

- i. Execution of the IMPLEMENTATION WORKS necessary for the operation of one of the sets indicated in the Clause 17.3;
- ii. Execution of the INITIAL PROGRAM, provided for in ANNEX 05, for one of the sets indicated Clause 17.3;
- iii. Conclusion of the investments necessary for the implementation of the FREE FLOW collection operating system, for each of the indicated sets, Clause 17.3; and
- iv. Obtaining all licenses and authorizations necessary for the operation of the chosen set of TCPs.

17.3.1. During the PARTIAL COMMERCIAL OPERATION, the AGREEMENT shall be entitled to receive the TOLL TARIFFS charged through the duly installed PORTIONS whose operation has been approved by ARTESP.

17.3.2. The CONCESSIONAIRE, during the PARTIAL COMMERCIAL OPERATION, will not be entitled to receive the DUE FINANCIAL CONSIDERATION, and the DEMAND ADJUSTMENT will not apply during the period, except in the event provided for in ANNEX 26.

17.3.3. During the PARTIAL COMMERCIAL OPERATION, the QUALITY AND PERFORMANCE INDEXES will not be applied on the TARIFF REVENUE and on the DUE FINANCIAL CONSIDERATION, if applicable.

17.3.4. During the PARTIAL COMMERCIAL OPERATION, the INSPECTION FEE will be levied on the GROSS REVENUE and on the DUE FINANCIAL CONSIDERATION, if applicable.

17.4. The CONCESSIONAIRE, after completion of the remaining works, must request ARTESP authorization for the FULL COMMERCIAL OPERATION.

## **CLAUSE EIGHTEENTH - MECHANISMS FOR PRESERVING UPDATES IN THE PROVISION OF SERVICES AND INCORPORATION OF NEW TECHNOLOGIES**

18.1. The CONCESSIONAIRE shall observe the technological update in the execution of the works and services object of this AGREEMENT, thus characterized by the preservation of modernity and updating of equipment, installations and techniques for the provision of operation and maintenance services of the ROAD SYSTEM, provided that the technological update is necessary in view of (i) obsolescence of the REVERSIBLE ASSETS, provided for in Clause Fourteenth, or (ii) the need to comply with the PERFORMANCE INDICATORS and other requirements established in this AGREEMENT and its ANNEXES.

18.2. The AGREEMENT shall implement, regardless of determination of the GRANTING AUTHORITY and/or ARTESP, all necessary measures to fulfill its contractual obligations,

including in relation to PERFORMANCE INDICATORS, subject to the provisions of this AGREEMENT and its ANNEXES.

- 18.3. The CONCESSIONAIRE shall take into account the useful life of the REVERSIBLE ASSETS and their proper use and functioning, and, when necessary, replace them with other goods and equipment that present technological updating and operating and operating conditions identical or superior to those of the replaced, regardless of determination by the GRANTING AUTHORITY and/or ARTESP.
- 18.4. The concept of technological up-to-date obligation includes situations in which the CONCESSIONAIRE, in compliance with the provisions of Clause 18.3, in order to meet the PERFORMANCE INDICATORS and other requirements established in the AGREEMENT and its ANNEXES, carry out updates and improvements of the REVERSIBLE ASSETS when provided by the respective manufacturers.
- 18.5. The technological obsolescence of the REVERSIBLE ASSETS will be characterized when, during the CONCESSION TERM, the relevant loss of their initial functions is found, thus understood when the REVERSIBLE ASSETS are no longer able to fulfill their intended function, or, even, if they are incapable to meet the PERFORMANCE INDICATORS and other requirements established in the AGREEMENT and in the ANNEXES.
- 18.5.1. If obsolescence is characterized, the CONCESSIONAIRE must propose a period for meeting the aforementioned requirements, taking into account the respective useful lives and/or replacement periods, and, in any event, the replacement must occur, at most, until the end of the term of validity of the AGREEMENT.
- 18.6. The hypothesis of poor conservation or lack of maintenance, by 18.5 the CONCESSIONAIRE, of the REVERSIBLE ASSETS is excluded from the provisions of the Clause, and such situations are governed by the specific rules provided for in this AGREEMENT and its ANNEXES.
- 18.7. The CONCESSIONAIRE expenses and investments that have been made with the objective of ensuring the timeliness of the SPONSORED CONCESSION, including compliance with the PERFORMANCE INDICATORS and other requirements established in the AGREEMENT and in the ANNEXES, must be amortized within the CONCESSION TERM, not making the CONCESSIONAIRE entitled to any right to indemnification or economic-financial rebalancing, unless such expenses or investments result from an event whose risk has been allocated to the GRANTING AUTHORITY.
- 18.8. The provisions of Clauses 18.11 and 18.7 of this AGREEMENT are not to be confused with the possibility of adoption and incorporation of technological innovations by the CONCESSIONAIRE, subject to the provisions of Clauses 18.10 and 18.11.
- 18.9. Subject to the provisions of Clause Twenty-Second, technological innovations, for the purposes of the AGREEMENT, are considered to be technologies that, cumulatively: (i) at the time of their eventual adoption and incorporation by the CONCESSIONAIRE, constitute the state of the technological art; (ii) do not have widespread use in the national road infrastructure sector; and (iii) whose use, despite having the potential to provide efficiency and productivity gains within the scope of the SPONSORED CONCESSION, is indispensable for meeting the PERFORMANCE INDICATORS and other elements initially provided for in the AGREEMENT and respective ANNEXES.

- 18.10. The CONCESSIONAIRE will have ample freedom to incorporate, throughout the SPONSORED CONCESSION, technological innovations in the scope of the development of the DELEGED SERVICES, observing the provisions of this Eighteenth Clause, only giving rise to the economic and financial rebalancing of the AGREEMENT those that are previously submitted for approval by the ARTESP and the GRANTING AUTHORITY.
- 18.11. The incorporation of technological innovations by the CONCESSIONAIRE, when determined by ARTESP or by the GRANTING AUTHORITY, may only occur within the scope of ORDINARY REVISIONS or, exceptionally, in EXTRAORDINARY REVISIONS, and will lead to the restoration of the economic and financial balance of the AGREEMENT, under the terms of Clause 25.3, subject to the provisions of Clause 18.13.
- 18.11.1. In the event provided for in Clause 18.11, the PERFORMANCE INDICATORS may be updated by ARTESP in order to contemplate the performance improvements, if any, related to the incorporation of the determined technological innovation.
- 18.11.2. The update of the PERFORMANCE INDICATORS, dealt with in Clause 18.11.1, will not retroact its effects, focusing only on the activities performed after the implementation of the technological innovation.
- 18.12. The CONCESSIONAIRE shall be responsible for implementing all digital systems for project management and monitoring of the ROAD SYSTEM conditions, as specified particularly in ANNEXES 06 and 06 and APPENDIX F hereto, and Clause 16.1 herein, and for maintaining their compatibility with the technologies used by ARTESP, so as to allow sharing of information and data generated with ARTESP, thus making the regulation and inspection activities conducted by the latter feasible.
- 18.13. The provisions of this Clause Eighteenth do not exclude the CONCESSIONAIRE obligation to adopt, implement and pay for any and all procedural and/or operational measures, including those of a tax, labor and/or environmental nature determined by inspection agents other than ARTESP, which are not specific to the SPONSORED CONCESSION or the CONCESSIONAIRE, and the CONCESSIONAIRE is not entitled to any right to compensation or economic-financial rebalancing, unless such determinations represent a risk factor or liability of the CONCESSIONAIRE or ARTESP.

### **CHAPTER III – OBLIGATIONS OF THE PARTIES AND ECONOMIC-FINANCIAL BALANCE OF THE AGREEMENT**

#### **CLAUSE NINETEENTH - MAIN RIGHTS AND OBLIGATIONS OF THE CONCESSIONAIRE**

- 19.1. The main rights and obligations of the CONCESSIONAIRE, throughout the CONCESSION TERM, are without prejudice to the other obligations expressed in this AGREEMENT, and its non-compliance may lead to subject to the applicable penalties according to the rules established by this AGREEMENT and Annex V:
- i. ensure the provision of ADEQUATE SERVICE, fully fulfilling and enforcing the AGREEMENT, with zeal and diligence, using the best technique applicable to each of the tasks performed, in accordance with the legal and regulatory provisions, and the determinations of the GRANTING AUTHORITY;

- ii. provide the DELEGATED SERVICE, without interruption, during the entire SPONSORED CONCESSION period, in an adequate way for the USERS 'full service, using all the means and resources for its execution, in compliance with the pertinent norms, standards and procedures established in this AGREEMENT, as well as those determined by the GRANTING AUTHORITY and applicable by ARTESP;
- iii. Implement, properly, the execution and permanent supervision of the services, in order to obtain a correct and effective operation, performing the services in a meticulous and constant way, always keeping in perfect order all the dependencies related to the execution of the AGREEMENT;
- iv. Cooperate and support the development of ARTESP's monitoring and inspection activities, under the terms of this AGREEMENT and the ANNEXES;
- v. Present to ARTESP, at least 180 (one hundred and eighty) days in advance of the start date of the execution of the competent works, all the elements and documents necessary for the issuance of the competent DECLARATION OF PUBLIC UTILITY with the GRANTING AUTHORITY;
- vi. Carry out evictions and the establishment of administrative easements, when necessary for the performance of the services object of this SPONSORED CONCESSION, at its expense and under its responsibility, in compliance with the provisions of the applicable legislation, except for those expressly provided for as being the responsibility of the GRANTING AUTHORITY, under the terms of the Clause19.5;
- vii. Transfer the ownership of any expropriated areas to the DER, at the end of the judicial and/or administrative proceedings that deal with expropriations, evictions and the establishment of administrative easements, necessary for the performance of the services object of this SPONSORED CONCESSION, at its expense and under its responsibility, in compliance with the provisions of applicable law, subject to Clause19.1.vi) above;
- viii. Carry out, by its own means or by contracting third parties, the IMPLEMENTATION WORKS and other infrastructure adaptations specified in this AGREEMENT, being fully responsible and preventing any liability from falling on ARTESP or the GRANTING AUTHORITY, except as provided in ANNEX 18, including by assuming the expenses and charges arising from this liability, even in cases where the works and investments are not directly performed by the CONCESSIONAIRE, observing the timeliness and quality requirements established in this AGREEMENT and the right to economic and financial rebalancing in the event of assumption of costs resulting from the materialization of risk allocated to the GRANTING AUTHORITY;
- ix. Not to enter into a contract with third parties whose performance is incompatible with the term of the SPONSORED CONCESSION, except for the situations expressly provided for in this AGREEMENT;
- x. Redo, adapt or correct, directly or indirectly, without any burden to the GRANTING AUTHORITY, ARTESP or the performance of the services object of this AGREEMENT, any and all works or services, expressly attributed to the



CONCESSIONAIRE or arising from obligations assumed by it in the AGREEMENT, that have been carried out improperly or in violation of the quality standards established in this AGREEMENT and ANNEXES, observing the deadlines defined by ARTESP;

- xi. Present, after the ORDINARY REVISIONS and EXTRAORDINARY REVISIONS of the AGREEMENT, as appropriate, PHYSICAL AND FINANCIAL CHRONOGRAPH, along with the INVESTMENT PLAN, containing the development of the execution of investments, with milestones, stages, activities and deadlines that will and must be met by the CONCESSIONAIRE, according to the rules established by this AGREEMENT;
- xii. Prepare and submit to ARTESP the INSURANCE PLANS and GUARANTEE PLANS, which shall detail the conditions of insurance and guarantees taken out by CONCESSIONAIRE, and follow the expected investment schedule, so as to cover, unconditionally, the risks involved in its implementation;
- xiii. provide the ARTESP with any and all documents and information pertinent to the CONCESSION, including contracts and agreements of any nature signed with third parties, granting ample and unrestricted access to inspection and audits;
- xiv. Obtain, maintain and renew, on a timely and regular basis, all licenses, authorizations, permissions, among other necessary requirements, including INSTALLATION LICENSES, OPERATION LICENSES and other licenses related to compliance with environmental legislation that may be necessary;
- xv. Obtain, apply and manage all financial resources required to implement the activities and investments listed within the scope of this AGREEMENT;
- xvi. Make, in a timely manner, the payment of all due installments of the INSPECTION FEE;
- xvii. Collect the taxes levied on its activities, as well as comply with the tax legislation, including when it comes to the exploration of activities that generate ACCESSORY REVENUE, seeking more efficient means, according to the mechanisms available in the legislation;
- xviii. To comply with legal determinations regarding labor, social security, safety and occupational medicine legislation in relation to its employees, being responsible, as sole employer, for all social, labor and social security charges on the cost of labor employed in the OPERATION and maintenance activities, in addition to the others practiced by it as a result of the SPONSORED CONCESSION, as well as by the legal determinations related to insurance and accidents at work;
- xix. Assume all responsibilities and take the necessary measures for the adequate care of its employees, injured or with sudden illness, in accordance with the law, and that are reasonably required by the CONCESSIONAIRE in view of the concrete situation, considering the activity performed by it, the obligations provided for in AGREEMENT and in the ANNEXES, with all necessary means available to provide, among other actions, first aid care and/or hospital removal, if applicable;

- xx. Bear all costs of electricity, water, and all public utilities incident on the ROAD SYSTEM, from the signing of the INITIAL TRANSFER TERM;
- xxi. Renew, annually, regularity documents related to the INSS and FGTS, as well as regularity with the Federal, State and Municipal Farms, throughout the term of this AGREEMENT, forwarding the documents to the ARTESP;
- xxii. Prove to the ARTESP, when requested and within 10 (ten) business days, the legally required discharge of any and all charges that refer to the operating services and others under its responsibility, including contributions due to the INSS, FGTS as well such as relevant fees and taxes;
- xxiii. Take responsibility, on its behalf or on behalf of its administrators, employees, representatives, subcontractors, service providers or any other individual or company relating to the object of the AGREEMENT herein, related to the GRANTING AUTHORITY, ARTESP and third parties, for all and any damage caused by any acts or omission by CONCESSIONAIRE, whenever they derive from works and services under its responsibility, either directly or indirectly, and such responsibility shall not be mitigated by the inspection or monitoring of the AGREEMENT herein by ARTESP;
- xxiv. provide for the liability of its agents for damages that they cause to third parties, to PASSENGERS and, when applicable, to the Granting Authority, ensuring the right of return against the responsible in cases of intent or guilt;
- xxv. Inform the GRANTING AUTHORITY and ARTESP whenever they are summoned or subpoenaed in any legal or administrative proceeding that may implicate them in matters related to the AGREEMENT herein, including such proceedings terms and deadlines, as well as make efforts to defend common interests, conducting all legal actions applicable to this end;
- xxvi. Submit to the GRANTING AUTHORITY and ARTESP, upon their request, any documents or information, as well as any decisions, produced in judicial or arbitration proceedings, even when the documents, processes and/or information are assigned a confidential nature, in which case it will be carried out the transfer of confidentiality to those who access it, as long as they are related, directly or indirectly, to the activities performed by the CONCESSIONAIRE within the scope of the AGREEMENT, even if the GRANTING AUTHORITY and ARTESP are not parties;
- xxvii. Keep the GRANTING AUTHORITY and CPTM free of any litigation, assuming, when accepted by the Judicial Power, the position of party, and when the procedural substitution is rejected or held jointly, assuming the conduct of the process and the sponsorship of any legal actions brought by third parties, as a result of the execution of the object of this AGREEMENT;
- xxviii. The CONCESSIONAIRE shall reimburse or compensate the GRANTING AUTHORITY and ARTESP, and keep them exempt from any claim or loss that they may incur, such as:
  - a. Disbursements resulting from court orders or arbitration awards of any type, even when interest and legal charges are added, to satisfy



obligations originally imputable to the CONCESSIONAIRE, including labor claims filed by employees or thirds parties linked to the CONCESSIONAIRE, as well as damage to USERS and control and inspection agencies.

- b. the actions performed by the CONCESSIONAIRE, as a public service provider, its administrators, employees, representatives, service providers, third parties with which it may have entered into a contract or any other individual or company bound thereto;
  - c. tax, labor, social security or accident-related matters concerning the employees of the CONCESSIONAIRE and third parties it has hired;
  - d. Environmental damage caused by the CONCESSIONAIRE in the implementation and execution of DELEGATED SERVICES and COMPLEMENTARY SERVICES and activities that generate ACCESSORY REVENUE;
  - e. court costs, attorney's fees and other charges borne by it due to the events described in the occurrences herein;
- xxix. Support the performance of SERVICES NOT DELEGATED, including collaborating with Highway Patrol and other public or private agents assigned by the Government, as detailed in ANNEX V hereto;
- xxx. Implement the Operational Control Center - CCO, provisional, if applicable, and definitive, under the terms and deadlines established in ANNEXES 05 and 07, and provide all the information requested by ARTESP, as well as provide all the digital systems described in APPENDIX F, so that it is possible to integrate all data with the Information Control Center – CCI and other programs specified by ARTESP;
- xxxi. Register reports, documents, and data from any survey, inventory and projects performed over the contractual term, in the digital management systems that shall be implemented by CONCESSIONAIRE to allow this information ARTESP, as specified in ANNEX 07 and APPENDIX F hereto;
- xxxii. Meet the Electronic System for Information Exchange with Users via Wireless Data implementation schedule, or any other alternative means that must be implemented for real-time communication, information and follow-up by USER regarding the ROAD SYSTEM conditions, which shall be duly and previously approved by ARTESP, under the terms of ANNEX 05 hereto;
- xxxiii. Assure, at any moment, free ACCESS, to the people at ARTESP in charge of inspection, to installations and places where the activities related to the object of the SPONSORED CONCESSION herein are developed;
- xxxiv. promptly provide all information and clarifications required by the ARTESP or other authorities, including municipal authorities, within the period determined by them or, in the absence of any indication, within a maximum period of 02 (two) working days from receipt of the request, according to the applicable procedure, except in exceptional situations, duly justified to the ARTESP and, as the case

may be and the other requesting authorities;

- xxxv. Maintain, in full operation and within the established standards, the Ombudsman and the Systems and Relationship Channels with USERS, provided for in the legal and infra-legal rules in force, in compliance with State Law No. 10,294, of April 20, 1999, any regulation issued by ARTESP, and as provided in ANNEXES 05 and 06;
- xxxvi. Inform in writing to ARTESP, within 24 (twenty-four) hours, or provide access to the occurrence recording systems, of any abnormal occurrence or accidents that occur in the ROAD SYSTEM, without prejudice to verbal communication and via digital system, in advance , if relevant;
- xxxvii. Execute the conditions, environmental and social programs and mitigating measures related to licenses, including PREVIOUS LICENSES and INSTALLATION LICENSES, authorizations or permissions, pursuant to the ANNEXES and APPENDICES, observing the risk sharing of this AGREEMENT;
- xxxviii. Inform immediately upon identification of liabilities and/or environmental irregularities that are at risk or responsibility of the GRANTING AUTHORITY, with due evidence of this responsibility;
- xxxix. inform the competent authorities, immediately and as soon as they become aware, of any occurrences in the exercise of their activities that put the environmental integrity of the ROAD SYSTEM at risk;
- xl. Ensure the protection of the environment, under the terms of applicable legislation;
- xli. Ensure compliance with the requirements of the PERFORMANCE STANDARDS of January 1, 2012, which provide for compliance with social and environmental requirements applied to the activities of the SPONSORED CONCESSION, as described in ANNEX 06 to this AGREEMENT;
- xl.ii. Ensure the integrity of the REVERSIBLE ASSETS and the remaining areas, including those referring to the RIGHT OF WAY, and, according to the rules established in ANNEXES 05, 06 and 07, repair any and all damages caused to the ROAD SYSTEM, as well as any third-party assets , as a result of the exploration of the object of the SPONSORED CONCESSION, being able to request, in cases where the damages are caused by the fault or intent of ARTESP or the GRANTING AUTHORITY, or arise from risk factors or their responsibility, the economic and financial rebalancing of the AGREEMENT because of the costs associated with such repair;
- xl.iii. repair any damage caused to communication routes, water and sewage pipes, electricity, gas, telecommunications networks and respective equipment, as well as any third party assets, and any other INTERFERENCES, as a result of the performance of services under your responsibility, request, in the event that the damages are caused by fault or intent of the ARTESP , or result from factors of its risk or responsibility, the economic and financial rebalancing of the AGREEMENT due to the costs associated with such repair;

- xliv. Conduct the activities required for the removal of INTERFERENCES, which are necessary for the performance of the object herein AGREEMENT;
- xliv. Accept and cooperate, endeavoring its best efforts, in accordance with the applicable legislation and rules, when the RIGHT-OF-WAY is used by concessionaires, permittees, those authorized to render services that require the installation of water pipes, sewage, electricity grid, natural gas or telecommunications;
- xlvi. Share the use of the RIGHT OF WAY with any person responsible for the implementation of railway projects or other activities, if so determined by applicable law, rule or court decision, both in the construction and operation phases, the CONCESSAIRE being prohibited from earning any type of revenue or absorb any costs as a result of this obligation;
- xlvi. Promote all activities and bear the investments necessary for the implementation, operation and maintenance of the FREE FLOW TOLL TARRIFS collection system, pursuant to ANNEX 04, including the availability of the FF PLATFORM and applicable rules;
- xlvi. Promote all activities and bear the necessary investments to enable the records, information, calculation memories, notifications and other relevant requirements, related to the calculation of the DUE FINANCIAL CONSIDERATION;
- xlix. Identify the DELINQUENT USERS and notify, pursuant to ANNEX 04 and ANNEX 26, the GRANTING AUTHORITY so that it promotes the assessment and/or collection of the TOLL TARIFF amounts due;
  - I. Inform the population and USERS in general, in the relevant places of the ROAD SYSTEM and on the CONCESSIONAIRE website, of the current TOLL TARIFF value, without prejudice to the other obligations provided for in ANNEX 04;
  - li. Inform USERS in advance, including through the CONCESSIONAIRE website, of the schedule of scheduled works to be carried out on the ROAD SYSTEM, in order to ensure predictability of its operation;
  - lii. Provide the material and financial resources necessary for the exercise of inspection and traffic policing activities, in addition to the construction works and/or adaptation of civil facilities necessary for the operation of these activities, according to the limits and specifications established by ANNEXES 05 and 07;
  - liii. Comply with the environment protection legislation, and guarantee compliance, taking the measures required for the prevention and/or correction of any environmental damages regardless of the triggering event occurring before or after taking ownership of the REVERTIBLE ASSETS;
  - liiv. Communicate to ARTESP immediately, and adopt the required measures, whenever materials or objects of geological or archeological interest are discovered, as well when any unexpected environmental event or INTERFERENCES with other concessionaires occur.
- lv. Keeping the INVENTORY updated throughout the CONCESSION TERM, as well

as regularly keeping its accounting books and organizing the files, documents and notes, with the relevant information, accompanied by a georeferenced video survey of the ROAD SYSTEM, pursuant to ANNEX 06 ;

- lvi. Perform preventive and corrective maintenance of REVERSE ASSET , including the RIGHT-OF-WAY, so as to keep them in full operation and capacity to meet the provisions of the AGREEMENT herein;
- lvii. Perform all activities and make the investments required for the perfect fulfillment of PERFORMANCE INDICATORS, subject to the provisions herein;
- lviii. Perform the activities required for the ORDINARY REVISIONS, including providing a SISDEMANDA Platform for receipt, management and definition of new investments and/or adjustment of investments, as well as to execute the required projects and prepare the budgets of new investments, pursuant to the rule in ANNEX 07 and APPENDIX F hereto;
- lix. Support ARTESP and the GRANTING AUTHORITY in public hearings prior to ORDINARY REVISIONS, according to the procedure described in ANNEX VII hereto;
- lx. Adopt the best practices defined by Federal Law No. 12,846/2014, including implementing integrity mechanisms in the manner described in articles 41 and 42 of Federal Decree No. 8,420/2015 and State Decree No. 60,106/2015, or other law or regulation that replaces or amends them, subject to the provisions of ANNEXES 05 and 06;
- lxi. maintain the services performed in accordance with the provisions of Federal Law No. 6,514 / 1977, regulated by Ordinance No. 3,214 / 1978 of the Ministry of Labor (and subsequent amendments), as well as specific engineering, safety and occupational medicine standards, in particular Regulatory Standard No. 10 of the Ministry of Labor;
- lxii. maintain, for all activities related to engineering services, the competent regularity before the regulatory bodies for the exercise of the profession, requiring the same from contracted third parties;
- lxiii. Respond to the GRANTING AUTHORITY, ARTESP and third parties for the quality and safety of the investments and works carried out by the CONCESSIONAIRE, including any additional investments, being fully responsible for them, for their durability with full operating and operational conditions, in view of the established requirements by the GRANTING AUTHORITY and by ARTESP by reason of the AGREEMENT, being also responsible for any damages arising therefrom, during the entire term of the SPONSORED CONCESSION;
- lxiv. Provide the Accident Emergency Service in the ROAD SYSTEM, in accordance with the terms described in ANNEX 05 hereto;
- lxv. Keep the ROAD SYSTEM clean, including arranging the removal of cargo loads spilled on lanes, according to the specifications in ANNEXES 05 and 06 hereto;
- lxvi. Install an unbreachable system for recording complaints and suggestions in

USER Service Stations (SAU) of the ROAD SYSTEM, under the terms of ANNEX 05 hereto.

- lxvii. Serve and provide adequate service to the general public and, in particular, the USERS of the ROAD SYSTEM, including the provision of communication systems, as regulated by ANNEX 05;
- lxviii. agreeing rules of coexistence with the teams involved in the GRANTING AUTHORITY and other agents in services and works to be carried out in shared areas, fully respecting the conditions established in this AGREEMENT;
- lxix. Institute, under the terms of Clause Twenty-Ninth, specific rules for contracting RELATED PARTIES;
- lxx. not infringe any patents, trademarks and copyrights of the goods, services and information provided as a result of the AGREEMENT;
- lxxi. Adapt to regulation controlled by any other organ or entity other than ARTESP, whose competence include the activities which are the object of the AGREEMENT herein;
- lxxii. Take the measures associated with the prospecting, excavation and rescue of archaeological or paleological artifacts, in accordance with current legislation, without prejudice to the right to economic and financial rebalancing of the AGREEMENT;
- lxxiii. Adopt the necessary measures to (i) transfer ownership of the current INSTALLATION LICENSES owned by DERSA to the CONCESSIONAIRE; (ii) submission of consultations to environmental agencies, as necessary, and (iii) preservation of the validity and renewals that may be necessary in the INSTALLATION LICENSES of the IMPLEMENTATION WORKS, as well as the fulfillment of all environmental programs, the execution of the measures of mitigation of environmental impacts and compliance with the conditions established therein, without prejudice to the right to economic and financial rebalancing in cases in which the costs associated with the requirement of environmental programs or conditions, or the materialization of environmental liabilities, have been allocated to the GRANTING AUTHORITY;
- lxxiv. Keep the ROAD SYSTEM free, clear and unencumbered, including expropriated areas, and must ensure that there is no new irregular occupation in the ROAD SYSTEM, including by activating the police force and adopting legal measures, if necessary, from the signature of the INITIAL TRANSFER TERM and observing the rules provided for in Clause Fifteenth;
- lxxv. Receive the EFFECTIVE FINANCIAL CONSIDERATION monthly, pursuant to Clause Eleventh;
- lxxvi. Receive the PUBLIC CONTRIBUTION installments, as provided for in Clause Twelfth;
- lxxvii. Carry out the eviction actions that have been delegated to the



CONCESSIONAIRE, under the terms of Clause Fifteenth, without prejudice to the economic and financial rebalancing in its favor;

- lxxviii. Carry out the removal of objects, equipment, inputs and/or parts previously used and that do not make up the list of REVERSE ASSETS, if the activity is delegated to the CONCESSIONAIRE, under the terms of ANNEX 18, without prejudice to the economic and financial rebalancing in its favor;
- lxxix. Make available, for ARTESP's collection, the original of all projects, plans, plans and other documents, of any nature, that prove necessary for the performance of the purpose of the AGREEMENT, and that have been specifically acquired or created in the development of the activities integrated in the CONCESSION, including those referring to the execution of ADDITIONAL INVESTMENTS;
- lxxx. Keep at ARTESP's disposal, if required, a copy of the contractual instruments related to the subcontracted services and the acquisition of goods, materials and equipment inherent to the activities contained in the purpose of the AGREEMENT, with the non-compliance with this obligation in view of the allegation of confidentiality of the contractual instruments referred to, in which case, with the delivery of documents, the transfer of the respective confidentiality to whoever has access will be ensured;
- lxxxi. Meet the requirements made by Organs competent bodies to obtain licenses, authorizations and permissions necessary for the execution of the AGREEMENT, including those of an environmental nature and protection of historical and cultural heritage;
- lxxxii. publish the financial statements periodically, in accordance with the applicable legislation, in compliance with the Clause ;
- lxxxiii. Maintain, throughout the TERM OF THE CONCESSION, the qualification conditions that were required in the BIDDING, necessary for the provision of services, observing the compatibility with the moment of contractual execution;
- lxxxiv. Be responsible for the conduct of its employees and third-party contractors, regarding the safety of the activities in progress, determining the proper use of personal protection equipment and collective protection equipment, uniforms and badges, in the functions and conditions in which they are required, and instructing the employees as to their use and the risks in the workplace;
- lxxxv. having a specialized service in engineering, safety and occupational medicine, duly registered with the Regional Labor Office, as well as instituting CIPA, in regulatory terms;
- lxxxvi. maintain its documentary collection, in accordance with the provisions of Federal Law No. 8,159 / 1991 and other applicable rules;
- lxxxvii. Provide environmentally appropriate destination and treatment for all waste produced, as a result of the execution of the AGREEMENT, and implement a management system aimed at energy efficiency and reduction of consumption of water resources in the activities developed, in accordance with the applicable legislation.

- 19.2. The CONCESSIONAIRE's responsibility shall remain even after this AGREEMENT expires or is terminated, and both the GRANTING AUTHORITY and ARTESP may seek reimbursement for possible losses resulting from the obligations established in the AGREEMENT herein.
- 19.3. The CONCESSIONAIRE cannot be liquidated while liabilities arising from the obligations foreseen in Clause Nineteenth persist, even after the AGREEMENT is terminated.
- 19.4. The CONCESSIONAIRE's obligation to deal with any INTERFERENCES, provided for in items xliii, xliv and liv of Clause 19.1, does not prejudice the right to economic-financial rebalancing in the event that the risk of the respective INTERFERENCE is allocated to the GRANTING AUTHORITY, pursuant to the Clause 22.2, item x, provided that the other assumptions of rebalancing.
- 19.5. The PARTIES acknowledge that, in order to carry out the investments necessary for the IMPLEMENTATION WORKS, expropriations will not be necessary, in principle. However, if necessary at any time during the AGREEMENT, the CONCESSIONAIRE shall carry out any expropriations necessary for the performance of the services object of this SPONSORED CONCESSION, at its expense and under its responsibility, in compliance with the provisions of the applicable legislation and in compliance with the provisions of Clause 20.1., item ix, upon economic and financial rebalancing of the AGREEMENT, if the need for expropriation arises from an event whose risk was allocated to the GRANTING AUTHORITY
- 19.5.1. If there is a need for expropriation, under the terms of the Clause 19.5 above, it is up to the CONCESSIONAIRE to transfer the ownership of any areas to the DER, at the end of the judicial and/or administrative proceedings at its expense and under its responsibility, in compliance with the provisions of the applicable legislation.

## **CLAUSE TWENTIETH - MAIN RIGHTS AND OBLIGATIONS OF ARTESP AND THE GRANTING AUTHORITY**

- 20.1. The main rights and obligations of the ARTESP are, without prejudice to the other obligations expressed in this AGREEMENT, in its ANNEXES and in the applicable legislation:
- i. Transfer to the CONCESSIONAIRE the area in which the ROAD SYSTEM shall be implemented, in the time and manner provided for in this AGREEMENT;
  - ii. Make its best efforts to collaborate with the obtaining and/or transfer of ownership of the licenses and authorizations necessary to the CONCESSIONAIRE, so that it can comply with the object of this AGREEMENT, including joint participation in meetings and submission of statements that may be necessary, especially in what refers to the transfer of INSTALLATION LICENSES to the CONCESSIONAIRE;
  - iii. Make its best efforts and collaborate with the CONCESSIONAIRE in matters and aspects related to lawsuits, administrative proceedings or arbitrations related to the SPONSORED CONCESSION or the ROAD SYSTEM, of which it is not a party, providing necessary information, presenting documents or participating in

meetings, hearings or hearings, when relevant, always with the aim of ensuring the continuity of the provision of the ADEQUATE SERVICE and the maintenance of the AGREEMENT in its terms and conditions;

- iv. Supervise compliance with rules and regulations relating to the execution of the object of the SPONSORED CONCESSION;
- v. Supervising the execution of the DELEGATED SERVICES and the SUPPLEMENTARY SERVICES, guaranteeing their quality, which includes receiving and verifying grievances and complaints from USERS, as well as employing, according to the case, applicable measures, notwithstanding the other prerogatives of regulating, supervising and following up on what is established in the CONCESSIONAIRE herein and in applicable legislation;
- vi. Inspect all facilities in order to verify the full conservation of the granted assets, in addition to evaluating the technical resources used by the CONCESSIONAIRE in the provision of DELEGATED SERVICES and COMPLEMENTARY SERVICES;
- vii. Perform periodic audits, including, if deemed convenient, by a specialized auditing company, in the accounts and records of the CONCESSIONAIRE, in order to prevent the occurrence of situations that may compromise the provision of the DELEGATED SERVICES and the SUPPLEMENTARY SERVICES;
- viii. Pursuant to Clause 19.5, forward a request for issuance of the DECLARATION OF PUBLIC UTILITY to the GRANTING AUTHORITY, with the documentation presented by the CONCESSIONAIRE, so that, after issuance of said acts by the GRANTING AUTHORITY, the CONCESSIONAIRE conducts the expropriation of the areas necessary for the exploration of the services and realization of investments that are part of the SPONSORED CONCESSION's object;
- ix. Supervise the conduct, by the CONCESSIONAIRE, of the expropriation processes, in compliance with the terms of Clause 19.5, as well as the processes of temporary occupations or the establishment of easements, including the lawsuits and contracts signed for this purpose, as well as inspect the conduct of the actions of resettlement;
- x. duly substantiate their decisions, authorizations, approvals, requests or other acts performed under this AGREEMENT;
- xi. Auditing and supervising the CONCESSIONAIRE so that it meets its accounting, economic and financial obligations;
- xii. Monitoring the quality and performance of the CONCESSIONAIRE in providing the services which are the object of the AGREEMENT herein;
- xiii. When the AGREEMENT submits engineering projects, monitors, in accordance with the program established jointly with the AGREEMENT, the preparation of engineering projects and studies for the purpose of proving adequate compliance with the execution of the object of the SPONSORED CONCESSION, requiring the modifications that prove to be necessary to comply with the AGREEMENT and ANNEXES, and make the best efforts to minimize approval deadlines;

- xiv. Provide institutional support to the necessary understandings, with other public bodies, whenever the performance of the services under their responsibility interferes with the activities provided for in the purpose of the AGREEMENT, without any change in the risks assumed by each of the PARTIES, under the terms of this AGREEMENT;
- xv. Carrying out the ORDINARY REVIEWS and, with the support of the CONCESSIONAIRE and together with the GRANTING AUTHORITY, the necessary public hearings, as well as the other activities under their responsibility, as described in ANNEX 07 hereto.
- xvi. Unilaterally modify the regulatory provisions of the DELEGATED SERVICES to better suit the public interest, respecting the economic-financial balance of the AGREEMENT;
- xvii. Receive complaints and claims from USERS and third parties affected by the provision of the DELEGATED SERVICE, including those related to the execution of activities that generate ANCILLARY REVENUE, forwarding them to the Ombudsman established by the CONCESSIONAIRE, which will adopt all relevant measures to resolve the issues and send report on the service provided to ARTESP;
- xviii. Reject or stop any work or service in progress that jeopardizes public safety or the assets of USERS and third parties;
- xix. ensure the preservation of the AGREEMENT's economic-financial balance, observing, among other aspects, the need to preserve the CONCESSIONAIRE's solvency and liquidity, when imposing obligations not originally provided for in the AGREEMENT and in implementing the economic-financial balance adjustments;
- xx. Promote technical studies with a view to improving the DELEGATED SERVICE and COMPLEMENTARY SERVICES;
- xxi. communicate to the FINANCIAL INSTITUTION or insurance company responsible for providing the PERFORMANCE BOND, as well as the CONCESSIONAIRE's funding entities, whenever it initiates proceedings to decree the intervention, encampment or expiration;
- xxii. collaborate, within the limits of its institutional performance, with the CONCESSIONAIRE financing entities, providing the information and clarifications to contribute to the viability of the financing of the investments, so as to enable the full execution of the object of the CONCESSION;
- xxiii. apply legal and regulatory penalties, regardless of contractual provision, and contractual penalties, as provided for in the AGREEMENT and its ANNEXES;
- xxiv. Inspect the conclusion, by the CONCESSIONAIRE, of the DISBURSEMENT EVENTS, and send the DISBURSEMENT NOTIFICATION to the DEPOSITORY BANK, so that the CONCESSIONAIRE is entitled to the installments of the PUBLIC CONTRIBUTION, pursuant to Clause Twelfth and ANNEX 19;
- xxv. Validate the value of the components of the DUE FINANCIAL CONSIDERATION,

after presentation by the CONCESSIONAIRE, and forward a billing document to the GRANTING AUTHORITY, pursuant to ANNEX 26;

- xxvi. Promote the readjustments in the KILOMETRIC TARIFF, in the FINANCIAL CONSIDERATION and in the PUBLIC CONTRIBUTION;
  - xxvii. regulate the form of concession and exercise of tariff benefits or exemptions, respecting the economic and financial rebalancing of the AGREEMENT;
  - xxviii. Periodically inspect the state of conservation of the CONCESSION ASSETS and equipment linked to the provision of SERVICES, in addition to evaluating the technical resources used by the CONCESSIONAIRE in the provision of DELEGATED SERVICES.
- 20.2. The main rights and obligations of the GRANTING AUTHORITY are, without prejudice to the other obligations expressed in this AGREEMENT, in its ANNEXES and in the applicable legislation:
- i. The rights and obligations provided for in Clause Twentieth, items i, ii, iii, x, xiv, xix and xxii;
  - ii. Collaborate, within the limits of its institutional attributions, to enable the fulfillment, by ARTESP, of the obligations provided for in Clause Twentieth;
  - iii. Unilaterally amend the AGREEMENT, under the legal terms and in compliance with the provisions of this AGREEMENT, maintaining the economic and financial balance of the SPONSORED CONCESSION;
  - iv. Intervene in the provision of DELEGATED SERVICES, resume it and terminate the SPONSORED CONCESSION, in the cases provided for by law and in accordance with the provisions of this AGREEMENT;
  - v. Issue the DECLARATION OF PUBLIC UTILITY so that the CONCESSIONAIRE conducts the exploration of the areas necessary for the exploitation of the services and realization of the investments that are part of the object of the SPONSORED CONCESSION, as applicable;
  - vi. Keep the CONCESSIONAIRE harmless as a result of any claim or damage that the GRANTING AUTHORITY or any other entity belonging to the direct or indirect Public Administration of the State of São Paulo may suffer as a result of judicial or arbitration decisions that have as their object (i) the execution of the implementation works of RODOANEL NORTE LOT by third parties prior to the signing of this AGREEMENT; (ii) the process of contracting such third parties; (iii) issues of a tax, labor, social security or accident nature proposed by employees or those linked to third parties responsible for the execution of the works mentioned in item (i) or by employees of the GRANTING AUTHORITY or any entity belonging to the direct or indirect Public Administration of the State of São Paulo that relate to the execution process of the works; (iv) environmental issues, without prejudice to the environmental obligations provided for in this AGREEMENT and its ANNEXES, including in relation to the solution of environmental liabilities; (v) acts performed, within the scope of the execution of the works of RODOANEL NORTE LOT prior to the execution of this



AGREEMENT, by the third parties responsible for the work, their managers, employees, agents, service providers or any other individual or legal entity linked to them;

- vii. To refund and indemnify the CONCESSIONAIRE if it is sued under the terms of the item above, and must refund the amounts referring to procedural expenses, legal fees and other charges that it may incur as a result of the occurrences described above;
- viii. Take all the necessary measures regarding the expropriation processes that have been initiated before the BIDDING, including the procedural follow-up of the expropriation actions and the payment of the due indemnities;
- ix. Carry out the necessary evictions to carry out the IMPLEMENTATION WORKS object of this SPONSORED CONCESSION, at its own expense and under its responsibility, in compliance with the provisions of the applicable legislation, observing the rules provided for in Clause Fifteentg.
- x. Establish and review the value of the TOLL TARIFF, ensuring the economic and financial rebalancing in the event of a discrepancy between the value of the TOLL TARIFF and the amount resulting from the application of the readjustment criteria provided for in this AGREEMENT;
- xi. Make the payment of the DUE FINANCIAL CONSIDERATION to the CONCESSIONAIRE from the FULL COMMERCIAL OPERATION, observing the rules provided for in Clause Eleventh and Clause 22.3, in addition to the provisions of ANNEX 26;
- xii. Carry out the assessment of DELINQUENT USERS who travel on the ROAD SYSTEM, when duly identified by the CONCESSIONAIRE;
- xiii. Guaranteeing that non DELEGATED SERVICES, at their own discretion, are rendered for the entire CONCESSION PERIOD, according to necessity, in adequate conditions, collaborating to ensure the good operating of the ROAD SYSTEM;
- xiv. Evaluate and authorize any new ACCESSES in the ROAD SYSTEM and revoke the authorization of any existing ACCESSES, observing the applicable legislation and as the case may be;
- xv. Ensure compliance with appropriate protocols for REINTEGRATION OF TENDER, in line with PERFORMANCE STANDARDS and with legal requirements and procedural protections consistent with the International Conventions on Human Rights;
- xvi. In relation to the remaining RESETTLEMENT process related to the original project of RODOANEL NORTE, the GRANTING AUTHORITY shall adopt the following measures, being able to assign them to the CONCESSIONAIRE, upon economic and financial rebalancing of the AGREEMENT:

- a. Conduct a survey with families not yet resettled, in order to understand their socioeconomic situation and vulnerabilities, in addition to defining and implementing the necessary support to assist them during the transition period, until definitive housing is provided and the means of subsistence restored;
  - b. Conduct a completion audit (through an independent consultant) of the resettlement of families that underwent the procedure during the RODOANEL NORTE works. The identification of families should be carried out on a "best efforts" basis, considering that the resettlement process began in 2011;
  - c. If the completion audit identifies project-affected people who were unable to restore their livelihoods and livelihoods, the GRANTING AUTHORITY shall develop and implement a Supplemental Resettlement and/or Livelihood Restoration Action Plan. , in order to fulfill the objectives of the Resettlement and Compensation Master Plan - PDRI (2011) approved by the IDB.
- 20.3. The inspection or authorization, by the ARTESP, regarding the INVESTMENTS, ADDITIONAL INVESTMENTS or CONTINGENT INVESTMENTS to be carried out by the CONCESSIONAIRE or company subcontracted by it, does not imply any responsibility for the GRANTING AUTHORITY, nor does it exempt the CONCESSIONAIRE, totally or partially, from its obligations arising from the AGREEMENT, or from the relevant legal or regulatory provisions.
- 20.4. The CONCESSIONAIRE may not oppose to ARTESP or the CONCESSIONAIRE any exceptions or means of defense to exempt itself, in whole or in part, from its contractual obligations regarding the execution of the IMPLEMENTATION WORKS or additional investments, based on facts that result from the contractual relationships established with the subcontracted companies, even if accepted by ARTESP.

## CLAUSE TWENTY-FIRST - MAIN OBLIGATIONS AND RIGHTS OF USERS

- 21.1. With no effect on what is established in applicable legislation, the rights and obligations of the ROAD SYSTEM'S USERS are to:
- i. Receive the ADEQUATE SERVICES, within the standards of quality and performance established in this AGREEMENT herein and its ANNEXES hereto, as a counterpart to the payment of the TOLL TARIFF, except for the applicable exemptions;
  - ii. Receive from the GRANTING AUTHORITY, from ARTESP and from the CONCESSIONAIRE information to defend individual or collective interests and for the correct use of the CONCESSIONAIRE SYSTEM;
  - iii. Receive from the GRANTING AUTHORITY, ARTESP and the CONCESSIONAIRE information regarding the value of the TOLL TARIFF applicable to the DELEGATED SERVICES;
  - iv. communicate with the CONCESSIONAIRE through the different Relationship

Systems and Channels, especially through the permanent Ombudsman, social media services, among others;

- v. Inform ARTESP, the GRANTING AUTHORITY and the CONCESSIONAIRE of irregularities they may become aware of, in relation to providing the DELEGATED SERVICES, managing the SUPPLEMENTARY SERVICES and supporting the NOT DELEGATED SERVICES.
  - vi. Communicate to the competent authorities the illegal acts practiced by the CONCESSIONAIRE or its outsourced and subcontracted parties in the provision of DELEGED SERVICES;
  - vii. Contribute to the permanence of the good conditions of the REVERSIBLE ASSETS, through which the DELEGATED SERVICES are provided;
  - viii. Have access to the CONCESSIONAIRE ombudsman, pursuant to ANNEX 05;
  - ix. be guaranteed by the insurance provided for in this AGREEMENT, as applicable;
  - x. comply with the legal and regulatory obligations pertaining to the use of the DELEGATED SERVICE;
- 21.2. The CONCESSIONAIRE shall comply with State Law No. 10,294/1999, amended by State Law No. 12,806/2008, which provides for the protection and defense of the public service user within the scope of the STATE, and must ensure compliance with the basic protection and defense of the USER, as well as Federal Law No. 13.460/2017, which provides for the participation, protection and defense of the rights of the user of the public services of the PUBLIC ADMINISTRATION.
- 21.3. When executing the object of this AGREEMENT, the CONCESSIONAIRE shall be qualified, in the form of Federal Law No. 13,709 / 2018, as a PERSONAL DATA CONTROLLER or as a PERSONAL DATA OPERATOR, according to the TREATMENT OF PERSONAL DATA to be carried out in accordance with the provisions of item VI or in item VII of article 5 of this Law, respectively, and must comply with Federal Law No. 13,709 / 2018, observing, but not limited to, the obligations and guidelines below.
- 21.3.1. PERSONAL DATA must be maintained by the CONCESSIONAIRE in an interoperable and structured format, available to the HOLDER PERSONAL DATA upon request on an available website, and the HOLDER PERSONAL DATA will be guaranteed:
- i. free and easy consultation on the form and duration of the TREATMENT, as well as on the completeness of your PERSONAL DATA;
  - ii. accuracy, clarity, relevance and updating of PERSONAL DATA, according to the need and for the fulfillment of the purpose of its TREATMENT, being possible to request the correction of incomplete, inaccurate or outdated data, as well as requiring the anonymization, blocking or elimination of unnecessary, excessive data, or treated in discontract with the object of this AGREEMENT and with Law No. 13.709 / 2018; and

- iii. clear, accurate and easily accessible information about the TREATMENT and the respective treatment agents, observing the commercial and industrial secrets.

21.3.2. It is the CONCESSIONAIRE's obligation to train and prepare all its employees so that there is an adequate TREATMENT to PERSONAL DATA, through a training and awareness plan.

21.3.2.1. CONCESSIONAIRE employees working with PERSONAL DATA TREATMENT must sign terms of confidentiality, secrecy and use.

21.3.3. It is the CONCESSIONAIRE obligation to prepare a Data Privacy Program, to be sent to ARTESP within 9 (nine) months from the issuance of the INITIAL TRANSFER TERM, which must observe the following parameters, without being limited to them:

- i. specification of what PERSONAL DATA the CONCESSIONAIRE can and / or must deal with, indicating the purpose of its TREATMENT, under the terms of article 6, item I, of Law No. 13.709 / 2018;
- ii. description of the PROCESSING OF PERSONAL DATA carried out by the CONCESSIONAIRE, with specification of the respective operations involved, processes and scope, which includes without limiting the indication of when the information can be shared and under what conditions, observing the determinations of article 7 of the Law No. 13,709 / 2018;
- iii. description of the form of assistance to the HOLDER PERSONAL HOLDER who exercises the rights provided for in Law No. 13,709 / 2018;
- iv. risk mapping, description of measures, safeguards and risk mitigation mechanisms adopted, together with the CONCESSIONAIRE's governance and *compliance* rules; and
- v. safe plan for the disposal of data and information, when the TREATMENT OF PERSONAL DATA ends, except when such data and information must be kept by legal, regulatory or contractual obligation.

21.3.3.1. Within 30 (thirty) days, the ARTESP will verify that the Data Privacy Program prepared by the CONCESSIONAIRE contains all the necessary information for evaluation described in the Clause 21.3.3.

21.3.3.1.1. Within this period, the ARTESP will notify the CONCESSIONAIRE about the inadmissibility of the Data Privacy Program developed if it identifies a lack of information necessary for evaluation, in motivated communication.

21.3.3.1.2. In case it receives notification informing the inadmissibility, the CONCESSIONAIRE must resubmit the Data Privacy Program to the ARTESP within 15 (fifteen) days, which will undergo a new admissibility

stage.

21.3.3.2. If the Data Privacy Program is admissible, the ARTESP must evaluate the Data Privacy Program prepared by the CONCESSIONAIRE, within 30 (thirty) days.

21.3.3.2.1. The assessment by the ARTESP will take place in relation to the fulfillment of the obligations provided for in the AGREEMENT and ANNEXES, and in compliance with Law No. 13.709 / 2018, concluding by compliance or, in case of non-compliance with contractual or legal determinations, by rejection or by the need for changes.

21.3.3.3. The beginning of the execution by the CONCESSIONAIRE of its Data Privacy Program must be preceded by the manifestation of conformity of the ARTESP, under the terms of the Clause 21.3.3.2.1.

21.3.4. It is the CONCESSIONAIRE's obligation to indicate the PERSONS, and the hiring of a third party to perform the functions is permitted.

21.3.5. In the event of any change in the Data Privacy Program, the CONCESSIONAIRE must inform the ARTESP in advance so that it can analyze the feasibility of the intended change, following the procedure of Clause 21.3.3.

21.3.5.1. In the event of a change in the Data Privacy Program21.3.5, HOLDERS PERSONAL DATA should be informed, through disclosure on the website referred to in the Clause 21.3.1.

21.3.6. The CONCESSIONAIRE is responsible for any damages caused to ARTESP, the GRANTING AUTHORITY and the HOLDERS OF PERSONAL DATA, as a result of their TREATMENT in discontract with Law No. 13.709/2018, with this contract, with the parameters contained in the Data Privacy Program, with decisions of ARTESP or the GRANTING AUTHORITY, or for purposes beyond the scope of the SPONSORED CONCESSION.

21.3.7. The CONCESSIONAIRE is prohibited from transferring and / or sharing with third parties the PERSONAL DATA to which it has access, due to this AGREEMENT, except when necessary for the execution of the AGREEMENT itself and observing the provisions of the Clause 21.3.15.

21.3.8. If the transfer and / or sharing of PERSONAL DATA with third parties is necessary for the execution of the AGREEMENT, the CONCESSIONAIRE must communicate this fact in advance to the ARTESP, as well as inform the HOLDERS PERSONAL DATA.

21.3.9. The CONCESSIONAIRE is responsible for carrying out, when necessary, the impact report on the protection of personal data referred to in Law No. 13,709 / 2018, as well as complying with any other legal obligations related to the protection of PERSONAL DATA that apply to it;

21.3.10. Considering the principles provided for in the caput of art. 6 of Law No. 13,709 / 2018, the CONCESSIONAIRE must adopt, in relation to PERSONAL DATA, security, technical and administrative measures capable of protecting data and information from unauthorized access and accidental or illicit situations of



destruction, loss, alteration, communication or any form of improper or illicit treatment.

- 21.3.11. The CONCESSIONAIRE must make available to the ARTESP, as requested, all information related to the performance of the object of this AGREEMENT that is necessary for the fulfillment, by the ARTESP, of obligations that fall under Law No. 13.709 / 2018.
- 21.3.12. The CONCESSIONAIRE must immediately notify the GRANTOR about the occurrence of a security incident related to PERSONAL DATA, and inform the mitigation and repair measures adopted.
- 21.3.13. It is forbidden to transfer PERSONAL DATA, by the CONCESSIONAIRE, outside the territory of Brazil, without the prior written consent of the ARTESP, and demonstration of the CONCESSIONAIRE's observance of adequate protection of these data, the CONCESSIONAIRE being responsible for the fulfillment of all applicable data protection or privacy laws of other country(ies).
- 21.3.14. At the end of the CONCESSION TERM, ARTESP will assess whether the PERSONAL DATA to which the CONCESSIONAIRE had access, including a copy of PERSONAL DATA processed under this AGREEMENT, which are still in the possession of the CONCESSIONAIRE, shall be deleted or transferred to ARTESP, if any corresponding legal or regulatory motivation, pursuant to item I of article 16 of Law No. 13,709/2018.
  - 21.3.14.1. If ARTESP decides that it is necessary to receive PERSONAL DATA, under the terms of the Clause 21.3.14 above, the CONCESSIONAIRE shall make them available within 30 (thirty) days from the date of ARTESP's evaluation, and the CONCESSIONAIRE cannot remain, under any circumstances, in of such PERSONAL DATA, and the CONCESSIONAIRE shall certify, in writing, to ARTESP, the fulfillment of this obligation in the act of transferring the PERSONAL DATA.
- 21.3.15. Any use of PERSONAL DATA to exploration ACCESSORY REVENUES, even in a non-onerous manner, must be subject to prior non-objection by ARTESP, in compliance with Clause Thirteenth.
- 21.4. If ARTESP issues a specific rule on the PROCESSING OF PERSONAL DATA, the agency's regulation shall prevail over the rule of this AGREEMENT in relation to the content of Clause et 21.3 seq.

## **CLAUSE TWENTY-SECOND - RISK ALLOCATION**

### **THE CONCESSIONAIRE'S RISKS**

- 22.1. The CONCESSIONAIRE assumes full responsibility for the risks inherent to the realization of investments, execution of IMPLEMENTATION WORKS, operation and execution of the services provided for in the object of this AGREEMENT, except only those allocated in a different way by express provision of this AGREEMENT and including the main risks listed below :

- i. The submission and approval, with ARTESP, of engineering projects, as applicable, pursuant to APPENDIX G;
- ii. Obtaining the appropriate ENVIRONMENTAL LICENSES approvals, as well as the deadlines and costs involved with the processes, except in cases where, in the environmental licensing process, (i) new investments in main expansions or special works of art (OAEs) are required not provided for in the EVTE or (ii) unconventional construction methods, the latter of which shall be subject to the provisions of Clause 24.2.6;
- iii. Obtaining and/or completing the transfer of authorizations, licenses and/or permissions to be issued by administrative authorities, required to perform the activities provided for in the object of the SPONSORED CONCESSION and whose obtaining is the responsibility of the CONCESSIONAIRE, under the terms of this AGREEMENT, as well as the deadlines and costs involved with the process;
- iv. Carrying out the works and investments established in the AGREEMENT herein to enable the exploration of the ROAD SYSTEM;
- v. Liabilities and/or environmental irregularities, in any of the following cases: (i) that appear in the list of constraints, liabilities and environmental programs, contained in ANNEX 02, APPENDIX B and ANNEX 24 or from this list; or (ii) that have not been identified in the FINAL INSPECTION REPORT, pursuant to ANNEX 18, except in cases of HIDDEN DEFECTS;
- vi. Variation in input costs, operating costs, maintenance, investments or any other cost incurred by the CONCESSIONAIRE in the execution of the contractual object, over time or in relation to that provided for in the PROPOSAL or in any projection, by the the CONCESSIONAIRE, ARTESP or the GRANTING AUTHORITY;
- vii. Problems, delays or inconsistencies in the supply of inputs necessary for the provision of the DELEGATED SERVICE, including in the supply of public utilities;
- viii. The risks associated with any investments, costs and/or expenses arising while implementing services to manage the ACCESSORY REVENUES, except for the cases in which there are, via previous consent by ARTESP, specific arrangements that allow for the joint public-private exploration of assets, with predefined rules for sharing risks;
- ix. Variation in ACCESSORY REVENUES regarding those estimated by the CONCESSIONAIRE, including when arising from the creating and/or cancelling taxes or alterations in legislation or in tax regulation, provided the rules established in the AGREEMENT herein have been adhered to;
- x. Delay in meeting the schedules and deadlines established in this AGREEMENT, especially within the deadline of the final milestones expressed in the current schedule(s), whenever the delay is related to obligations and risks that have not been expressly allocated to ARTESP or to the GRANTING AUTHORITY, not giving rise to a penalty to the CONCESSIONAIRE in cases in which the CONCESSIONAIRE is found to be unenforceable;

- xi. Delay or anticipation of the start of the FULL COMMERCIAL OPERATION of the ROAD SYSTEM and/or start of the PARTIAL COMMERCIAL OPERATION, whenever the event is related to obligations and risks that have not been expressly allocated to ARTESP or the GRANTING AUTHORITY;
- xii. Geological circumstances situated within the limits of the RIGHT OF WAY;
- xiii. Treatment of INTERFERENCES and all consequences related to them, including burdens, costs and deadlines, arising from the need for removal or displacement and other costs associated with any necessary measures, such as those related to engineering projects and associated investments, except in the hypotheses of the Clause 22.2, item x, in which the risk is assumed by the GRANTING AUTHORITY;
- xiv. Changes proposed by the CONCESSIONAIRE in the current INVESTMENT PLANS or in the respective engineering projects, except for changes proven to arise from the materialization of risks allocated to the GRANTING AUTHORITY;
- xv. Risks related to contracting mandatory insurance and guarantees, respecting the deadlines, limits and rules established in the AGREEMENT herein and in the respective GUARANTEE PLANS and INSURANCE PLANS, including the risk of ARTESP facing any difficulty or impracticability in claiming insurances and guarantees when this is a right;
- xvi. Errors, vices, omissions, inadequacies or non-conformities of projects, error in estimating costs and/or expenses, even in cases that require prior approval by ARTESP, subject to the provisions of ANNEX 18;
- xvii. Adequacy of the ROAD SYSTEM infrastructure to the technical requirements and standards used by ARTESP and provided for in the AGREEMENT, regardless of whether the projects or works enjoy approvals prior to the signature of the INITIAL TRANSFER TERM, except for the cases described in ANNEX 18 and without prejudice to the provisions of Clause Eighteenth;
- xviii. Costs arising from the treatment, by the CONCESSIONAIRE, of liabilities or non-conformities in the ROAD SYSTEM, even if arising from divergences from the provisions of ANNEX 12, when such liabilities or non-conformities (i) are indicated in the ANNEXES; or (ii) have not been identified in the FINAL INSPECTION REPORT, pursuant to ANNEX 18, except for HIDDEN DEFECTS;
- xix. Errors in carrying out the works and investments provided for in this AGREEMENT to enable the execution of the AGREEMENT, and failures in the provision of the DELEGATED SERVICE, which include damages resulting from failure in safety at the place of performance, error in the estimation of time for completion of works, errors in the planning and execution of the activities object of the SPONSORED CONCESSION, including in works or equipment, as well as errors or failures caused by the AGREEMENT, by outsourced or subcontractors, subject to the provisions of ANNEX 18, and except for the cases in which such errors or failures have resulted from an event whose risk or responsibility was allocated to the GRANTING AUTHORITY or ARTESP;

- xx. any problems arising from the CONCESSIONAIRE's relationship with its contractors of any nature;
- xxi. All risks inherent to the provision of the ADEQUATE SERVICE, including, among others, variations in investments, costs or expenses necessary to meet the current PERFORMANCE INDICATORS and contractual rules, subject to the provisions of Clause Eighteenth;
- xxii. Invasion, theft, theft, destruction, loss or damage at construction sites or REVERSIBLE ASSETS, whose materialization has not been caused by the GRANTING AUTHORITY or ARTESP, or is related to a risk assumed by the GRANTING AUTHORITY;
- xxiii. Health and safety of the ROAD SYSTEM's workers, who may be subordinate to the CONCESSIONAIRE, their subcontractors or third parties;
- xxiv. Strikes and collective labor disputes brought about by workers of the CONCESSIONAIRE, their suppliers, subcontractors or third parties;
- xxv. Civil, administrative, environmental and criminal liability for damages that may occur to the REVERSIBLE ASSETS or to third parties, or caused by people working for the CONCESSIONAIRE, including its employees, agents, outsourced or subcontracted companies, resulting from the execution of the activities object of the SPONSORED CONCESSION ;
- xxvi. Changes in the macroeconomic scenario and changes in interest rates in the market;
- xxvii. Changes in exchange rates;
- xxviii. Adaptation to the regulation exercised by any other bodies or entities other than ARTESP, whose competence includes the activities object of this AGREEMENT, without prejudice to hypotheses that are expressly provided for in the ANNEXES, subject to the provisions of Clause Eighteenth;
- xxix. Adaptation to the regulation exercised by ARTESP and other inspection agents, including the impacts resulting from changes in the regulatory framework, when merely procedural;
- xxx. Unforeseeable factors, foreseeable factors and incalculable consequences, fortuity or force majeure which, in normal market conditions may be covered by insurance offered in Brazil if, at the time to the risk materialization, it may be insurable for at least two (2) years and by at least two (2) insurance companies, up to the limit of the average payable amounts under the insurance policy normally practiced in the market, regardless of the CONCESSIONAIRE having contracted them;
- xxxi. business, financial, economic, tax and accounting planning of the CONCESSIONAIRE;
- xxxii. The CONCESSIONAIRE's financial capacity and/or ability to raise resources, as well as the costs of loans and financing obtained to fulfill the obligations deriving

from the AGREEMENT herein;

- xxxiii. Judicial decisions that impact or suspend the works or the provision of DELEGATED SERVICES, resulting from commissive or omissive acts by the CONCESSIONAIRE, in discontract with the provisions of this AGREEMENT;
- xxxiv. Current status used by the CONCESSIONAIRE in the SPONSORED CONCESSION, pursuant to Clause Eighteenth;
- xxxv. Inefficiency or economic losses deriving from flaws, negligence, ineptitude, omission or from the very activities of the CONCESSIONAIRE in meeting the object of the AGREEMENT herein;
- xxxvi. Supervening verification of errors or omissions in the INVESTMENT PLANS, as well as in the engineering projects related to each investment, including the surveys that subsidized it, even those necessary to assess the data and the projects announced by ARTESP;
- xxxvii. Creation, extinction, or change of taxes or legal charges that: (i) do not have a direct impact on the TARIFF REVENUE, the FINANCIAL CONSIDERATION DUE, the CONTRIBUTION OF RESOURCES or expenses with the payment of tax obligations that have the CONCESSIONAIRE as a taxable person, pursuant to article 121 of the National Tax Code, specifically related to the execution of the object of this AGREEMENT; (ii) affect income; or (iii) have as a triggering event an activity performed by a subcontracted company, when such activity could not, in reasonable market circumstances, be performed directly by the CONCESSIONAIRE itself;
- xxxviii. Receipt of infrastructure facilities or equipment that, even if they are in discontract with the engineering projects set out in ANNEX 12, represent solutions equivalent to or superior to those indicated in the projects, especially with regard to compliance with applicable standards and legislation and performance;
- xxxix. Costs, delays and other burdens arising from eviction actions, concerning occupations that have not been duly indicated in the THEMATIC SURVEY REPORT, pursuant to Clause 15.1 and ANNEX 18;
- xl. Absence of tariff collection resulting from the non-identification of the USER by the CONCESSIONAIRE;
- xli. Costs and delays resulting from necessary eviction actions due to alteration of the engineering project that does not have as a triggering event an irregularity or incompatibility pointed out in the THEMATIC SURVEY REPORT, under the terms of Clause 15.1;
- xl. Delays in the implementation of the equipment necessary for the operation of the FREE FLOW system, unless proven that the delay was exclusively due to a fact attributable to the CONCESSIONAIRE or ARTESP;
- xl. Damage caused to third parties by the CONCESSIONAIRE, their employees, service providers, third parties, subcontractors or any other person or company connected to the CONCESSIONAIRE, while carrying out the activities comprised



in the AGREEMENT herein;

- xliv. Embargo of works that, under the terms of this AGREEMENT, will be the responsibility of the CONCESSIONAIRE, as well as new costs and non-compliance with deadlines arising from the need for a new analysis and decision for the non-objection of projects by ARTESP and/or the issuance of new authorizations, licenses and permits by Organs competent bodies, due to the non-compliance, by the CONCESSIONAIRE, and/or its subcontractors, of the guidelines indicated in the documents made available by ARTESP, including this AGREEMENT and the ANNEXES, as well as the other applicable legal provisions;
- xliv. Damages, intentional or not, in the INTEGRATED PROPERTY OF CONCESSION, resulting from vandalism, depredation, theft, graffiti or other acts practiced by PASSENGERS or third parties, whose materialization was not caused by an act or fact attributable to the GRANTOR, or related to risk for this assumed;
- xlvi. Costs arising from third-party lawsuits against the GRANTING AUTHORITY and/or ARTESP, resulting from the execution of the purpose of the AGREEMENT by the CONCESSIONAIRE, including convictions of moral and/or material damages to USERS and third parties, unless due to a fact attributable to the GRANTING AUTHORITY or to ARTESP;
- xlvii. eventual perishing of INTEGRATED PROPERTY not covered by insurance policies contracted by the CONCESSIONAIRE or by the manufacturer's warranty;
- xlvi. Failure to obtain the benefits of the Special Incentive Regime for Infrastructure Development - REIDI

22.1.1. The CONCESSIONAIRE is fully responsible for the detailed survey and knowledge of the risks assumed by it, in the performance of its duties under this AGREEMENT, and must adopt the solutions, processes and techniques it deems most appropriate and efficient to mitigate the risks assumed, taking responsibility due to the consequent consequences.

22.1.2. Regarding the deadlines for obtaining licenses, authorizations, permissions and related acts referred to in items ii and iii Clause 22.1, the CONCESSIONAIRE will not be held responsible or penalized in cases where: (i) there are regulatory or legal analysis deadlines, such deadlines are not met by Organs competent bodies; or (ii) unenforceability of different conduct is demonstrated, to be evaluated by ARTESP in a regular administrative proceeding.

#### **THE GRANTING AUTHORITY'S RISKS**

22.2. Without prejudice to other risks expressly assumed by the GRANTING AUTHORITY in other Clauses of this AGREEMENT, the GRANTING AUTHORITY assumes the following risks related to the SPONSORED CONCESSION:

- i. Need to redo the work due to the identification of the situations indicated in item 5.1, item (i), of ANNEX 18;

- ii. Judicial or administrative decisions that prevent or make it impossible for the CONCESSIONAIRE to provide the DELEGATED SERVICES, or that interrupt, suspend or reduce the amount earned by way of TARIFF REVENUE, DUE FINANCIAL CONSIDERATION or PUBLIC CONTRIBUTION, its readjustment or revision, except in cases where the CONCESSIONAIRE has given rise to the decision or in the event that there is a provision in this AGREEMENT that allocates the risk associated with the CONCESSIONAIRE;
- iii. Delays or non-performance of the CONCESSIONAIRE's obligations, or alteration of its economic result, evidently caused by the delay or omission of the GRANTING AUTHORITY in carrying out the activities and obligations attributed to it in this AGREEMENT;
- iv. Costs, delays and other burdens arising from eviction actions, concerning occupations that have not been duly indicated in the THEMATIC SURVEY REPORT, pursuant to Clause 15.1 and ANNEX 18;
- v. Unforeseeable factors, foreseeable factors of incalculable consequences, fortuity or force majeure which, in normal market conditions, may not be covered by insurance offered in Brazil and, at the time of the materialization of the risk, it may not be insurable for at least two (2) years in the Brazilian market, by at least two (2) insurance companies, or in relation to the payment that supersedes the average indemnification amount established in policies practiced within the market, regardless of whether the CONCESSIONAIRE has contracted them, in the terms of subclause 19.1, xxvi herein;
- vi. Liabilities and/or environmental irregularities that cumulatively meet the following conditions: (i) that are not included in the list of constraints, liabilities and environmental programs, contained in ANNEX 02, APPENDIX B and ANNEX 24 or arise from this list; and (ii) that have been identified in the FINAL INSPECTION REPORT, pursuant to ANNEX 18;
  - a. The GRANTING AUTHORITY is also at risk for environmental liabilities and/or irregularities that meet only the condition set forth in subparagraph (i) of item iv, when qualified as HIDDEN DEFECT, provided that they arise from activities prior to the INITIAL TRANSFER TERM.
- vii. Damage caused to the ROADS SYSTEM, the REVERTIBLE ASSETS, the CONCESSIONAIRE, third parties or the USERS, resulting from the materialization of the risks attributed to the GRANTING AUTHORITY or under its responsibility;
- viii. Archaeological or paleological discoveries in the areas involved with the SPONSORED CONCESSION, including the costs and impacts on the investment execution schedule;
- ix. Creation and/or extinction of taxes, legal charges or changes in tax legislation or regulation, except for those relating to taxes or contributions on income, which: (i) have a direct impact on the CONCESSIONAIRE TARIFF REVENUE, on the DUE FINANCIAL CONSIDERATION or in the PUBLIC CONTRIBUTION, or in the

expenses with the payment of tax obligations that have the CONCESSIONAIRE as a taxable person, under the terms of article 121 of the National Tax Code, specifically related to the execution of the object of this AGREEMENT; (ii) have as a triggering event an activity performed by a subcontracted company, when such activity could, in reasonable market circumstances, be performed directly by the CONCESSIONAIRE;

- a. in the event provisional contributions are created on transmission transactions of amounts and credits and rights of a financial nature, or other taxes, similar to the extinct Provisional Contribution of Financial Transaction (CPMF), in order to verify the impact in the economic-financial balance of the AGREEMENT, the loss effectively proven shall be considered, limited to one single occurrence of the tax on the total amount of revenue obtained for year of SPONSORED CONCESSION;
- b. The risks described in the sub-item viii herein shall not be borne by the GRANTING AUTHORITY in regards to exploring the ACCESSORY REVENUES, and related activities, which shall be borne and explored under the exclusive responsibility of the CONCESSIONAIRE, including the tax risk attributed to it, except in the cases expressly detailed in the AGREEMENT herein.
- x. Costs and deadlines involved with the treatment, by the CONCESSIONAIRE, of the INTERFERENCES that may be identified and all the consequences related to them, including the burden arising from the need for removal or displacement and other costs associated with the measures that may be necessary, provided they are not listed in ANNEX 02 , ANNEX 12, ANNEX 24 and APPENDICES and it remains proven that such INTERFERENCES already existed in the ROAD SYSTEM before the INITIAL TRANSFER TERM was signed;
- xi. Impacts deriving from creating, revoking or revising the norms put on record by ARTESP concerning the activities which are object of the AGREEMENT herein, except those merely regarding procedure or standardization;
- xii. unilateral modification, imposed by the GRANTING AUTHORITY, of the conditions of execution of the AGREEMENT;
- xiii. Prince's Fact that effectively burdens the execution of the AGREEMENT, except when the act or fact characterizes risk that has already been specifically and expressly attributed to the CONCESSIONAIRE in this AGREEMENT;
- xiv. Modifications promoted by ARTESP in the PERFORMANCE INDICATORS provided for in ANNEX 03, which cause a proven and effective impact on the CONCESSIONAIRE charges;
- xv. Determination to the CONCESSIONAIRE to incorporate new technologies, under the terms of Clause 18.10;
- xvi. Default in the payment of the TOLL TARIFF by DELINQUENT USERS, as well as costs associated with the notification of coercive collection and other administrative measures necessary for the receipt of the TOLL TARIFF by DELINQUENT USERS;

- xvii. Investment amounts arising from the identification and treatment, by the CONCESSIONAIRE, of liabilities, inconsistencies, nonconformities and/or discrepancies, qualitative and/or quantitative, of the conditions of the REVERSIBLE ASSETS, in the form in which they are made available to the CONCESSIONAIRE, compared to the provisions of ANNEXES 12 and 24, provided that such conditions have been pointed out in the FINAL INSPECTION REPORT, pursuant to ANNEX 18;
- xviii. Variation of costs, sectorial charges or revenues, generated in view of the materialization of any of the risks expressly allocated to the GRANTING AUTHORITY;
- xix. Costs related to the treatment of HIDDEN DEFECTS identified at any time by the CONCESSIONAIRE, which could not, demonstrably, have been identified by the FINAL INSPECTION REPORT, pursuant to ANNEX 18;
- a. It is the CONCESSIONAIRE's duty to prove to ARTESP, in a technically substantiated manner, that the defects mentioned in the above Clause could not have been identified during the preparation of the FINAL INSPECTION REPORT, even if the scope, methodology and procedure established in ANNEX 18 were respected.
- xx. Changes in the projects and / or works at the request of the GRANTING AUTHORITY or other public entities, unless such changes result from the non-conformity of the project and / or works with the legislation in force at the time of the investment or with the information contained in the AGREEMENT and its ANNEXES;
- xxi. strikes of the GRANTING AUTHORITY and / or CPTM servers and / or employees.
- xxii. Variation in the TARIFF REVENUE due to the change in the rules related to the granting of gratuities or discounts on the TOLL TARIF, in relation to the rules in force on the date of submission of the PFROPOSAL;
- xxiii. Costs derived from new environmental conditions and requirements, provided that, cumulatively:
- a. the environmental conditions and requirements have not been foreseen in the ANNEXES;
- b. the environmental conditions and requirements arising from the INSTALLATION LICENSE, environmental conditions and requirements arising from the process of obtaining the OPERATION LICENSE are not considered a risk by the CONCESSIONAIRE; and
- c. the environmental conditions and requirements do not result from a change in the EXECUTIVE PROJECT carried out by the CONCESSIONAIRE in relation to the projects made available in ANNEX 12, unless due to a liability identified in the FINAL INSPECTION REPORT, or from new requests that the

CONCESSIONAIRE submits to the competent environmental agency.

- xxiv. Sufficiency of resources to pay the DUE FINANCIAL CONSIDERATION, PUBLIC CONTRIBUTION and other amounts due to the CONCESSIONAIRE under this AGREEMENT;
- xxv. Costs related to eventual expropriations that may be necessary during the execution of the AGREEMENT, as provided in Clause 19.5;
- xxvi. Circumstances linked to the investments necessary for the eventual implementation of an access loop to Guarulhos International Airport and its impacts, positive or negative, under the terms of Clause 27.2.7; and
- xxvii. Burdens generated to the ROAD SYSTEM arising from circumstances or liabilities originating outside the RIGHT OF WAY, unless identified in ANNEX 24 or arising from a risk expressly allocated to the CONCESSIONAIRE.

#### **DEMAND RISK SHARING**

- 22.3. The risk of non-realization of the PROJECTED DEMAND will be shared between the GRANTING AUTHORITY and the CONCESSIONAIRE, under the terms provided for in this Clause and in Annex 26.
- 22.4. THE DEMAND ADJUSTMENT, resulting from the demand risk sharing referred to in this Clause, will be incorporated into the FINANCIAL CONSIDERATION to be paid by the GRANTING AUTHORITY, pursuant to ANNEX 26.
- 22.5. The demand risk sharing mechanism referred to in this Clause shall be applicable from the START DATE OF THE OPERATION, not being applicable while the PARTIAL COMMERCIAL OPERATION of the delegated section is in force, if any.

#### **CLAUSE TWENTY-THIRD – MAINTAINING THE ECONOMIC-FINANCIAL BALANCE OF THE AGREEMENT**

- 23.1. Whenever the conditions of the AGREEMENT are met and the risk allocation established therein, its economic and financial balance is considered maintained.
- 23.2. It is considered economic-financial imbalance of the AGREEMENT whenever any of the PARTIES suffer the effects, positive or negative, deriving from the event whose risk may not be attributed to it, which demonstrably causes the imbalance of the economic-financial equation of the AGREEMENT herein.
  - 23.2.1. The AGREEMENT shall also be considered unbalanced in cases in which any of the PARTIES provides benefits due to the non-fulfillment, or delay in the fulfillment, of the obligations allocated to it.
  - 23.2.2. In addition to the assumptions provided for in the Clauses 23.2 and 23.2.1, it will also be appropriate to recompose the economic and financial balance of the AGREEMENT in the event of unilateral modification, imposed by the GRANTING AUTHORITY, of the conditions of execution of the AGREEMENT, provided that, as a



direct result of this modification, whether the CONCESSIONAIRE's costs or revenues actually change, upwards or downwards.

23.2.3. In view of the materialization of an IMBALANCE EVENT, it will only be possible to restore the economic-financial balance of the AGREEMENT in relation to the portion of the claimed imbalance whose exact measure is proven by the plaintiff, even if using estimates to demonstrate the effective impact of the event when there is no data that allow accurate measurement.

23.2.4. The analysis of the restoration of the economic and financial balance of the AGREEMENT presupposes the verification of the global economic conditions of the AGREEMENT and is restricted to the neutralization of the financial effects of the events that cause contractual imbalance, as disciplined in this AGREEMENT, considering, for the achievement of the neutralization intended, the economic-financial, tax and accounting effects resulting from the chosen rebalancing measure.

23.2.5. The definition of the PART responsible for bearing the effects, positive or negative, of the materialization of risks related to the object of this AGREEMENT, will follow the provisions of this Clause.

23.2.6. The CONCESSIONAIRE is solely responsible for supporting the effects, positive or negative, arising from the materialization of the risks that were expressly attributed to it in the Clause 22.2 and in the other Clauses of this AGREEMENT.

23.2.6.1. In the interpretation and application of the provisions of the Clauses 23.2.5 and 23.2.6 above, as well as in any and all situations, within the scope of this AGREEMENT, in which it is necessary to assess the PART to which a certain risk inherent to the SPONSORED CONCESSION has been allocated, it is necessary to contractual regulation in a comprehensive and contextualized way, so that the risks allocated contractually are understood as genera and their derivations, and details or species should be considered an integral part of the risk analyzed.

23.2.6.1.1. The PARTIES agree that in the comprehensive assessment of the risks contractually allocated to each PARTIES, as provided in the Clause 23.2.6.1 above, similar situations will be considered as being part of the same risk, understood as those in which there is an equivalence in nature or characteristics, as well as in which there is similarity in the conditions of confrontation and mitigation of said risk under analysis, in relation to risks expressly provided for in the text of this AGREEMENT.

23.2.6.1.2. Risks whose allocation is extracted from the provisions of this Clause 23.2.6.1.1, even if indirectly, are considered, for all purposes, as risks originally allocated under the terms of the AGREEMENT, and the PART to which the risk is allocated must assume all effects and deal with its eventual materialization.

23.2.6.2. The provisions of this Clause may not, under any circumstances, be interpreted or applied for the purpose of changing the original risk allocation of the AGREEMENT, understood as the risk allocation expressed in Clauses Twenty-Second and 23.2.6.1 of this AGREEMENT.

## **CLAUSE TWENTY-FOURTH – IDENTIFYING THE EVENTS CAUSING ECONOMIC-FINANCIAL IMBALANCE IN THE AGREEMENT**

24.1. The procedure for restoring the economic-financial balance may be initiated at the request of the CONCESSIONAIRE or the GRANTING AUTHORITY or by determination of ARTESP, and the person who initiates this procedure will be responsible for the timely demonstration of the occurrence and identification of an IMBALANCE EVENT.

24.1.1. The person responsible for instituting the procedure shall identify the IMBALANCE EVENT and notify the PARTIES or ARTESP, through a duly instructed claim, under the terms of the Clauses 24.2 and 24.6, if it occurs, within a period not exceeding 180 (one hundred and eighty) days from its materialization, with a view to safeguarding the contemporaneity of contractual relationships, as well as enabling the proper handling of the consequences of the IMBALANCE EVENT.

24.1.1.1. In cases where there is an identification of HIDDEN DEFECTS, the period identified in the previous subclause will be counted from the date on which the HIDDEN DEFECTS was discovered.

24.1.1.2. Within the period provided for in the Clause, the 24.1.1 person who identifies the IMBALANCE EVENT must communicate to the PART(S) and to ARTESP, even if indicating provisional values and estimates subject to review, without prejudice to the possibility of completing the instruction of the process after this term, in cases where the IMBALANCE EVENT lasts for a long period of time, or, for any other reason, it is not possible to present the recomposition request with all the documents required in the Clauses 24.2 or 24.6.

### **Request made by the CONCESSIONAIRE**

24.2. When the request to restructure the economic-financial balance is initiated by the CONCESSIONAIRE, it shall be done via a documented requisition and accompanied by all the documents required to demonstrate the suitability of the request, including:

24.2.1. Precise identification of the IMBALANCE EVENT, accompanied, when pertinent, by evidence that the responsibility is allocated to the GRANTING AUTHORITY;

24.2.2. Request, if it is the case, for a EXTRAORDINARY REVISION, provided it demonstrates the potential risk to the solvency or to the CONCESSIONAIRE's continued performance of the service, deriving from the materialization of the IMBALANCE EVENT

24.2.2.1. The potential impairment of the CONCESSIONAIRE solvency or the continuity of the CONCESSIONAIRE's execution/provision of services will be demonstrated, among other hypotheses that must be evaluated by ARTESP, when, as a result of the materialization of risks allocated to the GRANTING AUTHORITY or circumstances not attributable to the CONCESSIONAIRE:

- i. there is a risk of imminent breach of obligations, early maturity or acceleration of maturity in the financing contracted with the SPONSORS; or

- ii. the materialization of IMBALANCE EVENTS has a direct impact on the CONCESSIONAIRE's TARIFF REVENUE collection, causing a loss of more than 5% (five percent) of the GROSS REVENUE verified in the year prior to said materialization.

- 24.2.3. Quantities of imbalances effectively identified in the cash flow, with the date of occurrence of each one, or the estimate, in case of new investments, for the calculation of the recomposition of the economic-financial balance of the AGREEMENT, in the form of Clause 25.3, depending on the IMBALANCE EVENT.
- 24.2.4. Proof of expenses, direct and indirect, effectively incurred by the CONCESSIONAIRE, deriving from the IMBALANCE EVENT which originated the request, following the explanatory summary containing the accrual basis for accounting and tax applicable to the revenues or costs supposedly unbalanced;
- 24.2.5. In case of evaluation of any future imbalances, with a detailed demonstration of the supposition and parameters used to estimate the impacts of the INSTABILITY EVENT on the cash flow of the CONCESSIONAIRE.
- 24.2.6. If, in the process of approval of ENVIRONMENTAL LICENSES, the implementation of unconventional construction methods is required, outside the standards determined in technical regulations and/or rules established by ARTESP, due to the AGREEMENT or its ANNEXES, the CONCESSIONAIRE shall prove (i ) the nature of the determination, characterizing it, fundamentally, as outside the expected constructive standards; and (ii) the direct impact of said requirement for the purpose of requesting economic and financial rebalancing, in view of the provisions of the EVTE, provided that said solution complies with legal and contractual requirements.
- 24.3. Faced with the request presented by the CONCESSIONAIRE, ARTESP shall, within a maximum of sixty (60) days, make a statement regarding the relevance of the request, as well as evaluating whether the procedure to restructure the economic-financial balance of the CONCESSIONAIRE shall be processed in an extraordinary manner.
  - 24.3.1. Should urgency to treat the imbalance event not be accepted or justified, ARTESP shall define that the identified IMBALANCING EVENT shall be treated in the following ORDINARY REVIEW.
  - 24.3.2. The decision to process the claim in ORDINARY REVIEW does not remove the PARTY's duty to properly instruct the claim, under the terms of Clause 24.2 and 24.6.
  - 24.3.3. The term referred to in the Clause 24.3 may be extended by justification, and the period may be interrupted if it is necessary to request adaptation and complementation of the procedural instruction.

#### **Access to information needed to verify the imbalances identified**

- 24.4. In evaluating the claim, the PARTIES and ARTESP may, at any time, contract specific technical and/or economic reports.
  - 24.4.1. At the discretion of the defendant PARTY, an audit may be carried out, through a specialized entity with well-known technical capacity, to verify the situation that gave

rise to the request for economic and financial rebalancing, with the due participation of the PARTIES and the transparency that allows them directly or by an equivalent entity, the technical adversary, the costs being borne by the PARTY that hired the specialized entity, regardless of the result of the economic-financial rebalancing claim.

- 24.5. ARTESP, or the person appointed by it, will have free access to information, assets and facilities of the CONCESSIONAIRE or of third parties hired by it to assess the claims made by the CONCESSIONAIRE in an eventual claim for economic and financial imbalance presented.

#### **Claims initiated by ARTESP or the GRANTING AUTHORITY**

- 24.6. The request for recomposition of the economic-financial balance initiated by ARTESP must be notified to the PARTIES, and the request for restoration of the economic-financial balance initiated by the GRANTING AUTHORITY must be communicated to ARTESP and the GRANTING AUTHORITY, in both cases accompanied copy of the relevant reports and studies, including, if applicable, the proposal to process the claim in the context of EXTRAORDINARY REVIEW.

- 24.6.1. For requests for economic-financial rebalancing filed by ARTESP or the GRANTING AUTHORITY, which have the CONCESSIONAIRE as a defendant, after receiving the notification about the IMBALANCE EVENT, the CONCESSIONAIRE will have 60 (sixty) days to present a reasoned statement regarding the request for recomposition of the economic-financial balance of the AGREEMENT presented by ARTESP or by the GRANTING AUTHORITY in notification, under penalty of tacit consent to the request, and it is also up to you, within the same period, to express an opinion on the proposal for processing the request in the REVIEW EXTRAORDINARY.

- 24.6.2. In consideration of the CONCESSIONAIRE's response to the request of the GRANTING AUTHORITY, it will have 30 (thirty) days to ratify the appropriateness of the recomposition of the economic-financial balance and its eventual processing in the EXTRAORDINARY REVIEW.

- 24.6.3. For requests for economic-financial rebalancing, filed by ARTESP or by the GRANTING AUTHORITY, the discipline provided for in Clauses 24.2 to 24.5 shall apply, and must always be duly substantiated and instructed.

#### **Events or grounds which do not cause imbalance in the AGREEMENT**

- 24.7. It is not suitable to restructure the economic-financial balance in favor of the CONCESSIONAIRE in the following cases:

- 24.7.1. When negligence, imprudence, malpractice, ineptitude or omission occur in exploration the services which are the object of the SPONSORED CONCESSION and in the treatment of the risk attributed to it;
- 24.7.2. When, in any form and in any measure, the CONCESSIONAIRE may have concurred, directly or indirectly, to the event causing the imbalance.
- 24.7.3. If the materialization of the events motivating the request by the CONCESSIONAIRE does not lead to an effective impact on the contractual conditions and does not result

in effective loss resulting from the imbalance in the economic-financial equation of the CONTRATO which may be demonstrated in its exact measure.

24.8. The PARTIES shall use their best efforts to avoid the occurrence of the events that motivate the request to restore the economic-financial balance or, when it is not possible to avoid them, to minimize their impacts.

24.8.1. During the analysis of the requests for the restoration of the economic-financial balance, by the ARTESP, all the CONCESSIONAIRE's obligations, including the obligations related to the payment of the INSPECTION FEE, are fully maintained.

24.9. Once the materialization of any of the IMBALANCE EVENTS associated with the risks listed in Clause Twenty-Second has been verified, the PARTIES shall negotiate in good faith the appropriate measures to mitigate the losses caused and to prevent/contain the IMBALANCE EVENTS.

24.9.1. The measures adopted under the terms of the Clause 24.9 shall be considered in the measurement of the economic-financial imbalance of the AGREEMENT.

24.9.2. If the IMBALANCE EVENT referred to in the Clause 24.9 requires immediate action, or if the PARTIES do not succeed in negotiating the aforementioned measures, the PARTIES shall take the reasonable measures within their reach.

24.9.2.1. For the purposes of the Clause 24.9.1, reasonable measures are considered, in the case of the CONCESSIONAIRE, those expected from a company acting diligently in similar situations.

24.9.3. If it is proven that the PARTY has failed to take the mitigation measures for losses referred to in the Clauses 24.9, 24.9.1 and 24.9.2, observing the provisions of the Clause 24.9.2.1, the amount of losses that, in a proven manner, could have been avoided had such measures been taken, will be discounted of the amounts owed by the other PARTY in order to recover the economic and financial rebalancing.

24.10. If it is proven that more than one PARTY has directly or indirectly contributed to the occurrence of the IMBALANCE EVENT, by negligence, ineptitude or omission of both PARTIES, the recomposition of the economic-financial balance of the AGREEMENT shall consider only the value of the damage that the harmed PARTY has not caused.

## **CLAUSE TWENTY-FIFTH – RESTRUCTURING THE ECONOMIC-FINANCIAL BALANCE**

25.1. At the time of each EXTRAORDINARY REVISION or each ORDINARY REVISION, the requests considered applicable from both PARTIES shall be contemplated jointly, in order to compensate the positive and negative economic-financial impacts resulting from the IMBALANCE EVENT.

25.2. The eventual restoration of the economic and financial balance in favor of one PARTY must necessarily consider possible impacts in favor of the other PARTY.

25.3. The restructuring of the economic-financial balance of the AGREEMENT as a whole, or regarding a specific IMBALANCE EVENT in the event of a EXTRAORDINARY REVISION, shall be carried out to obtain a Net Present Value of the balance of the Cash



Flow equal to zero, considering the IRR related to the nature of each IMBALANCE EVENT, determined as follows:

25.3.1. In the event of IMBALANCE EVENTS resulting from cancellations, postponements, delays or anticipations of the investments provided for in the ORIGINAL INVESTMENT PLAN, the recomposition will be carried out taking into account the values attributed to the investments in the EVTE, according to the physical-executive distribution established in the POI, as well as the Internal Rate of Return of 8.93% (eight point ninety-three percent).

25.3.1.1. The economic-financial rebalancing referred to in the Clause 25.3.1, in case of investments advances, will be carried out exclusively if such advance arises from risk factors or responsibility of the GRANTING AUTHORITY or of ARTESP, with no economic-financial rebalancing being carried out if the prepayment arises from CONCESSIONAIRE's risk or responsibility, or occur on its own initiative.

25.3.1.2. The economic-financial rebalancing referred to in the Clause 25.3.1, in the event of postponements or delays in investments, resulting from risk factors or responsibility of the CONCESSIONAIRE, will be carried out exclusively if the net economic-financial impact of the postponement or delay is beneficial to the CONCESSIONAIRE, considering the economic-financial effect of the postponement as to the values of the investments, and the corresponding operating costs and revenues, without prejudice to the application of the penalties provided for in the AGREEMENT and in ANNEX 11, no economic-financial rebalancing will take place if the delay or postponement in the investment results in a net economic-financial impact detrimental to the CONCESSIONAIRE.

25.3.2. In the event of any IMBALANCE EVENTS, not disciplined by Clause 25.3.1, the restoration of the economic-financial balance will take place through the preparation of the marginal cash flow, considering: (i) the marginal cash flows, positive or negative, calculated based on the difference between situations with and without IMBALANCE EVENT; (ii) the marginal cash flows necessary to the restoration of the economic-financial balance; and (iii) the Internal Rate of Return calculated as provided for in Clause 25.5.3.

25.3.2.1. IMBALANCE EVENTS consisting of new investments will consider, to calculate the restoration of the economic-financial balance of the AGREEMENT, the Internal Rate of Return calculated on the date of signature of the respective Modifying Amendment Term, according to Clause 25.5.3, as well as the costs agreed in this instrument.

25.3.2.2. All other hypothesis of IMBALANCING EVENTS shall consider, in order to calculate the restoration of the economic-financial balance of the AGREEMENT, the Internal Rate of Return calculated on the date the IMBALANCING EVENT materialized.

25.4. At each restoration of the economic-financial balance, the Internal Rate of Return will be defined, definitive for the entire term of the SPONSORED CONCESSION, in accordance with the applicable rates for the respective IMBALANCE EVENTS considered therein.

25.4.1. In the event of an IMBALANCE EVENT, disciplined by Clause 25.3.2.2, which lasts for more than one year, subject to the provisions of Clause 24.1.1.2, each cycle of ORDINARY REVISION will be considered: (i) the Internal Rate of Return calculated in accordance with Clause 25.5.3 in 1st (first) day of each ORDINARY REVISION cycle, and (ii) the imbalances actually materialized in the respective ORDINARY REVISION cycle, for the calculation of the restoration of the economic-financial balance of the AGREEMENT, without prejudice to the recognition of the IMBALANCE EVENT under the terms of Clause 24.3.

25.4.1.1. If the restoration of the economic-financial balance of the AGREEMENT is processed by means of EXTRAORDINARY REVISION, (i) the Internal Rate of Return applicable for the cycle of ORDINARY REVISION where the materialization of the IMBALANCE EVENT giving rise to EXTRAORDINARY REVISION took place, and (ii) the imbalances actually materialized in the respective ORDINARY REVISION cycle.

25.4.1.2. From the ORDINARY REVISION cycle subsequent to the initial occurrence of the IMBALANCE EVENT, applies the regulation described in Clause 25.4.1.

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

25.5. For the restoration of the economic-financial balance of the IMBALANCE EVENT, described in the Clause 25.3.2, the following procedures shall be observed in the preparation of the Marginal Cash Flow:

25.5.1. Restoration of the economic-financial balance shall be carried out so that the net present value of the Marginal Cash Flow projected in view of the event which led to restructuring is null, considering (i) the cash flows of the marginal expenses resulting from the event which originated restructuring, and (ii) the cash flows of the marginal revenues resulting from the restoration of the economic-financial balance.

25.5.1.1. For purposes of calculating the net present value of Marginal Cash Flows, the discount rate is incurred each new contractual year.

25.5.2. To determine the cash flows of the marginal expenses, the best information available shall be used to portray the real and effective current conditions, in order to estimate the amounts of the investments, costs and expenses, as well as any revenue and other profit, resulting from the IMBALANCING EVENT;

25.5.2.1. The CONCESSIONAIRE should provide estimates of the extent of the imbalance, even in cases where the claim is the initiative of ARTESP or of the GRANTING AUTHORITY, using, for this purpose, the best public and/or private sector price references available at the time of the claim.

25.5.2.1.1. Unless otherwise stated in Clause 25.3.1, the information should preferably be based on the current Road Price Composition Tables of the DER, or other document that will replace them and, in the absence of more current information and at ARTESP's discretion, the projections made at the time of the BIDDING or other parameters, for example those used and published in national and international engineering magazines.

25.5.2.2. ARTESP may request the CONCESSIONAIRE to demonstrate that the values needed to make new investments will be calculated based on market values considering the global cost of similar projects or activities in Brazil or based on cost systems which use, as inputs, market values in the specific sector of the project, assessed, in any case, with a summarized budget, based on efficient or parametric methodology.

25.5.3. The real annual Discount Rate to be used in the calculation of the Present Value referred to in the Clauses 25.3.2, 25.3.2.2 and 25.4.1 will be composed of the daily average in the period of the last 12 (twelve) months of the gross interest rate on the sale of IPCA+ Treasury Notes with Semiannual interest (NTN-B) or, in its absence, another one that replaces it, *ex-ante* deduction of the Income Tax, with maturity on 05/15/2055 or maturity more compatible with the contractual term date, published by the Secretariat of the National Treasury of Brazil, calculated at the beginning of each contractual year, plus a spread or surcharge on interest equivalent to 4.47 p.p. a.a. (four point forty-seven percentage points per year), base 252 (two hundred and fifty-two) business days.

25.5.3.1. IMBALANCE EVENTS that materialize prior to the second ORDINARY REVISION will consider, to calculate the restoration of the economic-financial balance of the AGREEMENT, an Internal Rate of Return of 8.93% (eight point ninety-three).

25.5.4. Regardless of the result of the calculation indicated in the sub-clause above, the real annual Discount Rate to be used in the calculation of the Present Value cannot be less than 2.32% (two point thirty-two percent).

25.5.5. In the event of recomposition of the balance of the AGREEMENT by means of an extension of term, the methodology for measuring income and expenses for the extended term will consider:

25.5.5.1. For the projection of revenues and definition of cash inflow, the traffic projection will be made, expressed in equivalent axles, and which must be multiplied by the result of the average concession fee and the amount received as DUE FINANCIAL CONSIDERATION of the last 24 (twenty-four) months were completed, thus obtaining estimates of revenue, making, if relevant, adjustments to adjust the projections to the tariff reclassifications, which have already occurred or are to be carried out.

25.5.5.1.1. The revenue projection indicated in the Clause 25.5.5.1 shall be replaced by the actual revenue actually earned, periodically verified, in accordance with the Modifying Amendment Term to be signed.

25.5.5.2. The projection of ACCESSORY REVENUE, resulting from the historical average of the five (5) years prior to signing the amendment regarding the new investments and services, or the available historical average.

25.5.5.2.1. The projection of ACCESSORY REVENUE will be replaced by the real ACCESSORY REVENUE actually collected, verified, periodically, in accordance with the Modifying Amendment Term to be signed.

25.5.5.3. In order to calculate the cost and expenses projection of the CONCESSIONAIRE and definition of the cash outflow, counted from the initial term of the marginal cash flow, including the extensions of term already formalized, will be considered, for purposes of calculating the term to be extended:

25.5.5.3.1. The values related to costs and expenses accounted by the CONCESSIONAIRE between the five (5) years immediately prior to the base date for cash flow.

25.5.5.3.2. The average values will be used as basis to extend the CONCESSION TERM, without suffering any variation or any kind of alteration.

25.5.5.4. The costs and the expenses related to conserving and maintaining the new works shall also be considered when calculating the Marginal Cash Flow.

25.5.5.5. The values projected for costs and expenses will be considered as a risk of the CONCESSIONAIRE.

25.5.5.6. For the purpose of the Marginal Cash Flow, the calculation of Amortization and Depreciation shall be carried out in accordance with the applicable rules and legislation.

25.5.5.7. With the advent of the contractual term, it must be determined whether the Net Present Value (NPV) of the sum of cash flows is equal to zero, considering the applicable internal rate(s) of return.

25.5.5.7.1. In case the NPV is found to be different from zero, the forms of rebalancing foreseen in this AGREEMENT apply.

25.5.5.8. The INSPECTION FEE portions provided for in the AGREEMENT shall be maintained throughout the extension period, and considered in the Marginal Cash Flow object of this methodology.

25.5.6. The effects of direct and indirect taxes effectively levied must be considered.

25.5.6.1. For the purpose of economic-financial rebalancing caused by events other than changes in tax or accounting legislation, the taxes and accounting implications of any nature that actually occur during the entire CONCESSION TERM will be considered, including formalized term extensions, regardless of the PARTY that has assumed the risk of change in tax or accounting legislation.

25.5.7. In the event of recomposition of the AGREEMENT balance by means of a revision in the value of the TOLL TARIFF, the methodology for measuring revenues for the amendment term will consider the one contained in the Clause 25.5.5.1. and 25.5.5.1.1, when applicable.

25.5.7.1. With the advent of the contractual term, it must be determined whether the Net Present Value (NPV) of the sum of cash flows is equal to zero, considering the applicable internal rate(s) of return.

25.5.7.1.1. In case the NPV is found to be different from zero, the forms of rebalancing foreseen in this AGREEMENT apply.

#### **CLAUSE TWENTY-SIXTH – MODALITIES FOR RESTORATION OF THE ECONOMIC-FINANCIAL BALANCE OF THE AGREEMENT**

26.1. The GRANTING AUTHORITY shall have the prerogative to choose the modality through which the restoration of the economic-financial balance of the AGREEMENT will be implemented, among the following modalities:

- i. Extension or reduction of the CONCESSION TERM, subject to legal limits;
- ii. Revision of the TOLL RATE value;
- iii. Refund or indemnification;
- iv. Changes to the ORIGINAL INVESTMENTS PLAN or to the valid INVESTMENTS PLAN;
- v. Revision of the FINANCIAL CONSIDERATION or RESOURCES CONTRIBUTION values;
- vi. Change of the obligations or deadlines provided for in this AGREEMENT and in the ANNEXES;
- vii. Combination of the previous modalities.

26.2. In addition to the modalities listed in Clause 26.1, the implementation of the restoration of the economic-financial balance of the AGREEMENT may also occur through the following modalities, in these cases depending on prior agreement of the CONCESSIONAIRE:

- i. Giving in payment of assets and/or assignment of equity incomes;
- ii. Assumption by a PARTY of costs attributed by the AGREEMENT to the other PARTY;
- iii. Exploration of ACCESSORY REVENUES beyond the term of validity of the AGREEMENT and/or change in the sharing patterns of ACCESSORY REVENUES, under the terms provided for in this AGREEMENT and in the ANNEXES;
- iv. Combination of the above modalities or others allowed by legislation.

26.3. In compliance with the regulations established in this AGREEMENT, the GRANTING AUTHORITY may only use the extension of the CONCESSION TERM as a means for the restoration of the economic-financial balance of the AGREEMENT, described in i the item of the Clause 26.1 above, from the third cycle of ORDINARY REVISIONS that this AGREEMENT deals with, being certain that for the first two ORDINARY REVISIONS, any economic-financial imbalances can only be recovered by the other means established in this Clause.



- 26.3.1. The extension of the CONCESSION TERM, dealt with in i the item of the Clause 26.1 above, for the purpose of restoring the economic-financial balance caused by any new investments that may be incorporated in the ORDINARY REVISIONS or in the EXTRAORDINARY REVISIONS, cannot add to the SPONSORED CONCESSION for a period exceeding 4 (four) years, considering the aggregate impacts caused by such new investments.
- 26.3.2. In choosing the means to implement the restoration of the economic-financial balance, the GRANTING AUTHORITY shall consider the CONCESSIONAIRE's ability to comply with its obligations to the SPONSORS, especially those related to the payment of the debt service, and compliance with obligations assumed in the financial instruments that the CONCESSIONAIRE is a PARTY, related to investments and the operation of the DELEGATED SERVICE, mainly those whose non-compliance may give rise to the obligation of capital contribution or reinforcement of guarantee by the CONCESSIONAIRE's shareholders, acceleration of debt, or early maturity of the contract.
- 26.3.3. Restructuring the economic-financial balance of the AGREEMENT, even when deriving from ORDINARY REVISIONS, an Amendment Term to the AGREEMENT herein shall be officially established.

## **CHAPTER IV – REVISIONS OF THE AGREEMENT**

### **CLAUSE TWENTY-SEVENTH - ORDINARY REVISION OF THE AGREEMENT**

- 27.1. At each four-year cycle, from the date of issue of the INITIAL TRANSFER TERM, the ORDINARY REVISIONS of the SPONSORED CONCESSION will be carried out, which may culminate with the revision of the ORIGINAL INVESTMENT PLAN, the current INVESTMENT PLANS or preparation of new INVESTMENT PLANS, as well as their corresponding SCHEDULES, INSURANCE PLAN, and PERFORMANCE INDICATORS, in order to adapt them to the modifications or changes that have been noticed in each ORDINARY REVISION cycle, always observing the economic-financial balance of the AGREEMENT and other relevant contractual rules.
- 27.1.1. The demands for new investments in the SPONSORED CONCESSION shall primarily be implemented during the ORDINARY REVISIONS, in order to improve the planning and the performance of investments, even when they derive from events that occurred or were identified prior to processing the ORDINARY REVISIONS.
- 27.2. New investments, not initially foreseen in the ORIGINAL INVESTMENT PLAN, and eventually implemented according to the set of ORDINARY REVISION cycles or EXTRAORDINARY REVISIONS, may not:
- i. As a whole, lead to a revision of the CONCESSION TERM that gives rise to an increase in a period of more than 4 (four) years; and/or
  - ii. Altogether, exceed the amount of 15% (fifteen percent) of the total initial value of investments under the responsibility of the CONCESSIONAIRE, in accordance with the values defined in ANNEX 21; and/or

- iii. Carry out interventions that represent, in the last 4 (four) years of the SPONSORED CONCESSION, execution of investments greater than 5% (five percent) of the total amount originally provided for in ANNEX 21.
- 27.2.1. The limit presented in Clause 27.2, item iii, may be exceeded by agreement between the PARTIES and, as the case may be, the CONCESSIONAIRE'S SPONSORS and GUARANTORS.
- 27.2.2. The investment values defined in ANNEX 21 will be readjusted by the IPCA/IBGE until the base date of ratification of the claims for purposes of calculating the limits indicated in Clause 27.2.
- 27.2.3. In compliance with the conditions set forth in Clause 27.2, and in compliance with Clause 27.2.1, the CONCESSIONAIRE shall mandatorily carry out the investments object of the respective ORDINARY REVISIONS and EXTRAORDINARY REVISIONS.
- 27.2.4. Even if the limit provided for in Clause 27.2 is observed, the CONCESSIONAIRE will not be obliged to carry out investments not originally provided for in ANNEX 21, if the assessment of the hypothesis of its realization points to a drop in the risk rating score obtained by the concession, or, in case of a new issuance of securities or obtaining new bank debt, the eventual consequence is a grade lower than that obtained by the original issuer or borrower, and this grade, on a national scale, will be issued by Fitch Ratings or, on an equivalent scale, by Standard and Poor's (S&P) or Moody's.
- 27.2.5. In case there are urgent demands which, for technical, economic-financial, safety or public interest reasons demand immediate intervention, and it is impossible to wait until the end of the contractual four (4)-year cycle for each ORDINARY REVISION, such new investments shall be implemented via EXTRAORDINARY REVISION, which shall respect the terms and procedures established in the AGREEMENT herein and in the pertinent legislation and regulation.
- 27.2.6. The review of the PERFORMANCE INDICATORS may be processed at the headquarters of the ORDINARY REVIEWS, and ARTESP may require, through the system provided for in Clause Eighteen for the incorporation of new technologies, the adequacy of the PERFORMANCE INDICATORS provided for in ANNEX 03 or the creation of new PERFORMANCE INDICATORS that reflect current standards, modernity and innovation in the execution of the works and services object of this AGREEMENT.
- 27.2.7. At the discretion of the GRANTING AUTHORITY, investments necessary for the implementation of the access loop to Guarulhos International Airport may be incorporated into the AGREEMENT without the need to comply with the criteria established in Clause 27.2, items ii and iii, through the restoration of the economic-financial balance of the AGREEMENT.
- 27.2.7.1. The investments provided for in Clause 27.2.7 must be carried out by the CONCESSIONAIRE at the request of the GRANTING AUTHORITY, without prejudice to the provisions of Clause 26.3.3.

27.2.7.2. The CONCESSIONAIRE shall not be obliged to carry out the investments provided for in the Clause 27.2.7 in the event provided for by the Clause 27.2.4.

27.2.7.3. Once the GRANTING AUTHORITY has formalized the request referred to in Clause 27.2.7, the CONCESSIONAIRE shall prepare, under the terms set out in ANNEX 07 and APPENDIX G, EXECUTIVE PROJECTS and adopt the procedures provided for in this AGREEMENT for the inclusion of new investments.

27.2.7.4. The economic-financial imbalance resulting from the inclusion of the investment provided for in Clause 27.2.7 will be rebalanced through indemnification, as provided for in Clause 26.1.iii), and the PARTIES may establish in agreement another form of recomposition.

27.2.7.5. The value of the investments incorporated in the form of the Clause 27.2.7 will not be considered for the purposes of applying the restrictions provided for in the Clause 27.2, when analyzing the incorporation of future investments.

### Processing of Ordinary Revisions

27.3. Each cycle of ORDINARY REVISIONS shall be processed using the following steps:

- i. Receiving, evaluating, processing and technically prioritizing demands and changes or other noted requirements, through the SISDEMANDA system, as well as elaborating functional projects, as per approval from ARTESP, in the event it is deemed necessary to meet the demand for new work, interventions or investments and changes needed to improve the service rendered and the conditions of the ROAD SYSTEM subject matter of the SPONSORED CONCESSION;
- ii. Prioritizing investments, changes and interventions necessary for the SPONSORED CONCESSION or the ROAD SYSTEM, to be made by the CONCESSIONAIRE in the following years, if applicable;
- iii. Holding public hearings to obtain suggestions and improvements to the proposal made in the ORDINARY REVISION considered by the CONCESSIONAIRE or by the GRANTING AUTHORITY and approved by ARTESP;
- iv. Approval and definition of new investments, changes, and necessary interventions, by ARTESP and/or by the GRANTING AUTHORITY, with authorization for the CONCESSIONAIRE to elaborate executive projects;
- v. Budgeting investments, changes and necessary interventions and measuring any impacts caused in the economic-financial equation of the CONTRAT;
- vi. Promotion, when applicable, of the procedure to restructure the economic-financial balance of the AGREEMENT, in accordance with the applicable contractual norms, and establishing the corresponding Amendment Term.

27.4. The decision of ARTESP or the GRANTING AUTHORITY, after the authorization referred to in Clause 27.3.iv), not to include the investments, adjustments or interventions approved in the review of the ORIGINAL INVESTMENT PLAN, the current INVESTMENT

PLANS or in the preparation of new INVESTMENT PLANS, will imply the obligation of the GRANTING AUTHORITY to reimburse the costs demonstrably incurred by the CONCESSIONAIRE with the preparation of executive projects, through any of the economic-financial rebalancing mechanisms provided for in this AGREEMENT.

- 27.4.1. The decision of ARTESP or the GRANTING AUTHORITY, prior to the authorization referred to in Clause 27.3.iv), not to include investments, adjustments or proposed interventions in the review of the ORIGINAL INVESTMENT PLAN, the current INVESTMENT PLANS or in the preparation of new INVESTMENT PLANS, will not imply any right to indemnification, reimbursement or economic-financial rebalancing of the AGREEMENT.
- 27.4.2. The reimbursement provided for in the Clause 27.4 is conditioned to the assignment of rights over all material produced by the CONCESSIONAIRE, for the benefit of ARTESP.
- 27.5. Bringing forward works established in the INVESTMENT PLANS, at the proposal of the CONCESSIONAIRE, shall be presented and analyzed in an ORDINARY REVISION, or a EXTRAORDINARY REVISION, as the case may be.
- 27.6. The ORDINARY REVISION may not impact the allocation of risks established in this AGREEMENT, without prejudice to the specific allocation of risks applied to new investments that may be included in the AGREEMENT.
- 27.7. After the end of the ORDINARY REVISION procedure, after a regular administrative process in which the full participation and contradictory to the CONCESSIONAIRE is allowed, the GRANTING AUTHORITY will decide for the inclusion of new investments, as well as other contractual changes, and ARTESP, in its responsibility, to set the new contractual guidelines, observing the limits and procedures provided for in this Clause, being the CONCESSIONAIRE's responsibility, in case of disagreement, to use the mechanisms for dispute resolution provided for in this AGREEMENT.

**Receiving and analyzing demands, interventions, changes and investments.**

- 27.8. The CONCESSIONAIRE shall install and maintain an appropriate digital system – SISDEMANDA, in accordance with the specifications listed in APPENDIX F hereto, to receive, process and prioritize technical demands, investments and improvements proposed by citizens, private entities and members of PUBLIC ADMINISTRATION, constituting an exclusive and appropriate channel to manage such demands, which shall not be confused with an ombudsperson or USERS Service.
- 27.8.1. The digital platform SISDEMANDA shall be created in accordance with the specifications detailed in APPENDIX F hereto and be made constantly available online, serving as a receiving mechanism for demands presented. The CONCESSIONAIRE shall guarantee the access of ARTESP to the information and the data fed and treated through SISDEMANDA.
- 27.8.2. SISDEMANDA shall be exclusively aimed at managing the demands which shall be considered while planning changes, interventions and that which may occasionally be performed by the CONCESSIONAIRE;

- 27.8.3. To prioritize the analysis of the demands, the CONCESSIONAIRE shall take into consideration, without prejudice to the provided in Clause 27.11, the quality and the level of details of the information fed into SISDEMANDA by the interested parties, including the availability of functional projects and previous budgets for investments, in accordance with the project standards adopted by ARTESP.
- 27.9. Up to the beginning of the third year of each cycle of ORDINARY REVISIONS, the CONCESSIONAIRE shall have analyzed all the demands received in the previous period, as well as compiling, in accordance with the form and the content indicated by ARTESP, a report indicating the investments and changes proposed through SISDEMANDA. This report shall also consist of other investments, interventions and changes which, although not originating from proposals submitted to SISDEMANDA, are necessary or pertinent, including considering the need to meet the parameters for updating the services and PERFORMANCE INDICATORS.
- 27.10. The report shall contain suggestions for prioritizing demands, considering, for this purpose, criteria of urgency, feasibility of implementation, comfort and improvements when providing service to the USERS and the economic-financial of the CONCESSIONAIRE capacity to implement works;.
- 27.10.1. In the event the CONCESSIONAIRE is operating road stretches in level "E" and "F" service for more than 50 h/year (fifty hours per year), any investment which may be necessary to expand the capacity of such road stretches shall be presented in the planning by the CONCESSIONAIRE, reflected in the prioritizations on the list presented to ARTESP.
- 27.10.1.1. In order to fulfill the obligation provided for in Clause 27.10.1, the CONCESSIONAIRE shall consider, in the report referred to in Clause 27.10, a proposal for operational solutions to improve the level of service of the road segments, replacing, or complementing, the execution of works, evaluating, including the adoption of tariff collection systems.
- 27.10.1.2. The CONCESSIONAIRE, in accordance with the rules established in the AGREEMENT herein, shall take the necessary measures to submit to ARTESP the list accompanied by the respective operational projects for each demand for interventions, changes and investments.
- 27.10.1.2.1. ARTESP may request the CONCESSIONAIRE to adapt the prioritization plan of demands presented to conform to the public interest or technically justified needs.

**Public Hearings and other procedures for transparency and social participation in planning and implementing changes, interventions and investments**

- 27.11. Until the end of the third year of each cycle of ORDINARY REVISIONS, ARTESP and the GRANTING AUTHORITY, with the support of the CONCESSIONAIRE, shall carry out public hearing(s), in accordance with deadlines and rules established in ARTESP's regulations, to offer society the opportunity to evaluate the demands compiled and suggest new investments and improvements which shall be considered to possibly adapt the current INVESTMENT PLANS or new INVESTMENT PLANS.



27.12. As a result of the public hearings, ARTESP and the GRANTING AUTHORITY may define the need to revise the prioritization of demands and/or the inclusion or exclusion of demands consigned in the document originally submitted to public hearings.

#### **Implementing engineering projects and budgeting demands**

27.13. As the demands are received for new investments or changes which arise from submitting proposals through SISDEMANDA, the CONCESSIONAIRE shall request the interested parties to elaborate operational projects for new investments or shall request authorization from ARTESP to elaborate corresponding operational projects, in accordance with the rules established in ANNEX 07 and APPENDIX F.

27.14. At the end of the public hearings process, the CONCESSIONAIRE shall, with authorization from ARTESP and in accordance with ANNEX 07 and APPENDIX F, perform the executive projects related to the investments, changes and interventions deemed necessary and its subsequent execution.

27.15. Based on the executive projects, the quantities and schedules related to each investment, change and/or intervention shall be defined, in order to make the budget feasible, which will be referenced in the current DER Road Price Composition Tables, or another that may replace it, and upon the unavailability of more current information and at the discretion of ARTESP, projections made in the BIDDING or other parameters such as, for example, those used and published in national and international engineering magazines, in compliance with the rules established by the AGREEMENT.

- i. The CONCESSIONAIRE shall formally present to ARTESP, for approval, the executive projects and budgets elaborated so that it may define the investments, interventions and changes which shall be carried out by the CONCESSIONAIRE.
- ii. In case of disagreement with ARTESP regarding the executive project(s), quantities and budget(s) presented by the CONCESSIONAIRE, ARTESP and/or the GRANTING AUTHORITY may conduct surveys and studies to demonstrate the supposed discrepancies and present grounds for its decision.

#### **Planning to make new investments, interventions and changes**

27.16. ARTESP shall decide, after processing each of the steps established in this Chapter, which interventions, investments and changes shall be made by the CONCESSIONAIRE.

27.17. ARTESP shall define the need to readapt the current INVESTMENT PLANS and/or elaborate new INVESTMENT PLAN(S), which shall be instated, after approval, and the CONCESSIONAIRE shall be duly obligated in the subsequent years.

27.18. According to the definition of the need for readjustment of the ORIGINAL INVESTMENT PLAN(S), current INVESTMENT PLAN(S) and/or the preparation of new INVESTMENT PLAN(S), may be processed, according to the needs evaluated by ARTESP, eventual readjustments of the INSURANCE PLAN(S) to reflect the need for contracting policies or structuring other operations to ensure the timely fulfillment, in terms of quantity and quality, of the interventions, investments and adjustments defined by ARTESP.

27.19. After processing each step previously described in this Chapter, ARTESP shall proceed to calculate the imbalance, if applicable, considering any compensations of duties and

burdens due by each PARTY and, in accordance with the rules established in the AGREEMENT herein, and possibly restoration of the economic-financial balance.

27.20. Readapting the ORIGINAL INVESTMENT PLAN, current INVESTMENT PLANS and/or elaborating new INVESTMENT PLAN(S), as well as other impacts related to the ORDINARY REVISION of the AGREEMENT shall be formalized through a Modifying Amendment Term to the AGREEMENT.

27.20.1. Analysis to readapt current INVESTMENT PLANS does not suspend the initial and final timeframes for the work established in the respective PHYSICAL-EXECUTIVE SCHEDULE and/or the PHYSICAL-FINANCIAL SCHEDULE, nor its execution milestones, remaining valid and effective for the purposes of follow-up, supervisory, and application of penalties.

27.21. The Modifying Amendment Term referred to in the Clause 27.20 must be signed prior to the start of the execution of new investments included and must provide for the mechanism for the economic-financial rebalancing of the AGREEMENT.

27.21.1. In the Modifying Amendment Term to which Clause 27.20 refers, the PARTIES may provide, by means of a specific discipline agreement for the allocation of risks and for the responsibilities between the PARTIES and ARTESP, discipline of penalties applicable for non-compliance with deadlines or other conditions established in the authorization, if the general discipline provided for in this AGREEMENT is not considered adequate for the investments to be made, among other matters that require specific provision.

#### **CLAUSE TWENTY-EIGHTH - EXTRAORDINARY REVISIONS OF THE AGREEMENT**

28.1. The initiation of the EXTRAORDINARY REVISION procedure of the AGREEMENT may occur by determination, ex officio, by ARTESP, or at the initiative of any of the PARTIES, when they so request, in view of the concrete or imminent materialization of an event whose consequences are sufficiently serious to give rise to the need for evaluation and urgent measures, applying to the EXTRAORDINARY REVISION the provisions set forth in the Clause 27.2 and sub-clauses.

28.2. In the event the EXTRAORDINARY REVISION is initiated at the request of the CONCESSIONAIRE, the latter shall forward the necessary information to demonstrate to ARTESP that the failure to immediately treat the event shall extraordinarily worsen harmful consequences.

28.3. ARTESP will have sixty (60) days, as of the date the request is presented by the CONCESSIONAIRE or by the GRANTING AUTHORITY, to evaluate whether the reasons presented justify the immediate treatment and whether the seriousness of the consequences justify discarding the ordinary procedure and of AGREEMENT REVISION, and justifying the request to bring forward the established timeframe before the subsequent ORDINARY REVISION is processed.

#### **CHAPTER V – CONCESSIONAIRE**

#### **CLAUSE TWENTY-NINTH – LEGAL STRUCTURE OF THE SPE**

- 29.1. The CONCESSIONAIRE's specific and exclusive business purpose, throughout the CONCESSION TERM, indicated in its constitutive act, will be the provision of the object of this SPONSORED CONCESSION, having its headquarters and venue in the State of São Paulo.
- 29.2. The CONCESSIONAIRE may explore, directly or indirectly, including through subsidiaries, the activities that generate ACCESSORY REVENUES.
- 29.3. The articles of incorporation of the CONCESSIONAIRE shall include a clause that:
- i. Prohibits alteration of its business purpose, except to include activities that involve the exploration of ACCESSORY REVENUES, as long as they are directly related to the actions that are the object of this AGREEMENT;
  - ii. Submit the acts described in the Clause 40.1 to the prior authorization of ARTESP;
- 29.4. The SPC must comply with corporate governance standards and adopt standardized accounting and financial statements, especially with regard to transactions with RELATED PARTIES, in accordance with the accounting practices adopted in Brazil, based on the Brazilian Corporate Law (Federal Law No. 6.404 of December 15, 1976 and amendments) and the Accounting Rules issued by the Federal Accounting Council - CFC.
- 29.4.1. The CONCESSIONAIRE's accounting and financial information and statements must be audited by a reputable independent auditing company, with well-known expertise, which has audited, in the two previous years, publicly held companies, with shares listed on B3.
- 29.4.2. The specialized auditing company must also verify compliance with the provisions relating to RELATED PARTIES set forth in Clauses 29.10 to 29.13, regardless of the SPE's accounting or governance regime.
- 29.5. The minimum subscribed nominal capital stock of the SPC will be R\$ 451,640,056.00 (four hundred and fifty-one million, six hundred and forty thousand, fifty-six reais).
- 29.5.1. To sign this AGREEMENT, the SPC must demonstrate that it has paid up its capital stock, in national currency, of R\$ 158,074,019.00 (one hundred and fifty-eight million, seventy-four thousand and nineteen reais), as required in the REQUEST FOR BIDS.
- 29.5.2. The payment of the remaining share capital, to be carried out in national currency, will comply with the SHARE CAPITAL PAYMENT SCHEDULE, presented in ANNEX 13 of this AGREEMENT.
- 29.5.3. The SPC cannot, during the CONCESSION TERM, reduce its company capital below a minimal value established in this Clause, without previous approval from ARTESP.
- 29.5.3.1. If the SPC has reduced its share capital below the minimum established in the Clause 29.5 without the previous consent of ARTESP, it will be notified to make

new capital contributions to the SPC, in an amount corresponding to the value necessary for the capital stock to reach said amount, and will be subject to the application of the penalty provided for in ANNEX 11, with the shareholders being responsible for the SPE's obligations to ARTESP and the GRANTING AUTHORITY while such contributions have not been completed, within the limit of the difference between the value of the capital stock and the minimum allowed.

- 29.5.4. While the company capital is not fully paid in, under the terms established in ANNEX 13, the shareholders of the SPC shall remain jointly responsible, regardless of each one's stake, to the GRANTING AUTHORITY and ARTESP, for the CONCESSIONAIRE's obligations, up to the value of the outstanding installment of the capital initially subscribed.
- 29.5.5. The SPE's capital stock may be increased at any time, according to the need for additional contributions for the provision of the DELEGATED SERVICE, as well as for the implementation of associated projects and the development of inherent, accessory or complementary activities to the DELEGATED SERVICE.
- 29.5.6. The SPC undertakes to keep ARTESP permanently informed about the fulfillment, by its shareholders, of the payment of the share capital, and ARTESP may carry out diligences and audits to verify the situation at any time and in any form.
- 29.6. The business year of the SPC and the fiscal year for the AGREEMENT herein shall be the calendar year.
- 29.7. Non-national capital in the SPC shall obey the current and Brazilian legislation in force.
- 29.8. The dissolution of the SPC shall only occur after all the activities described in ANNEX 10 hereto have been duly performed.
- 29.9. Even after the termination of the SPONSORED CONCESSION, the SPC shall maintain the minimum subscription of the capital stock referred to in this Clause, until its dissolution, unless (i) there is previous consent of the GRANTING AUTHORITY, or (ii) there has been previous consent for capital reduction below the minimum amount established in Clause 29.5, in which case the minimum subscription must comply with the authorized value.

#### **Transactions Policies with Related Parties**

29.10. The CONCESSIONAIRE shall, within one (1) month from the signature of the INITIAL TRANSFER TERM, develop, publish and implement TRANSACTIONS POLICY WITH RELATED PARTIES, observing, as appropriate, the best practices recommended by the Brazilian Corporate Governance Code - Publicly Held Companies, edited by the Grupo de Trabalho Interagentes (GT Interagentes), coordinated by the Brazilian Corporate Governance Institute (IBGC), as well as by the Novo Mercado Regulation, or by those who replace them as a reference to the Brazilian Securities and Exchange Commission - CVM, and containing at least the following elements:

- i. criteria that must be observed to carry out transactions between the CONCESSIONAIRE and its RELATED PARTIES, requiring the observance of a level playing field, compatible with market practice and equivalent to those that

would be obtained in an independent negotiation, with a part not related to the CONCESSIONAIRE;

- ii. procedures to assist in the identification of individual situations that may involve conflicts of interest and, consequently, determine the impediment of voting with regard to shareholders or administrators of the CONCESSIONAIRE;
- iii. procedures and responsible for the identification of the RELATED PARTIES and for the classification of transactions as transactions with RELATED PARTIES;
- iv. indication of the approval instances of transactions with RELATED PARTIES, depending on the amount involved or other criteria of relevance;
- v. demand for price comparison, when possible, with other market agents, according to rules approved by the SPE's administration, as a condition for the contracting of works and services with RELATED PARTIES, but always in compliance with what is indicated in the item above;
- vi. demonstration that the object of the services contracted with RELATED PARTIES is not the object of any other contracting of the CONCESSIONAIRE with third parties;
- vii. prohibition of making advance payments in contracts with RELATED PARTIES, except in case of mobilization costs advance or according to practices consistent with similar contracting in the market; and
- viii. the duty of the SPE's administration to formalize, in a written document to be filed with the SPC, the justifications for the selection of RELATED PARTIES at the expense of market alternatives.

29.11. Notwithstanding the deadline provided for in Clause 29.10, the TRANSACTIONS POLICY WITH RELATED PARTIES shall be developed, published and implemented prior to any RELATED PARTY contracting by the CONCESSIONAIRE.

29.11.1. The TRANSACTIONS POLICY WITH RELATED PARTIES shall be updated by the CONCESSIONAIRE whenever necessary, observing the updates to the recommendations of best practices referred to in Clause 29.10, and the need to include or amend specific provisions that seek to make the transparency and commutativity of transactions with RELATED PARTIES more effective.

29.11.2. The TRANSACTIONS POLICY WITH RELATED PARTIES shall provide for the CONCESSIONAIRE's obligation to disclose, on its website, the following information about the contracting carried out:

- i. general information about the RELATED PARTY contracted;
- ii. object of the contraction;
- iii. period of the contraction;
- iv. general payment conditions and readjustment of the values related to the contracting;



- v. description of the transaction negotiation with the RELATED PARTY and the decision on the conclusion of the transaction; and
- vi. justification for contracting with the RELATED PARTY to the detriment of market alternatives.

29.11.3. The disclosure referred to in the Clause 29.11.2 must occur within a period of up to 30 (thirty) days, counted from the conclusion of the transaction with the RELATED PARTY and, at least, 5 (five) business days from the beginning of the execution of the obligations arising from said transaction.

29.12. In addition to the elements and obligations contained in the TRANSACTIONS POLICY WITH RELATED PARTY to be developed, published and implemented by the CONCESSIONAIRE, as well as the other duties contained in this AGREEMENT and ANNEXES, the CONCESSIONAIRE shall observe the following rules:

29.12.1. The CONCESSIONAIRE shall send ARTESP, within the period established by Clause 29.11.3, a copy of all contracts signed with RELATED PARTIES.

29.12.2. The CONCESSIONAIRE is responsible for any irregularities found in the scope of the contracts signed with RELATED PARTIES.

29.13. The CONCESSIONAIRE may receive funds from RELATED PARTIES through loan agreements, provided that the payment obligations of the amounts assigned in such title are subordinated to the payment of values due to ARTESP and the GRANTING AUTHORITY, under the terms of this AGREEMENT, and that observing the conditions applicable to contracts with RELATED PARTIES, as per TRANSACTIONS POLICY WITH RELATED PARTIES.

#### **Concessionaire's Compliance Program**

29.14. The CONCESSIONAIRE shall, within the deadline set for the conclusion of the PRE-CONSTRUCTION PERIOD, implements a COMPLIANCE PROGRAM, consisting of internal mechanisms and procedures with rules of integrity, auditing and incentives to report irregularities, observing the guidelines of PD1 and PD2, and in the effective application of codes of ethics and conduct, policies and guidelines in order to detect and cure deviations, fraud, irregularities and illegal acts committed against the PUBLIC ADMINISTRATION, in view of Federal Law No. 12,846/2013 (Anti-Corruption Law), articles 41 and 42 of Federal Decree No. 8,420/2015, and State Decree No. 60,106/2014.

29.15. Once the COMPLIANCE PROGRAM is approved, the CONCESSIONAIRE will have 06 (six) months to implement it.

29.16. Once the COMPLIANCE PROGRAM has been implemented, the CONCESSIONAIRE shall, within 12 (twelve) months from its implementation, extendable for a further 12 (twelve) months by means of consent of ARTESP, obtain the ISO 37001 certification by an institution accredited for such purposes by the *International Organization for Standardization*, or the "Pro Ethics Seal", issued by the Office of the Comptroller General, or another that may replace it.

29.17. If the CONCESSIONAIRE does not obtain any of the listed certifications, after exceeding the period provided for in Clause 29.16, it must carry out independent audits, with a minimum frequency of biannual, regarding the effectiveness of the COMPLIANCE PROGRAM implemented.

29.18. The COMPLIANCE PROGRAM must provide for a sector responsible for the application, management and supervision of the activities provided for therein, which must be endowed with autonomy, independence and impartiality to coordinate control activities, and must also be endowed with sufficient material, human and financial resources for its regular operation.

29.19. The COMPLIANCE PROGRAM must contain at least the following content:

- i. code of ethics and conduct, representing the expected behavior of all CONCESSIONAIRE's employees and officers, as well as third parties who have relations with the CONCESSIONAIRE, such as suppliers and service providers;
- ii. the purpose and scope of the Compliance Program;
- iii. the clear division of responsibilities of the people involved in the compliance function, in order to avoid possible conflicts of interest with other areas of the CONCESSIONAIRE;
- iv. the free access of those responsible for activities related to the compliance function to the information necessary for the exercise of their duties;
- v. mechanisms for detecting irregularities;
- vi. whistleblowing channels that are easily accessible and widely disseminated to any interested parties, especially CONCESSIONAIRE employees, third parties who have relations with CONCESSIONAIRE and USERS, and which allow the receipt of anonymous reports;
- vii. provision of confidentiality rules for whistleblowers who identify themselves when offering the complaint, ensuring that the whistleblower's identification will be kept confidential and under the responsibility of the sector responsible for the compliance program, accessible only to the CONCESSIONAIRE's sectors that, justifiably, need the access to information for investigating, preventing or combating the reported irregularity;
- viii. communication channels with the top management of the CONCESSIONAIRE, including Councils, in order to facilitate the reporting of the results resulting from activities related to the compliance function, of possible irregularities or flaws identified;
- ix. integration of the sector responsible for the compliance program with other related areas, such as legal department, internal audit, ombudsman, accounting and human resources department;
- x. segregation of the sector responsible for the compliance program in relation to the sector responsible for internal audit;

- xi. rules of conduct for situations that present a significant risk of illicit conduct, fraud and corruption, especially in situations involving interaction with the public sector, even if intermediated by third parties, such as participation in bidding, execution and supervision of administrative contracts - including meetings with public agents responsible for supervising and monitoring the AGREEMENT or regulating services, entering into contractual agreements or amendments, donations and sponsorships of any kind, obtaining authorizations and licenses, supervisions, contracting of ex-public agents, offering gifts and gifts to public agents, etc.;
- xii. clarifications on the existence and use of reporting channels and guidance on integrity issues;
- xiii. establishing a prohibition on retaliation against whistleblowers and mechanisms to protect them;
- xiv. duty of periodic training of employees regarding the objectives of the Compliance Program, which may be provided by CONCESSIONAIRE employees;
- xv. provision for disciplinary measures in the event of a breach of compliance and integrity rules, which must be proportionate to the breach and the level of responsibility of those involved;
- xvi. duty of commitment by the CONCESSIONAIRE's top management, including Councils, in setting the policies of the Compliance Program;
- xvii. conducting periodic risk analysis to make necessary adaptations to the Compliance Program;
- xviii. provision of internal controls that ensure the reliability of reports and statements, of any kind, including accounting;
- xix. duty of the sector responsible for the Compliance Program to prepare a report, at least annually, containing a summary of the results of the activities related to the compliance function, its main conclusions, recommendations and measures taken by the CONCESSIONAIRE's management;
- xx. immediate communication to the sector responsible for the compliance program when requested by third parties, or carried out by the CONCESSIONAIRE, payment of amounts by unusual means for the circumstances of the business, especially when it involves payment of amounts in kind, in any currency, in multiple accounts, or on accounts in countries other than the third party's business operation or service provision;
- xxi. duty of the sector responsible for the Compliance Program to systematically and timely report the results of its activities directly to the Board of Directors, allowing it to act independently of the CONCESSIONAIRE's board of directors; and

- xxii. provision of internal procedures to ensure regularity and probity in contracting third parties, such as suppliers, service providers, intermediaries and associates.

29.20. The code of ethics and conduct must be written in a clear and concise manner, and must be easy to consult with the internal and external public, in addition to containing, at least, the following content:

- i. the principles and values adopted by the CONCESSIONAIRE related to issues of ethics and integrity;
- ii. the CONCESSIONAIRE's policies to prevent fraud and illicit acts, especially those that regulate the relationship between the public and private sectors;
- iii. express prohibitions on the practice of the following conducts by the CONCESSIONAIRE's members:
  - a. promise, offer or give, directly or indirectly, undue advantage to a public agent or equivalent person, national or foreign, or the person related to it;
  - b. offering an undue advantage;
  - c. the practice of any action or omission that may characterize the action of inspection authorities;
  - d. provision for disciplinary measures in cases of violations of the CONCESSIONAIRE's rules and policies;
  - e. receive or consent to the receipt by third parties of any undue amounts for the practice of a prohibited act, or for the omission in the practice of a required act, in this AGREEMENT or in the ANNEXES;
  - f. to commit fraud or harmful acts in relations with the public sector.

29.21. The Compliance Program and the codes of ethics and conduct must be reviewed at intervals of no more than 03 (three) years and, if necessary, updated, to ensure their effectiveness.

29.22. If the CONCESSIONAIRE is involved in any INTEGRITY FAILURE INCIDENT, the GRANTING AUTHORITY may require the CONCESSIONAIRE and its shareholders to remove involved employees, members of the company's top management, or suspend services provided by a subcontractor, and may determine the performance of INDEPENDENT INVESTIGATION.

29.23. If ARTESP issues a specific rule on integrity and *compliance*, the agency's regulation shall prevail over the rules of this AGREEMENT in relation to the content of Clause 29.14 and the followings.

#### **CLAUSE THIRTIETH - TRANSFER OF CONTROL OF THE CONCESSIONAIRE**

- 30.1. The CONCESSIONAIRE shall obtain previous consent from ARTESP to carry out any modification of its corporate structure that implies a direct shareholder TRANSFER OF CONTROL, under the terms of this AGREEMENT and article 27 of Federal Law No. 8,987/1995.
- 30.1.1. The previous consent required in the Clause 30.1 covers acts that imply TRANSFER OF SHAREHOLDING CONTROL directly from the CONCESSIONAIRE, even when the indirect control remains with the same ECONOMIC GROUP.
- 30.1.2. For the purposes of this AGREEMENT, a direct holder of the CONCESSIONAIRE's control power is understood to be the person, natural or legal, or the group of persons linked by voting agreement, or under common control, member of the direct shareholder structure of the CONCESSIONAIRE, which meets the conditions indicated in paragraphs of article 116 of Federal Law No. 6,404/1976.
- 30.1.3. In the hypothesis of creation of an intermediary corporate structure between the ADJUDICATORY of the BIDDING and the SPC will be considered as a TRANSFER OF THE CONCESSIONAIRE any change CONTROL power of the intermediate corporate structure.
- 30.2. The hypothesis of TRANSFER OF THE indirect SHAREHOLDING CONTROL of the CONCESSIONAIRE is not subject to prior approval of ARTESP, except in case of replacement of a company that is part of the indirect control of the CONCESSIONAIRE that has been responsible for the presentation of any of the certificates required in ANNEX 23.
- 30.3. In addition to the hypothesis foreseen in Clause 30.2, are not subject to previous consent of ARTESP the acts of modification of the shareholding structure of the CONCESSIONAIRE in cases where the companies originally holding the direct control of the CONCESSIONAIRE remain with sufficient shareholding position to continue in the exercise of the power of CONTROL of the company, without the participation of third parties that did not compose, prior to the act, the block of CONTROL of the CONCESSIONAIRE.
- 30.4. The TRANSFER OF the direct CONTROL of the CONCESSIONAIRE will only be authorized by ARTESP when the transfer does not harm, or put at risk, the execution of the AGREEMENT.
- 30.5. To obtain the consent of the ARTESP, in cases required in this Clause, the applicant must submit a request of TRANSFER OF CONTROL to ARTESP, requesting consent to the desired transfer and presenting, at least, the following information:
- i. Explanations of company operation and the shareholder structure proposed for the moment immediately after the TRANSFER OF CONTROL;
  - ii. Documents related to the desired corporate transaction, such as a draft agreement for the implementation of the transaction, or characterization of the TRANSFER OF CONTROL, draft shareholders' agreement, copy of minutes of meetings of partners or shareholders of the CONCESSIONAIRE, correspondence, audit reports and financial statements;



- iii. Justification to make the change in CONTROL;
  - iv. Recommendation and qualifications of people who shall become PARENT COMPANY(S) or who shall be part of the BLOCK OF CONTROL of the SPC, presenting the list of members of the SPE's administration and their PARENT COMPANIES;
  - v. Demonstration of the SPE's board of shareholders after the desired TRANSFER OF CONTROL;
  - vi. Demonstration of the qualification of the companies that will appear as PARENT COMPANIES or will integrate the CONTROL BLOCK of the SPC, with presentation of documents equivalent to the QUALIFICATION DOCUMENTS, which are necessary for the continuity of the provision of the DELEGATED SERVICE;
  - vii. Express commitment by those who will become PARENT COMPANIES or will be part of the BLOCK OF CONTROL of the SPC, indicating that they will fully comply with all the obligations of this AGREEMENT, as well as support the SPC in whatever is necessary for full compliance with the obligations attributed to it;
  - viii. Commitment from all parties involved that the operation to TRANSFER OF CONTROL shall be suspended until approval from the competent organs, including CADE, is obtained.
- 30.5.1. Due to the stage of the CONCESSION, should some requests for good financial standing and technical capacity, required in the REQUEST FOR BIDS, not be required to adjust the rendering of services, ARTESP may forego such proof.
- 30.6. The TRANSFER OF CONTROL to the SPONSOR(S) shall be made in accordance with the ANNEX 08 hereto, respecting other pertinent clauses in the AGREEMENT.
- 30.7. Carrying out the corporate transactions covered by this Clause Thirty, without obtaining ARTESP's consent, prior to the formalization of the transaction, will result in the application of the sanctions provided for in this AGREEMENT, and ARTESP may, in addition to the application of penalties:
- i. to determine, when possible the consent, that the proponent presents the pertinent documentation and resolves any pending issues, even if late;
  - ii. determine that the CONCESSIONAIRE returns to the *status quo ante*, either through the action of the CONCESSIONAIRE itself, undoing the corporate change or practicing corporate acts that imply in the return of the share capital to the company originally holding the shares, or, on the other hand, by an act of the GRANTING AUTHORITY itself, seeking the cancellation of the corporate change, observing the provisions of article 35, item I, of Federal Law 8.934/1994; and

- iii. in case it is not possible to overcome the defect in changing the shareholding structure of the CONCESSIONAIRE or its parent companies, the decree of the concession's expiry, with the consequences provided for in this AGREEMENT.

30.8. The assumption of control of the CONCESSIONAIRE will not alter the obligations of the CONCESSIONAIRE and its new controllers before ARTESP and the GRANTING AUTHORITY.

### **CLAUSE THIRTY-FIRST - SUBCONTRACTING**

31.1. The CONCESSIONAIRE shall enter into contracts with third parties to develop inherent, accessory or complimentary activities related to running operation services, maintenance and making the investments required for the ROAD SYSTEMS, in accordance with the clauses in the AGREEMENT, the ANNEXES and the applicable legislation, as well as the activities related to their contractual obligations.

31.1.1. The contracting of third parties may not matter to the detriment of the quality or safety of the DELEGATED SERVICES or in transferring the exercise of the CONCESSIONAIRE position in this AGREEMENT, the CONCESSIONAIRE must remain responsible for the management of the provision of the DELEGATED SERVICES.

31.1.2. The CONCESSIONAIRE will remain fully responsible for the services provided, even if by third parties, including, but not limited to, for the purposes of performance evaluation, damages caused to ARTESP, to the GRANTING AUTHORITY, to USERS or third parties, indemnities, and subjection to penalties arising from this AGREEMENT.

31.2. Whenever requested by ARTESP, the CONCESSIONAIRE shall prove the technical capacity of contracted third parties, following the requirements described in Annex 23, if new sub contracting is done for the execution of the described services.

31.3. The CONCESSIONAIRE shall inform ARTESP, every 6 (six) months, of the list of contracts signed with third parties that involve the subcontracting of services related to engineering works, operational services and ACCESSORY REVENUES, indicating the name of the contracted company, the summary description of its object and the value of the contract.

31.3.1. ARTESP may, in a reasonable and motivated manner, request additional information related to these contracts, if it deems it necessary to inspect the CONCESSIONAIRE's performance under this AGREEMENT.

31.4. The fact that the contract with third parties is acknowledged by ARTESP or the GRANTING AUTHORITY shall not be used by the CONCESSIONAIRE to become exempt from the total or partial fulfillment of their obligations arising in and from the SPONSORED CONCESSION, or to justify any delay or modification in costs, or attribute any responsibility of the GRANTING AUTHORITY or ARTESP.

31.5. The contracts between the CONCESSIONAIRE and third parties shall be governed by private law, not establishing any relationship of any nature between the third parties and

the GRANTING AUTHORITY or ARTESP, including in relation to labor, social security, tax and commercial charges.

- 31.6. The CONCESSIONAIRE is responsible for labor, social security, tax and commercial charges resulting from the execution of the AGREEMENT, as well as the hiring of third parties.
- 31.7. Sub-concession of the object of this AGREEMENT is prohibited.
- 31.8. In the event of outsourcing or subcontracting of services in general, the CONCESSIONAIRE shall, by the tenth day of each semester, send ARTESP a copy of the signed contract, the estimated global value of which is equal to or greater than the maximum annual gross revenue allowed for purposes of classification as small business, pursuant to Complementary Law No. 123, of December 14, 2006, or another that replaces it.
- 31.9. A copy of the contract that meets the objective criteria described above will be sent to ARTESP, accompanied by a report that, in turn, must contain the following information:
- i. Name, qualification and address of the contracted company;
  - ii. Objective description of the contracted services;
  - iii. Expected date to begin and complete the contracted services;
- 31.10. Upon delivery of service contracts in general on outsourcing or subcontracting, if ARTESP deems it necessary, it may request the CONCESSIONAIRE to send additional and complementary information to the signed contract.
- 31.11. It will also follow the rules described in sub-item 31.9 the contract that, over time, is amended and starts to fulfill the requirement described in sub-item 31.8"

#### **CLAUSE THIRTY-SECON - TECHNICAL RESPONSIBILITY**

- 32.1. The services necessary for the perfect expansion, exploration, operation, conservation and maintenance of the ROAD SYSTEM will be performed under the technical responsibility of the professionals trained to do so, including ethical, administrative and legal responsibilities, as indicated in ANNEXES 05, 06 and 07.
- 32.1.1. Specialized technical professionals may link directly to the CONCESSIONAIRE, or, indirectly, through a third party contracted by the CONCESSIONAIRE, at their own risk and through subcontracting, the CONCESSIONAIRE not relieving itself of its responsibilities.
- 32.1.2. The replacement of TECHNICAL RESPONSIBLE is allowed, provided that by a professional with technical qualification compatible with the activity, the CONCESSIONAIRE must communicate to ARTESP within 05 (five) days, from the exchange made.
- 32.1.3. During ORDINARY REVISIONS, specific and specialized technicians shall be predetermined for the investments which may be included in the INVESTMENT

PLAN(S), which shall be connected directly to the SPC or, indirectly, through the contracted third party by means of subcontracting.

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

### **CLAUSE THIRTY-THIRD – GENERAL RULES**

- 33.1. The PERFORMANCE BOND and the insurance listed in the INSURANCE PLANS, which must be contracted in a timely manner by the CONCESSIONAIRE as a condition for carrying out the corresponding construction steps, cannot contain liability exclusion clauses, other than those arising from legal or regulatory requirements, and must indicate ARTESP and the GRANTING AUTHORITY as beneficiaries, assuring them of the possibility of executing the insurance and guarantees through a simple communication from ARTESP to the insurer and/or GUARANTOR, in accordance with the legislation in force, in the event of default by the CONCESSIONAIRE regarding guaranteed contractual obligations, especially in cases where there is delay, non-performance or improper conduct in carrying out constructive steps, after being verified in a regular administrative process.
- 33.2. To effectively enter into a contract or formalize the documents which constitute the structure of insurance and guarantees for the investments to be made, directly or indirectly, by the CONCESSIONAIRE, the latter shall submit to ARTESP, at least sixty (60) days prior to beginning the corresponding constructive steps, all documentation which allows ARTESP time to make approval, with every necessary document signed to constitute the structure of insurance and guarantees required to begin each investment or operation of services and activities.
- 33.3. Once approved, the insurances and the PERFORMANCE BOND shall be contracted and necessarily renewed and kept current, in the conditions previously approved by ARTESP, at least throughout the whole period that the main obligations require their existence.
- 33.4. The occasional infeasibility or unjustified difficulty to claim the insurances and guarantees by ARTESP or the GRANTING AUTHORITY, in a hypothesis giving rise to such a claim, the AGREEMENT shall be made expiry, under the terms stated herein.

### **CLAUSE THIRTY-FOURTH - INSURANCE**

- 34.1. The CONCESSIONAIRE shall, during the entire CONCESSION TERM, contract and keep, with the insurance company authorized to function and operate in Brazil, the insurance policies required to cover the inherent risks to develop the works and render service which are the object of the SPONSORED CONCESSION, as offered in the Brazilian without prejudice to the insurances required by the applicable legislation, under penalty of making the SPONSORED CONCESSION expiry, under the terms of Clause Forty-seventh.
- 34.1.1. The INSURANCE PLANS, which is part of the AGREEMENT as the ANNEX 15, shall be revised in order to become compatible with the need to make adaptations or new investments which lead to change the INVESTMENT PLANS and shall observe the regulations of federal authorities regulating and supervising insurance in Brazil,

and it is prohibited to impose the need for additional and/or delaying procedures to pay the guaranteed values.

- 34.1.2. The insurance policies contracted by the CONCESSIONAIRE shall expressly contain clauses that automatically restructure the values insured, unconditionally, including for Civil Responsibility, while respecting norms established by federal organs regulating and supervising insurances in Brazil, unless such coverage is not available in the insurance market, which shall be confirmed by a letter sent to ARTESP and signed by the reinsurance company.
- 34.1.3. In the event there is no coverage and/or no automatic and unconditioned restructuring of amounts which may be the object of insurance, as appointed in the INSURANCE PLAN, ARTESP shall demand alternatives to guarantee the main obligations taken on by the CONCESSIONAIRE, which shall be structured through an agreement instrument containing conditions established by ARTESP or suggested by the CONCESSIONAIRE and approved by ARTESP.
- 34.2. The INSURANCE PLAN shall contain the grounds to contract 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 insurance policies, as well as the maximum limits for compensation in case of claims:
- i. "Full-risk" insurance for material damage covering loss, destruction or damage to all or to any asset in the SPONSORED CONCESSION, and such insurance shall cover that which encompasses, normally, in accordance with the international standards for companies of this nature, the following modalities:
    - a. property damage;
    - b. small engineering work (public assets in the ROAD SYSTEM transferred to the partner);
    - c. riots, vandalism, wrongful acts;
    - d. fires, lightning and explosions of any kind;
    - e. damage to electronic equipment (low voltage);
    - f. robbery and aggravated theft (except values);
    - g. electrical damage;
    - h. windstorm, smoke;
    - i. damage caused to glass objects;
    - j. accidents of any nature;



- k. flood, inundation;
    - 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 accordance with the current legislation; and
      - e. damage from sudden pollution.
    - iii. "Full-risk" insurance for engineering which shall be valid during the entire performance of work involving the coverage of any investments, costs and/or expenses pertinent to civil works and infrastructure (construction, facilities and assembly, comprising all acceptance tests), as well as:
      - a. basic coverage of engineering risks;
      - b. project errors;
      - c. risk of the manufacturer;
      - d. extraordinary expenses;
      - e. debris removal expenses;
      - f. flood, inundation;
      - g. testing period and external damage caused to equipment used in works;
- 34.3. The insurance coverage established in this Clause shall include coverage for damage classified as force majeure or acts of God whenever insurable.
- 34.4. All insurances contracted for the purpose of this AGREEMENT shall be made with insurance and reinsurance companies authorized to operate in Brazil, presenting, always, Certificate of Operational Compliance issued by the Brazilian Superintendence of Private Insurance - SUSEP, in the name of the insurance company which issues each policy.

34.5. No service or investment shall begin or continue without the CONCESSIONAIRE proving that the insurance indicated in the INSURANCE PLAN has been duly contracted, by presenting the insurance policies, proof of payment of the premiums, and Certificate of Operational Compliance.

34.5.1. In accordance with the rules established in this AGREEMENT, the CONCESSIONAIRE shall submit to ARTESP, for previous approval, the insurance policies which shall be contracted, so that they can verify the appropriate coverage and analyze the fulfillment of all conditions established in this AGREEMENT, so as to certificate that the risks are duly mitigated and covered.

34.6. ARTESP and the GRANTING AUTHORITY shall be declared co-insured/beneficiaries of all insurance policies contracted by the CONCESSIONAIRE, and shall be communicated, immediately, concerning any modification, cancellation, suspension, renewal or substitution of any insurance contracted by the CONCESSIONAIRE, for the purpose of this AGREEMENT, and the CONCESSIONAIRE shall commit to maintain the same conditions previously authorized by ARTESP, punishable by making the SPONSORED CONCESSION expiry, under the terms of this AGREEMENT.

34.6.1. The insurance policies shall also directly compensate ARTESP or the GRANTING AUTHORITY in advance, in cases in which they are made responsible as a consequence of a claim.

34.7. The values covered by the insurance indicated in the INSURANCE PLAN must be sufficient to replace or correct the damage caused in the event of an accident, to the CONCESSIONAIRE, to ARTESP, to the GRANTING AUTHORITY, to USERS or to third parties.

34.8. The contracted deductibles must be those practiced by the Brazilian insurance market in businesses of this nature.

34.9. Upon contracting insurance, the CONCESSIONAIRE shall also respect the following:

- i. All insurance policies must have a minimum term of 12 (twelve) months, with the exception of eventual works and/or engineering services that have an execution term of less than 12 (twelve) months;
- ii. The CONCESSIONAIRE shall provide ARTESP, up to 30 (thirty) days before the respective maturity dates, with certificates issued by the insurer(s), confirming that the insurance policies provided for in this AGREEMENT have been renewed, or that new policies have been contracted, and, if at the end of the term of the insurance you do not have the new policy, you must provide a certificate issued by the respective insurance company confirming that the risks involved were placed in the insurance market, according to the determined period and according to the coverages and deductibles requested by it, awaiting only SUSEP's authorization to issue the new policy;
- iii. The CONCESSIONAIRE shall make sure the 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 ARTESP, any factors which may implicate the cancelation, total or partial, of the contracted

insurances, reduced coverage, increases in the deductibles or reduction in the amounts insured, respecting stipulated law;

- iv. The CONCESSIONAIRE is responsible for the full payment of premiums and of the deductible, in case of use of any insurance provided for in the AGREEMENT. The CONCESSIONAIRE shall provide, within a period not exceeding 30 (thirty) days from the beginning of each year of the SPONSORED CONCESSION, a certificate issued by the insurer(s) confirming that all insurance policies contracted are valid, and that the respective premiums, already payable in accordance with the agreed payment conditions, are paid;
  - v. Any differences between the amounts contracted and the compensations paid shall neither grant the right to economically-financially restructure of the AGREEMENT nor shall it remove the obligation of the CONCESSIONAIRE to maintain the ADEQUATE SERVICES;
  - vi. The differences mentioned in the item v above cannot be invoked as a reason for the non-realization of any investment object of this AGREEMENT, including investments that are necessary due to the occurrence of the claim, whose values have not been fully covered by the policies, and
  - vii. In the event of claims not covered by the contracted insurance, the CONCESSIONAIRE shall be liable in isolation for the damages and losses that it may cause to the GRANTING AUTHORITY, to ARTESP and/or to third parties, at its expense, exclusively, the indemnities resulting from such damages and losses;
- 34.10. The CONCESSIONAIRE may change coverage and deductibles, as well as any conditions in the insurance policies contracted, in order to adapt them to comply with the development of the activities which are the object of the SPONSORED CONCESSION, whenever needed, but they do require previous approval from ARTESP.
- 34.11. The insurance policies issued shall not contain obligations, restrictions or conditions which contradict the clauses in this AGREEMENT or sector regulation, and shall contain express declaration that the insurance company is fully aware of this AGREEMENT, including clauses that refer to the limits of the rights of the CONCESSIONAIRE.
- 34.12. The Insurance Company shall renounce all rights that go against the GRANTING AUTHORITY and ARTESP, even when applicable.
- 34.13. The CONCESSIONAIRE shall take all responsibility for the scope or omissions resulting from signing the contracted insurances, including for purposes of risks assumed.
- 34.14. In the event the CONCESSIONAIRE fails to comply with its obligation to contract and fully maintain the policies updated and intact, the GRANTING AUTHORITY or ARTESP, regardless of its option to decree an intervention or to invalidate the SPONSORED CONCESSION under the terms of this AGREEMENT, 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 or ARTESP, depending on the case, in 05 (five) working days as of the date the notification was received, under penalty of late fees corresponding to the variation *pro rata temporis* of the SELIC rate, as of the respective expiration date up to the date of the effective

reimbursement, without prejudice in use of the PERFORMANCE BOND, to reimburse the costs of contracting said insurance, as well as other applicable penalties.

#### **CLAUSE THIRTY-FIFTH - GUARANTEES PROVIDED BY THE CONCESSIONAIRE**

- 35.1. The full and timely compliance with the obligations assumed by the CONCESSIONAIRE to ARTESP and the GRANTING AUTHORITY will be guaranteed in the terms, amounts and conditions set forth in this Clause through the PERFORMANCE BOND.
- 35.2. The CONCESSIONAIRE provided, as a condition for the execution of this AGREEMENT and shall maintain, in favor of the GRANTING AUTHORITY and ARTESP, throughout the CONCESSION TERM, PERFORMANCE BOND, covering the fulfillment of operational and conservation functions, expansion and payment of any values due to ARTESP or to the GRANTING AUTHORITY, according to the signed Declarations consistent with ANNEX 22, which will compose ANNEX 16 presented by the CONCESSIONAIRE, which must be kept updated, under the terms of this AGREEMENT.
- 35.2.1. The minimum values that must be observed for the PERFORMANCE BOND contracted by the CONCESSIONAIRE will correspond, from the signing of the AGREEMENT until the period of 5 (five) years from the end of the IMPLEMENTATION WORKS, and in the last 2 (two) years of the AGREEMENT, to 10% (ten percent) of the total value of investments, pursuant to ANNEX 21, and this value must be annually readjusted considering the variation of the IPCA/IBGE in the period.
- 35.2.2. In the periods not covered by the Clause above, for the calculation of the PERFORMANCE BOND to be offered, the sum of:
- i. the highest annual amount, pursuant to ANNEX 21, of investments between (a) the investments foreseen for the year in question and (b) the investments foreseen for each of the 4 (four) following contractual years; and
  - ii. of the investments foreseen for the previous contractual years and eventually not carried out by the CONCESSIONAIRE.
- 35.2.2.1. The amounts provided for in Clause 35.2.1 and in items i and ii in Clause 35.2.2 will be considered eventual values referring to inclusions of investments not originally foreseen in the AGREEMENT.
- 35.2.2.2. The amounts indicated in the Clauses 35.2.2 and 35.2.2.1 shall be updated by the IPCA/IBGE, based on September 2021.
- 35.2.2.3. The value of the PERFORMANCE BOND, calculated in accordance with the sub-clause above, shall not, in any contractual year, be less than the amount corresponding to 100% (one hundred percent) of the CONCESSIONAIRE's operating costs, including payments due to the GRANTING AUTHORITY and ARTESP, calculated based on the disbursement information of these items in the previous year, updated by the IPCA/IBGE, noting that it can never exceed the level provided for in Clause 35.3.

- 35.3. The PERFORMANCE BOND to be provided is limited to, and in no event will exceed, the value corresponding to 10% (ten percent) of the sum of the total updated value of the estimated investments, as indicated in ANNEX 21, including, in this limit, the values added through ORDINARY or EXTRAORDINARY REVISION.
- 35.3.1. The ORDINARY REVISIONS shall lead to the revision of the GUARANTEE PLAN, in order to cover the new investments in the PERFORMANCE BOND, in which case, for new investments, the values established in the INVESTMENT PLAN shall be defined.
- 35.3.2. Non-compliance with the conditions established in this Clause, or non approval from ARTESP of the guarantee offered as a substitute, shall characterize a default on the CONCESSIONAIRE's part.
- 35.4. In addition to the PERFORMANCE BOND provided in favor of ARTESP and the GRANTING AUTHORITY, the CONCESSIONAIRE undertakes to maintain in full force the guarantees provided in its favor when required from the companies contracted to perform the services included in the operational and conservation functions and functions of expansion, including ARTESP and the GRANTING AUTHORITY as beneficiaries, pursuant to ANNEX 16.
- 35.4.1. The CONCESSIONAIRE shall inform to ARTESP, in the event it chooses to demand the guarantee established in this item, over the terms, conditions and conditions of the guarantee instruments signed with the companies contracted to perform the services comprised by the operational and conservation functions and extension functions.
- 35.5. The PERFORMANCE BOND is intended for indemnification, reimbursement of costs and expenses incurred by ARTESP or by the GRANTING AUTHORITY, in view of the eventual breach of obligations assumed by the CONCESSIONAIRE, and must also be executed for the payment of fines that may be applied to the CONCESSIONAIRE or for the payment of other values owed by it to ARTESP or to the GRANTING AUTHORITY, which are not duly performed by the CONCESSIONAIRE.
- 35.5.1. The CONCESSIONAIRE, even if the EXECUTION BOND has been fully executed, will remain fully responsible for the fulfillment of the object of this AGREEMENT, as well as for the other obligations inherent to it, including payments of fines, indemnities and other penalties eventually applied to it, which have been satisfied with the total or partial execution of the PERFORMANCE BOND.
- 35.5.2. Since the PERFORMANCE BOND is not sufficient to comply with the obligations provided for in Clause 35.5, the CONCESSIONAIRE will be responsible for the difference.
- 35.6. The documents that effectively formalize the PERFORMANCE BOND must be previously approved by ARTESP, under the terms of this AGREEMENT, as well as any changes, substitutions, renewals that may be necessary, and the CONCESSIONAIRE shall, in any case, be responsible for the risks related to non inadequate or insufficient contracting or contracting of the required PERFORMANCE BOND.



35.7. The PERFORMANCE BOND may be offered and/or replaced, with the prior and express consent of ARTESP, in one of the following ways, pursuant to article 56 of Federal Law No. 8.666/93:

- i. Bonds in current Brazilian currency;
- ii. Security Deposits in Public Debt Bonds of the National Treasury;
- iii. Assurance;
- iv. Bank guarantee; or
- v. Combination of two or more of the modalities listed in the items i to iv above.

35.7.1. The PERFORMANCE BOND offered may not contain any reservations that may hinder or impede its execution, or that may raise doubts as to its feasibility, in compliance with the regulations of the federal agencies of regulation and supervision of Insurance in Brazil, if offered in the form of insurance guarantee.

35.7.2. The expenses of providing the PERFORMANCE BOND shall be of exclusive responsibility of the CONCESSIONAIRE.

35.7.3. The CONCESSIONAIRE is fully responsible for maintaining and sufficiency of the PERFORMANCE BOND provided in this AGREEMENT, as well as the responsibility for bearing all costs resulting from its performance and contracting;

35.7.4. The PERFORMANCE BOND, if provided in national currency, must be deposited in a checking account held by ARTESP, to be indicated at the request of the CONCESSIONAIRE, presenting the deposit slip, or by administrative check from a national FINANCIAL INSTITUTION.

35.7.5. The PERFORMANCE BOND, if provided by Public Debt Bonds of the National Treasury, must be provided at the nominal value of the securities, and may not be encumbered with an unaffordable, inalienable, non-transferable or compulsory acquisition clause.

35.7.6. Securities offered must be issued in book-entry form, through registration in a centralized settlement and custody system authorized by the Central Bank of Brazil, with market quotation and accompanied by proof of their current validity as to liquidity and value.

35.7.7. Only the following securities will be accepted:

- i. National Treasury Bills (LTN);
- ii. Financial Treasury Bills (LFT);
- iii. National Treasury Notes - Series B Principal (NTN-B Principal);
- iv. National Treasury Notes - Series B (NTN-B);
- v. National Treasury Notes - Series C (NTN-C);

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

35.7.8. The PERFORMANCE BOND, if presented in the guarantee insurance modality, will be proven by the presentation of the guarantee insurance policy, accompanied by proof of payment of the premium, when pertinent, as well as a Certificate of Operational Compliance issued by the Brazilian Superintendence of Private Insurance - SUSEP, on behalf of the insurer that issues the policy, with a minimum term of 12 (twelve) months.

35.7.8.1. Only liability exclusions that result from an immutable imposition arising from law or regulation will be considered valid, and liability exclusions that are merely admitted by the regulator, but not imposed, as mentioned in ELECTRONIC CIRCULAR LETTER No. 1/2021/DIR1/SUSEP will not be considered valid.

35.7.8.2. When the modality is an 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 the current legislation at the time of the presentation, with validity of at least twelve (12) months.

35.7.8.3. The policy must be in accordance with SUSEP Circular No. 477/2013, or another that may replace it, and may not include any clause for exemption from liability of the CONCESSIONAIRE or the insurer, even in its special or particular conditions, other than those arising from legal or regulatory requirements.

35.7.8.4. The special conditions, or the particular conditions of the respective policy, must expressly include the coverage of all events described in the Clauses 35.5 and 35.13 of this AGREEMENT, or, exceptionally, come accompanied by a declaration signed by the insurance issuer of the policy, attesting that the guarantee insurance presented is sufficient to cover all the events described in the Clauses 35.5 and 35.13 of this AGREEMENT.

35.7.8.5. The PERFORMANCE BOND, when in the guarantee-insurance modality, must cover all the facts that occurred during its validity, even if the claim is communicated by ARTESP or by the GRANTING AUTHORITY after the execution term of the PERFORMANCE BOND is over, and must cover the hypotheses of coverage provided for in SUSEP Circular No. 477/2013, or another that will change or replace it, and (ii) the hypotheses of responsibility of ARTESP or the GRANTING AUTHORITY for any act or fact arising from the performance of the CONCESSIONAIRE, its agents or subcontractors, including, but not limited to, environmental damage, civil, tax and labor responsibility, regulatory penalties, among others.

35.7.8.6. For the hypotheses of item ii of the Clause 35.7.8.5 above, if duly justified and demonstrated, changes in the scope of the guarantee will be allowed, exceptionally, to meet legal or regulatory requirements.

35.7.9. The PERFORMANCE BOND, if presented in the form of bank guarantee, must be issued by a FINANCIAL INSTITUTION properly constituted and authorized to operate in Brazil, and must be presented in its original form and must be accompanied by proof of the powers of representation of the person responsible

for signing the document, waive the order benefit and have its value expressed in reais.

- 35.7.10. The PERFORMANCE BOND, if via bank guarantee, must have a minimum validity of 01 (one) year from the contracting, being the CONCESSIONAIRE's total responsibility to carry out the necessary renovations and updates, and must communicate to ARTESP any renewal and update carried out, under penalty of applying the applicable sanctions.
- 35.8. The CONCESSIONAIRE shall submit to ARTESP the document proving the renewal and updating of the PERFORMANCE BOND, at least 30 (thirty) days in advance of the end of its term.
- 35.9. The PERFORMANCE BOND shall remain in full force until the DEFINITIVE RECEIPT TERM is signed, as provided in ANNEX 10, and may be executed under the terms of this AGREEMENT, and will only be released after proof that the CONCESSIONAIRE has paid any and all amounts due to ARTESP or to the GRANTING AUTHORITY, already liquid and payable.
- 35.10. The PERFORMANCE BOND, provided in any of the modalities provided for in this Clause 35.7 may not contain a clause excluding any liabilities contracted by the CONCESSIONAIRE, in relation to the provisions of this AGREEMENT, nor contain any reservations or conditions that may hinder or prevent its execution, or that may leave doubts as to the firmness of the guarantee offered, other than the exceptions or exclusion clauses resulting from legal or regulatory requirements.
- 35.11. Whenever the PERFORMANCE BOND is executed, totally or partially, the CONCESSIONAIRE will be obliged to recover its full value, within 10 (ten) business days from the notification by ARTESP, under penalty of penalty application.
- 35.12. 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 by ARTESP.
- 35.12.1. If the replacement does not occur, within the period determined in Clause 35.12, ARTESP will retain existing credits from the CONCESSIONAIRE, in the same replacement value, until the value of the PERFORMANCE BOND is reestablished, and monetary correction of the withheld credits is not applicable, when timely released to the CONCESSIONAIRE, after the replacement of the PERFORMANCE BOND, without prejudice to the application of a penalty to the CONCESSIONAIRE.
- 35.12.2. If the CONCESSIONAIRE's failure to restore the value of the PERFORMANCE BOND persists, the AGREEMENT may expire.
- 35.13. Notwithstanding other hypothesis established in this CONTRACT or in legislation, the PERFORMANCE BOND may be partially or totally invoked by the GRANTING AUTHORITY and/or ARTESP, after verification in a regular administrative process, in the following circumstances:
- i. For payment of values owed by the CONCESSIONAIRE to the GRANTING AUTHORITY or to ARTESP, not spontaneously satisfied, due to the non-performance of any obligation provided for in this AGREEMENT or possible

amendments signed by both PARTIES, or of improper execution, in non-compliance with the specifications and deadlines established, in an unjustified manner, refusing or failing to correct the faults pointed out by ARTESP, in the form established in this AGREEMENT;

- ii. For payment of values not spontaneously satisfied as a result of fines, indemnities or other penalties applied to it, pursuant to this AGREEMENT and within the established deadlines, for the extension, operational and conservation functions;
- iii. For payment of values owed by the CONCESSIONAIRE to the GRANTING AUTHORITY or to ARTESP, not spontaneously satisfied, due to non-compliance with its contractual obligations, or the absence of the necessary measures to achieve the PERFORMANCE INDICATORS, refusing or failing to correct the failures appointed by ARTESP, as established in this AGREEMENT;
- iv. For compliance with the variable amounts owed by the CONCESSIONAIRE to the GRANTING AUTHORITY and/or ARTESP, not spontaneously satisfied;
- v. For payment of values owed by the CONCESSIONAIRE to the GRANTING AUTHORITY or to RTESP, not spontaneously satisfied, in the hypothesis of reversion of assets, if the REVERSIBLE ASSETS are not delivered to ARTESP, or to the third party indicated by it, in full technical and operational functionality, considering also the specifications of this AGREEMENT, including in the hypothesis of not correcting the failures pointed out by ARTESP, in the form established in this AGREEMENT;
- vi. For the reimbursement of costs and expenses incurred by ARTESP or the GRANTING AUTHORITY to bring the ROAD SYSTEM under the conditions defined in ANNEX 10;
- vii. For payment of values owed by the CONCESSIONAIRE to the GRANTING AUTHORITY or to ARTESP, including as penalties, not spontaneously satisfied, if the CONCESSIONAIRE fails to contract the required insurance or refuses to do so, under the terms of this AGREEMENT;
- viii. For reimbursement of values spent if the GRANTING AUTHORITY and/or ARTESP is(are) unduly liable for any act or fact arising from the performance of the CONCESSIONAIRE, its agents or subcontractors, including, but not limited to, damages environmental, civil, tax and labor liability, regulatory penalties, among others;

## **CLAUSE FORTY-SIXTH - FINANCING AND GUARANTEES TO SPONSORS**

### **Financing**

- 36.1 The CONCESSIONAIRE is the sole and exclusive responsible for obtaining the necessary financing for the normal development of the services covered by the SPONSORED CONCESSION, in order to fully and timely fulfill all the obligations assumed in this AGREEMENT.

- 36.2. The CONCESSIONAIRE may not claim any provision, clause or condition of the financing agreement(s) perhaps contracted, any delay in the disbursement of resources, to exempt all or part of the obligations assumed in this AGREEMENT, whose terms shall be knowledge of the respective SPONSORS.
- 36.3. The CONCESSIONAIRE's financing agreements may grant the SPONSOR, in accordance with the applicable private law rules and after previous consent by ARTESP, the right to assume CONTROL of the CONCESSIONAIRE in the event of contractual default, by the CONCESSIONAIRE, of said financing agreements or of this AGREEMENT, subject to the provisions of article 27-A of Law No. 8,987/1995.
- 36.3.1. Subject to the provisions of the THREE-PARTY AGREEMENT, if signed, ARTESP's authorization for the assumption of the SPONSORED CONCESSION will be granted upon proof, by the SPONSOR(S), that it meets the requirements for legal qualification and regularity applicable tax law.

### **THREE-PARTY Agreement**

- 36.4. The SPONSORS will be entitled to enter into the THREE-PARTY AGREEMENT, in which the GRANTING AUTHORITY, ARTESP, and the CONCESSIONAIRE will also appear as parties, which will be governed in accordance with the rules established in ANNEX 08.
- 36.4.1. The regulation established in the draft that appears as ANNEX 08 to this AGREEMENT will be referential and, if necessary, and prior to its signature, may be adequate to establish a procedure and formalities more compatible with the logic and dynamics relevant to the financing relationship established between the CONCESSIONAIRE and its SPONSORS and GUARANTORS, provided that the rights of the GRANTING AUTHORITY and ARTESP, provided for in this AGREEMENT and in the ANNEXES are respected.
- 36.5. In the event that the THREE-PARTY AGREEMENT is not entered into, the SPONSORS will be guaranteed the right to exercise the prerogatives provided for in art. 27-A of Law No. 8,987/1995.

### **Duty to inform the Sponsors and the Fiduciary Agent**

- 36.6. The CONCESSIONAIRE shall develop, implement and maintain, throughout the term of the SPONSORED CONCESSION, a specific digital system to manage information, data and documents related to notifications issued and penalties applied by ARTESP, as well as the respective administrative procedures and processes installed.
- 36.6.1. It is the full responsibility of the CONCESSIONAIRE to consistently and frequently feed the system mentioned in the preamble of the Clause herein with information, data and documents related to the procedures, warnings and administrative processes that ARTESP installs, as part of its supervision duties, for the purpose of applying penalties against the CONCESSIONAIRE, under the terms in ANNEX 11.
- 36.6.1.1. The CONCESSIONAIRE shall take all necessary precautions to assure that information, data and documents made available within the system mentioned in this Clause shows the most updated phase of procedures, warnings and administrative processes related to penalties that have been installed by ARTESP against the CONCESSIONAIRE, and, as such, the latter shall feed the



system to show the different stages, besides updating it every time ARTESP issues any information, within ten (10) days of respective publication.

- 36.6.2. The CONCESSIONAIRE shall provide ARTESP representatives with user credentials/passwords, allowing them access to information and to documents, as well as holding audits, when necessary, to assure that information and documents made available in the system do, in fact show the updated phase and the reality of penalty procedures.
- 36.6.3. The CONCESSIONAIRE must also provide, upon request, the user credentials/password for representatives of the SPONSORS and GUARANTORS and, if the option of signing the THREE-PARTY AGREEMENT is exercised by the SPONSORS, for the fiduciary agent, if applicable, in order to enable the *pari passu* monitoring of the progress of procedures, assessments and administrative proceedings for the application of penalties, in accordance with ANNEX 11.
- 36.6.4. The obligation to provide information herein do not exclude others that may be established in the THREE-PARTY AGREEMENT, should this come into being, which shall be binding in addition to those established in this AGREEMENT.

**Structuring guarantees and signing the Account Administration Contract with restricted user access**

- 36.7. According to the rules established in the draft of the Account Administration Contract, whose draft appears in APPENDIX D, the TARIFF REVENUES earned by the CONCESSIONAIRE and the DUE FINANCIAL CONSIDERATION shall be transferred to the CENTRALIZING BANK ACCOUNT, owned by the CONCESSIONAIRE, with restricted movement, which will be opened and maintained by a financial agent, and the charges and fees related to the hiring of such agent must be borne by the CONCESSIONAIRE, in accordance with the terms of the aforementioned APPENDIX D.
- 36.7.1. The SPONSORS, by means of their fiduciary agent(s), may establish a contractual relationship established between ARTESP, the GRANTING AUTHORITY, the CONCESSIONAIRE and the financial institution that maintain the CENTRALIZING BANK ACCOUNT, as a integral party, by signing a term of adherence to the instrument of accounts administration that appears as APPENDIX D.
- 36.7.1.1. In the event the SPONSOR(S), by means of their fiduciary agent(s), make use of this option, the parties shall sign the term of adherence mentioned in Clause 36.7.1 above, and may also sign an amendment to the instrument of administration the accounts contained in the APPENDIX D, aimed at adjusting said instrument to the SPONSORS' internal rules, policies and approvals, provided that such alterations do not imply in loss of rights, guarantees and options granted to the GRANTING AUTHORITY and to ARTESP by means of this AGREEMENT and its ANNEXES.
- 36.7.1.2. If the SPONSOR(S) choose(s) not to adhere to the contractual relationship whose rules are set out in APPENDIX D, they may, after previous consent by ARTESP, constitute guarantees based on the rights arising from the SPONSORED CONCESSION, in the form of art. 28 and art. 28-A of Law No. 8,987/1995 and observing the provisions of Clauses 36.9 et seq. In this case,

the SPONSORS may replace the contract contained in APPENDIX D, provided that they respect the rights of ARTESP and the GRANTING AUTHORITY.

36.7.2. In any case, the preference of ARTESP and the GRANTING AUTHORITY to receive the credits due as discounts arising from PERFORMANCE INDICATORS and INSPECTION FEE must be respected.

36.7.2.1. Signing the INITIAL TRANSFER TERM is considered sufficient by ARTESP for the CONCESSIONAIRE to incorporate its rights and duties arising in the Account Administration Contract, contained in the APPENDIX D, or any other contracts of this nature signed by the CONCESSIONAIRE and its SPONSORS.

36.8. Under the terms of the AGREEMENT herein or the THREE-PARTY AGREEMENT, the deposit of other revenue into the CENTRALIZED BANK ACCOUNT mentioned above may be requested.

#### **Guarantees established based on rights stemming from the SPONSORED CONCESSION**

36.9. The CONCESSIONAIRE may provide guarantees arising from this AGREEMENT to its SPONSORS, under the terms permitted by law, provided that the financing operation is directly related to this AGREEMENT, does not compromise the continuity and adequacy in the provision of operation and maintenance services of the ROAD SYSTEM object of this AGREEMENT, and provided that previous consent is obtained from ARTESP.

36.9.1. The CONCESSIONAIRE may, after previous consent from ARTESP, offer the credit rights held before the GRANTING AUTHORITY and ARTESP as collateral for financing, credit operations, market funding, debt operations or similar, through assignment, including fiduciary, usufruct or pledge or fiduciary sale of shares, bonds, securities and exchange and their respective income, related to the SPC, provided that the financing operation is directly related to this AGREEMENT.

36.9.2. The guarantees provided for in Clause 36.9, in previous consent from ARTESP, in compliance with the provisions of the THREE-PARTY AGREEMENT, if signed, may be provided in contracts that are ancillary or complementary to the financing contracts, when intended to ensure the SPONSORED CONCESSION's own financing or to mitigate risks assumed by the CONCESSIONAIRE, as in case of contracts for the granting of real or trustee guarantees, to obtain financial resources in the market, to obtain insurance or to protect the CONCESSIONAIRE against changes in the price of an asset (hedge).

36.9.3. Rights arising from the AGREEMENT are considered to be any and all rights, income and receivables of the SPONSORED CONCESSION, including the TARIFF REVENUE, the EFFECTIVE FINANCIAL CONSIDERATION, the PUBLIC CONTRIBUTION and the ACCESSORY REVENUES.

36.9.4. If the THREE-PARTY AGREEMENT is signed, the instruments related to the guarantees constituted under the terms of the Clause 36.9 shall expressly provide the conditions for the deposit of the CONCESSIONAIRE's remuneration fully in the CENTRALIZING BANK ACCOUNT, destined, if any, to the activities set forth in the recovery plan approved by ARTESP, including for the purposes of payment or amortization of the SPONSORS' debts.

36.10. Any payments due by ARTESP or by the GRANTING AUTHORITY to the CONCESSIONAIRE as indemnities, compensations, or referring to the EFFECTIVE FINANCIAL CONSIDERATION and PUBLIC CONTRIBUTION may be paid directly to the SPONSORS, observing the terms provided for in the guarantee instruments signed in the scope of financing and in the THREE-PARTY AGREEMENT, if any.

36.10.1. In the event ARTESP or the GRANTING AUTHORITY makes said payments to the SPONSORS, such payments shall proportionately offset the GRANTING AUTHORITY's and ARTESP's obligations to the CONCESSIONAIRE, in the proportionate amounts effectively disbursed to the SPONSORS.

#### **CLAUSE THIRTY-SEVENTH - FUNCTIONING OF THE RESERVE ACCOUNT**

37.1. The CONCESSIONAIRE shall perform all the necessary acts, which may be its responsibility, to open and maintain the RESERVE ACCOUNT, to which an amount equivalent to the PUBLIC CONTRIBUTION will be transferred by the GRANTING AUTHORITY.

37.2. The opening of the RESERVE ACCOUNT and the deposit of the PUBLIC CONTRIBUTION are conditions precedent to the signature of the AGREEMENT, under the terms of item 6.5 of the REQUEST FOR BIDS.

37.3. The RESERVE ACCOUNT functioning mechanism is described in APPENDIX E.

37.4. The RESERVE ACCOUNT will be extinguished at the end of the CONSTRUCTION PERIOD, with the payment of the last DISBURSEMENT EVENT.

### **CHAPTER VII – SUPERVISION**

#### **CLAUSE THIRTY-EIGHTH - PAYMENT BY THE SUPERVISION**

38.1. For the execution of the supervision of the SPONSORED CONCESSION, ARTESP will be entitled to receive the INSPECTION FEE, paid by the CONCESSIONAIRE, corresponding to the amount equivalent to 3% (three percent) of the total GROSS REVENUE received by the CONCESSIONAIRE and the DUE FINANCIAL CONSIDERATION, being your payment governed by APPENDIX D.

#### **CLAUSE THIRTY-SIXTH – SUPERVISION EXECUTED BY ARTESP**

39.1. ARTESP will exercise range and complete inspection on this AGREEMENT, the fulfillment, by the CONCESSIONAIRE, of the obligations established therein, as well as on the performance of the SPC, having guaranteed, in the exercise of supervision, free access, at any time, to the areas, facilities and sites referring to the SPONSORED CONCESSION, the books and documents related to the CONCESSIONAIRE, as well as the books, records and documents related to the activities and services covered by the SPONSORED CONCESSION, the data related to the administration, accounting and technical, economic and financial resources of the CONCESSIONAIRE, being able to

request clarifications or modifications, if it understands that there are non-compliance with the obligations provided for in the AGREEMENT, in particular with regard to compliance with the PERFORMANCE INDICATORS and quality parameters established in this AGREEMENT and its ANNEXES.

- 39.1.1. The CONCESSIONAIRE shall provide, within the period established, the clarifications that are formally requested.
- 39.1.2. The supervision carried out by ARTESP does not exclude that of other public, federal, state and municipal agencies and entities, within their respective spheres of competence, under the terms of the legislation in force.
- 39.2. Stipulations made during inspection of the services, stemming from recurring errors, flaws and/or lack of correction, shall be immediately applicable and shall bind the CONCESSIONAIRE, with no effect on the remaining consequences contractually established nor on the clauses related to solving controversies established in this AGREEMENT and ANNEXES.
- 39.2.1. To control warnings, procedures and administrative proceedings that ARTESP initiates within the scope of the supervisory activities, the CONCESSIONAIRE shall develop, install and maintain a specific digital system that provides access to ARTESP and to the SPONSORS as established in contractual regulation.
- 39.3. ARTESP's supervisions shall adhere to the regulations in ANNEX 11 to the AGREEMENT herein for procedures and applicable penalties within the scope of supervision of the SPONSORED CONCESSION.
- 39.3.1. ARTESP's supervision will record, in its own registration term, the occurrences verified in the inspections carried out in the ROAD SYSTEM, in the SPC and/or in the SPONSORED CONCESSION, forwarding the SUPERVISION TERM to the CONCESSIONAIRE to regularize the faults or defects found, without prejudice to the immediate application of the inspection result for the purposes provided for in this AGREEMENT, so that such notes are considered in the measurement of PERFORMANCE INDICATORS, and for the purpose of instituting sanctioning administrative proceedings.
- 39.3.2. The administrative sanctioning process will follow the State Law nº 10.177/98 procedure, or any other that may replace it, as provided in article 33 of the State Complementary Law nº 914/2002, in the form of Clause Forty-First.
- 39.3.3. Correcting errors identified in the SUPERVISION TERM does not annul the act of failing to comply with obligations and, thus, the corresponding penalty is still applicable.
- 39.4. Supervision shall also verify whether the CONCESSIONAIRE has fulfilled the PERFORMANCE INDICATORS.
- 39.4.1. Without prejudice to the evaluation of the COEFFICIENT OF PROVIDED SERVICES, ARTESP may accompany the rendering of services and may request clarification or changes, should it understand that the obligations established in the AGREEMENT herein are not being fulfilled, especially regarding the issue of

meeting binding PHYSICAL-EXECUTIVE SCHEDULE and PHYSICAL-FINANCIAL SCHEDULE and quality standards established in the AGREEMENT herein.

39.5. With no effect on the COEFFICIENT OF PROVIDED SERVICES, on producing the SUPERVISION TERM, and on registering the written INFRACTION WARNING, the CONCESSIONAIRE shall also be obliged to repair, correct, interrupt, suspend or substitute, at its own expense and within the time-frame established by ARTESP, the services pertinent to the SPONSORED CONCESSION in which vices, defects and/or inaccuracies are verified.

39.5.1. ARTESP may require the CONCESSIONAIRE to present a plan of action outlining the efforts aimed at repairing, correcting, interrupting, suspending or substituting any services rendered incorrectly and/or defectively, related to the object of the AGREEMENT herein, within a time-frame yet to be established.

39.5.2. In the event of the CONCESSIONAIRE's failure to comply with the ARTESP's determinations, it will be allowed to correct the situation, to remedy the defects, defects and/or inaccuracies identified or to carry out the investment obligations not fulfilled, directly or through a third party, including using the PERFORMANCE BOND, or compensation with values due to the CONCESSIONAIRE by ARTESP or by the GRANTING AUTHORITY, bearing the respective costs on behalf of the CONCESSIONAIRE.

#### **CONCESSIONAIRE's obligations to aid ARTESP's supervision**

39.6. For the proper exercise of contractual supervision and monitoring by ARTESP and without prejudice to any other obligation to provide information established in this AGREEMENT, in the applicable legislation or regulation, including observing ARTESP's Accounting Chart of Accounts, the CONCESSIONAIRE is obliged to:

- i. Immediately advise ARTESP of all and any event that may result in harming or restricting the timely and correct fulfillment of the obligations arising from this AGREEMENT and/or that may constitute a reason to intervene in the CONCESSIONAIRE, to declare the SPONSORED CONCESSION expiry or to terminate the contract;
- ii. Notify ARTESP within 48 hours (forty-eight hours) of any and all events that may constitute a hypothesis of early maturity of the contracted financing;
  - a. The communication referred to in the item (ii) must be submitted in writing, in the form of a detailed report on such situation, and at least as necessary in advance to avoid the compromise of the SPONSORED CONCESSION, including, if applicable, the contribution of specialized entities, external to the CONCESSIONAIRE, with the measures taken or underway to overcome or remedy it.
- iii. Forward to the ARTESP, within 48 (forty-eight) hours of sending or receiving, a copy of any communications sent to, or received from, SPONSORS, regarding events materially relevant to the DELEGATED SERVICE or the financing contracted by the CONCESSIONAIRE;



- iv. Present, while respecting the provisions in Clause 29.4, by August 31 of each year, an audited report on its accounting situation, including, but not limited to, the Equity Balance Sheet and Financial Statements, for the half ending June 30 of the respective year;
- v. Present, in compliance with the provisions of the Clause 29.4, by April 30 of each year, complying with the provisions of Law No. 6.404/76 and Law No. 11.638/07, the financial statements for the year ended December 31 of the immediately preceding year, including, among others, the Administration Report, the Balance Sheet, the Statement of Profit or Loss Accrued, the Income Statement for the Financial Year and the Cash Flow Statement, the explanatory notes to the Balance Sheet, the opinion and Working Papers of the Independent Auditors and the SPE's Fiscal Council, if any, and also, if the SPC is a Publicly Held Company, the Value Added Statement;
- vi. Immediately advise of all and any situation that significantly changes the normal development or exploration of services related to the ROAD SYSTEM, presenting a written report within the minimum time-frame possible detailing said situation, including, should this be the case, any contribution from specialized entities, external to the CONCESSIONAIRE, with the measures taken or underway to overcome or correct it;
- vii. Present a report to ARTESP, on a monthly basis, containing detailed information of traffic and accident statistics, set out in the manner defined by ARTESP;
- viii. Present, within ninety (90) days of the end of each calendar semester, updated information on the SPONSORED CONCESSION's financial projections, which includes a set of projections for all financial aspects related to performing the AGREEMENT, considering the real earnings achieved as of the beginning of the SPONSORED CONCESSION up to the most recently ended half, as well as the projected earnings until the CONCESSION TERM ends, using the same models and criteria applied when designing the EVTE;
- ix. present, within forty-five (45) days of the end of each quarter, accounting statements in compliance with corporate legislation, as well as monthly balance sheets, duly signed by the accountant responsible;
- x. Present to ARTESP, on a quarterly basis, an updated schedule for activities related to rendering the services inherent to Conserving and Expanding the ROAD SYSTEM, including a list of completed works, those underway, showing the respective stage and forecast for completion, and the works yet to be initiated, under the terms of ANNEXES VI and VII.
- xi. present, on a quarterly basis, a report with the measures adopted to resolve the USERS' complaints forwarded by ARTESP, as well as the time required for their implementation;
- xii. Present, within the period established by ARTESP, other additional or complementary information that it may formally request; and
- xiii. Comply with all ARTESP's determinations, under penalty of application of the penalties provided for in this AGREEMENT.

**CLAUSE FORTIETH - ACTS DEPENDING ON PREVIOUS CONSENT OR COMMUNICATION TO ARTESP****Possibilities that require previous consent from ARTESP**

40.1. The CONCESSIONAIRE requires previous consent from ARTESP, with no effect on other possibilities established in this AGREEMENT and in applicable legislation or regulation, when practicing the following actions, without which it shall be punishable by application of sanctions foreseen in ANNEX 11, and which may result in rendering the SPONSORED CONCESSION expiry:

- i. Amendment of the SPE's Articles of Incorporation, except for those of an eminently formal and/or procedural nature, or that promote the increase of its capital stock, which shall be the object of simple communication later to ARTESP;
- ii. Merger, incorporation, spin-offs, changes or any form of corporate restructuring that implies the TRANSFER OF CONTROL of the CONCESSIONAIRE, except when established in the THREE-PARTY AGREEMENT, should it be signed;
- iii. In the event that the THREE-PARTY AGREEMENT has not been entered into or, when entered into, in cases not covered by it and provided that they may, jointly or separately, characterize a modification of the SPE's shareholding CONTROL, in the situations provided for in Clause Thirtieth, are included, for example, as an act(s) subject to the previous consent of ARTESP, the following:
  - a. Entering into a shareholder agreement;
  - b. Issuance of securities and exchange convertible into shares; and
  - c. Instituting guarantees and rights to third parties related to shares.
- iv. Disposal of the CONTROL or transfer of the SPC, conducted by the SPONSORS and/or GUARANTORS, in order to financially restructure the CONCESSIONAIRE, except when established in the THREE-PARTY AGREEMENT, should it be signed;
- v. Creating subsidiaries, including to explore activities or associated projects that generate alternative, complementary or accessory revenue;
- vi. Reduction of the SPE's capital stock to a value lower than the minimum required in this AGREEMENT;
- vii. Contracting or changing the insurance coverage, the contracted insurance company and/or the PERFORMANCE BOND contracted by the CONCESSIONAIRE, even when the contracting is due to what is established in the ORDINARY REVISIONS or EXTRAORDINARY REVISIONS procedure, except when it is an act already approved when the INSURANCE PLAN is approved or updated;

- viii. Contracting of any financing, issuance of bonds and securities, or other debt operation contracted by the SPC, which provide for the offer of rights arising from the SPONSORED CONCESSION, or from the shares representing the CONCESSIONAIRE'S CONTROL guarantee;
  - ix. Disposal, constitution of burden or transfer, of any nature, of the REVERSIBLE ASSETS, by the CONCESSIONAIRE to third parties, including its SPONSORS or GUARANTORS, observing the provisions of Clause 14.5;
  - x. Filing of a request for judicial recovery by the CONCESSIONAIRE;
  - xi. Granting of loans and financing to SPE's shareholders, RELATED PARTIES or third parties;
  - xii. Provision of surety, aval or any other form of guarantee by the SPC in favor of its shareholders, RELATED PARTIES or third parties; and
  - xiii. Foreclose of warranty that implies TRANSFER OF CONTROL.
- 40.2. Claim for consent shall be presented by the CONCESSIONAIRE with ample and reasonable time for ARTESP to conduct due analysis and to answer, taking the due care to not compromise the operations the CONCESSIONAIRE has planned and which require consent from ARTESP.
- 40.2.1. Claim for previous consent to be presented by the CONCESSIONAIRE must be accompanied by the relevant documentation to characterize and explain the intended operation, and other documents that may eventually be required by ARTESP, especially those that are necessary to prove that the continuity and quality in the provision of the services object of this AGREEMENT; and
- 40.2.2. In the event the scope of the request for previous consent includes an operation that may impact the assets of the REVERSIBLE ASSETS, the CONCESSIONAIRE shall present its commitment, should this be the case, to immediately replace said assets which are to be sold or transferred, with new assets that are technologically similar or better, unless ARTESP expressly agrees that this is not necessary;
- 40.2.3. Concerning the previous request to explore activities that generate ACCESSORY REVENUES, the documentation shall be accompanied by the respective source and the estimated values for the ACCESSORY REVENUE, per year and per operation, whenever this is an individual action;
- 40.3. ARTESP shall have sixty (60) days as of receiving the CONCESSIONAIRE's request for previous consent to present a written response, and it may grant or reject the request, as well as establishing requirements to grant it, in the following terms.
- 40.3.1. Within a period of up to 10 (ten) days, counted from the receipt, ARTESP will verify if the previous consent application prepared by the CONCESSIONAIRE contains all the information necessary for the consent.
- 40.3.1.1. Within this period, ARTESP will notify the CONCESSIONAIRE about the inadmissibility of the consent request prepared if it identifies a lack of information necessary for evaluation, in a motivated communication.

- 40.3.1.2. If it receives a notification informing the inadmissibility, the CONCESSIONAIRE must resubmit the consent request within 5 (five) days, which will undergo a new admissibility stage, pursuant to Clause 40.3.1 .
- 40.3.2. If the request for consent is admissible, ARTESP must evaluate the application submitted by the CONCESSIONAIRE, within a period of up to 35 (thirty-five) days.
- 40.3.3. Within this period, ARTESP may grant consent, reject the request or formulate requirements to grant it, granting a compatible deadline for the CONCESSIONAIRE to comply, which cannot be less than 10 (ten) days.
- 40.4. If ARTESP rejects the request or demands additions, it must do so in a reasoned manner.
- 40.5. ARTESP may, by means of a reasoned justification to be communicated to the CONCESSIONAIRE, extend the analysis deadlines indicated in Clause 40.3 and 40.3.1 if deemed necessary, not giving rise to economic and financial rebalancing of the AGREEMENT in favor of the CONCESSIONAIRE.

#### **Operations and situations that require communication with ARTESP**

- 40.6. The CONCESSIONAIRE shall advise ARTESP, within fifteen (15) days of performance, of the following actions and operations. Failure to do so shall be punishable under the sanctions detailed in this AGREEMENT.
- i. Changes in the shareholding composition of the SPC that do not imply a TRANSFER OF CONTROL for the purposes set forth in Clause Thirtieth, but that imply the transfer of at least 20% (twenty percent) of the voting shares in the SPE;
  - ii. Changes in the shareholding composition of the SPC that do not imply a TRANSFER OF CONTROL, for the purposes set forth in Clause Thirtieth, but that imply the transfer of at least 10% (ten percent) of the voting shares of the SPC held by a single shareholder;
  - iii. Changes in the voting agreements applicable to any eventual CONTROL BLOCK, as long as they do not imply TRANSFER OF CONTROL, for the purposes set forth in Clause Thirtieth;
  - iv. Loss of any condition that is essential for the SPC to DELEGATED SERVICES;
  - v. Change of the SPE's Articles of Incorporation, of an eminently formal and/or procedural nature, or an increase in its capital stock;
  - vi. Penalties applied to the SPC by any competent organ or entity, especially regarding default of corporate obligations, such as tax, pension, health and safety, or those applied by any other organ that is competent to regulate or inspect the CONCESSIONAIRE's activities, or of an environmental nature;
  - vii. Request, by third parties, of judicial recovery of the SPC, or opening of any other bankruptcy procedure or liquidation of the SPE;

- viii. Replacement of the SPE's TECHNICAL RESPONSIBLE; and
  - ix. Contracting financing, issuing bonds and securities, or any other debt operation, contracting insurance and guarantees, which do not fall under the hypothesis of Clause 40.1, item viii;
- 40.7. If the CONCESSIONAIRE requests ARTESP previous consent for acts that do not require previous consent, under the terms of this AGREEMENT, ARTESP may respond to the CONCESSIONAIRE's claim informing that it is a transaction that does not require previous consent.
- 40.8. ARTESP may, observing the legal limits, waive the previous consent, by means of a written communication, for specific cases, as long as the requirements established in this communication are met.

#### **CLAUSE FORTY-FIRST - PENALTIES**

- 41.1. The penalties applicable within the scope of the AGREEMENT herein, as well as the levels of severity, shall adhere to the regulations established in ANNEX 11, and imposing said penalties shall be made effective by means of administrative proceedings, which shall adhere to the process established in State Law Nº 10,177/98, which guarantees the right to contestation, within the legal terms and time-frames.
- 41.2. The application of penalties is not to be confused with the measurement of PERFORMANCE INDICATORS and their consequences, provided for in ANNEXES 03 and 04.
- 41.3. Failure to comply with the clauses established in this AGREEMENT, with that established in its ANNEXES and APPENDICES, in the REQUEST FOR BIDS, with applicable legislation and/or regulation shall result in, with no effect on standard administrative, civil or criminal responsibilities, the application of the following contractual penalties:
- i. Warning;
  - ii. Financial fine;
  - iii. Temporary suspension of the right to participate in procurement processes and/or prohibition to enter into contracts with the Public Administration of the State of São Paulo for a period of no more than two (2) years;
  - iv. Declaration of ineligibility to bid or contract with the PUBLIC ADMINISTRATION, while the reasons for punishment prevail or until rehabilitation is promoted before the very authority that imposed the penalty.
- 41.3.1. The penalties provided for in this AGREEMENT may be applied separately or cumulatively, depending on the severity of the act.



## CHAPTER VIII – INTERVENTION

### CLAUSE FORTY-SECOND - INTERVENTION

42.1. ARTESP may, without prejudice to the applicable penalties and responsibilities, at any time, recommend intervention in the SPONSORED CONCESSION to the State Governor, to ensure the execution and regularity and adequacy of the provision of DELEGATED SERVICES and/or compliance by the CONCESSIONAIRE of the relevant contractual, regulatory and legal rules, pursuant to article 32 et seq. of Federal Law No. 8,987/95. Situations that authorize the intervention include:

- i. Cessation or interruption, in whole or in part, of the execution of the work or the provision of DELEGATED SERVICES, by fault of the CONCESSIONAIRE, in breach of the terms of the applicable legislation or regulation or of this AGREEMENT;
- ii. Severe shortcomings in the CONCESSIONAIRE's organization which may compromise compliance with the obligations assumed within the scope of the SPONSORED CONCESSION;
- iii. Severe shortcomings in the development of the activities which are the object this AGREEMENT;
- iv. Situations in which the CONCESSIONAIRE's operation of the ROAD SYSTEM present risks to the continuous rendering of the services contracted;
- v. Situations that put at risk the environment, the safety of people and assets, public funds, public health or that of the population;
- vi. Severe and/or recurring failure to fulfill obligations established in this AGREEMENT;
- vii. Failure to present or renew the insurance policies required for legal contractual development;
- viii. Attribution to the CONCESSIONAIRE of less than 50% (fifty percent), even without compromising the CONCESSIONAIRE's financial situation, for at least 3 (three) consecutive quarters or 6 (six) non-consecutive quarters in the period of 2 (two) years; and
- ix. Use of the infrastructure of the SPONSORED CONCESSION, by the CONCESSIONAIRE, for illicit purposes.

42.1.1. The decision of the GRANTING AUTHORITY to carry out the intervention in the SPONSORED CONCESSION, when present one of the situations provided for in the Clause 42.1 involves a judgment of convenience and opportunity, and the GRANTING AUTHORITY may, in view of the peculiarities of the situation, decide for

the application, including cumulatively, of other measures foreseen in the AGREEMENT that, in its judgment, better serve the public interest, such as the application of penalties or the decree of the expiry of the SPONSORED CONCESSION, when admissible.

42.1.2. Upon identifying any situation that may give rise to intervention in the SPONSORED CONCESSION, ARTESP shall notify the CONCESSIONAIRE to rectify the identified errors within an established time-frame, with no effect on the application of respective penalties or on the provisions established in the THREE-PARTY AGREEMENT, should it be signed.

42.1.2.1. After the established period has elapsed without the CONCESSIONAIRE remedying the irregularities or taking measures that, at ARTESP's discretion, demonstrate the effective purpose of remedying them, the latter may propose the decree of intervention to the Governor of the State of São Paulo, who may enact it, observing the legal procedures.

42.2. The Intervention into the SPONSORED CONCESSION shall be made possible by the São Paulo State Government's publication in the state's Official Gazette (DOE/SP), unveiling the reasons for intervention, the delegated intervening party, the time-frame and the limitations of the intervention.

42.3. The intervention automatically implies compulsory and temporary transfer of the CONCESSIONAIRE's administration to the intervening party.

42.3.1. The role of the intervening party shall be taken on by an agent from within the GRANTING AUTHORITY, and shall be specifically nominated, collegiate or companies, and the CONCESSIONAIRE shall be responsible for respective remuneration.

42.4. Once intervention has been decreed, ARTESP, within thirty (30) days, shall install administrative proceedings to verify the respective accountability and prove the causes that led to said intervention, guaranteeing the CONCESSIONAIRE the right to due legal process, especially the right to defense and contestation.

42.4.1. The aforementioned administrative proceedings shall be finalized within a maximum time-frame of one hundred and eighty (180) days, after which time the intervention shall be deemed invalid.

42.5. During the intervention, the CONCESSIONAIRE undertakes to immediately make available to the intervener, the ROAD SYSTEM, the REVERSIBLE ASSETS, the management of the CONCESSIONAIRE's bank accounts, and everything necessary for the full provision of the services object of the AGREEMENT, with the intervener being obliged to observe the restrictions on account movements that may be included in the financing contracts signed by the CONCESSIONAIRE, in addition to the provisions of the CENTRALIZING BANK ACCOUNT management contract and the provisions of APPENDIX F and the contracts arising therefrom.

42.6. During the intervention period, the collection of the TARIFF REVENUE and ACCESSORY REVENUE, as well as the amounts due as EFFECTIVE FINANCIAL CONSIDERATION and PUBLIC CONTRIBUTION, which will be available to the intervener, who must use them, in compliance with the obligations contained in the contracts of financing and other

contracts entered into by the CONCESSIONAIRE, to cover the charges necessary for the normal development of the activities corresponding to the DELEGATED SERVICE, as well as the payment of charges for insurance and guarantees, charges arising from financing and any amounts necessary to reimburse the costs of administration.

42.7. Any additional costs arising from the intervention will be incumbent on the CONCESSIONAIRE, and ARTESP may use the PERFORMANCE BOND to obtain the missing resources to cover the expenses necessary for the continuation of the DELEGATED SERVICE under the intervention regime.

42.7.1. In the event the PERFORMANCE BOND is insufficient, CONCESSIONAIRE shall reimburse the GRANTING AUTHORITY or ARTESP within the time-frames established.

42.8. After the intervention is terminated, if the SPONSORED CONCESSION is not extinguished, the administration of the DELEGATED SERVICE will again be the responsibility of the CONCESSIONAIRE, as well as the financial control of the SPONSORED CONCESSION, being transferred to it any excess of the amounts earned during the intervention period, preceded by accountability by the intervener, who will be responsible for the acts performed during its management, returning to the CONCESSIONAIRE the possession of the assets that have been assumed by the intervener, and the exercise of the contractual position, rights and obligations inherent to such provision.

42.9. Intervention is no reason for terminating or suspending any of the CONCESSIONAIRE's obligations to third parties, including to SPONSORS or GUARANTORS.

42.10. If it is proven that the legal and regulatory presuppositions for the declaration of the intervention were not observed, its nullity will be declared, and the measures provided for in Clause 42.8, without prejudice to the accountability of the intervener and any compensation that may be applicable.

42.11. The GRANTING AUTHORITY will indemnify the CONCESSIONAIRE for any direct damages that it has caused during the intervention period.

## **CHAPTER IX – EXTINCTION OF THE AGREEMENT**

### **CLAUSE FORTY-THIRD - HYPOTHESES OF EXTINCTION OF THE SPONSORED CONCESSION**

43.1. The SPONSORED CONCESSION will be extinguished by:

- i. Advent of the contractual term;
- ii. Expropriation;
- iii. Expiry;
- iv. Termination;

- v. Annulment as a result of errors or irregularities identified in the granting procedures or act;
- vi. Bankruptcy or extinction of the CONCESSIONAIRE, or judicial reorganization, in the latter case, which impairs the performance of the AGREEMENT;
- vii. Act of God or force majeure, under the terms in this Chapter; and
- viii. Configuration of any of the hypotheses of anticipated extinction listed in Clause 6.5 of this AGREEMENT.

43.2. In the event of extinction of the SPONSORED CONCESSION, the GRANTING AUTHORITY may, depending on the event motivating the termination of the AGREEMENT and according to the provisions of this CHAPTER:

- i. Assume, directly or indirectly, the provision of the SERVICES, in the place and state in which they are found;
- ii. Occupy and use the premises, facilities, equipment, materials and use the personnel employed in the provision of the SERVICES, necessary for its continuity;
- iii. Apply to pertinent penalties;
- iv. Retain and execute the PERFORMANCE BOND and insurance, when applicable, to receive administrative fines and reimbursement of losses caused by the CONCESSIONAIRE; and
- v. Adhere to the clauses established in the THREE-PARTY AGREEMENT, should it come into being, related to the rights of the SPONSORS in the possibility of terminating the concession.

43.3. Once the CONCESSION is extinguished, there will be an immediate assumption of the activities object of this AGREEMENT and of the REVERSIBLE ASSETS by the GRANTING AUTHORITY, reverting the pertinent assets and rights, under the terms of Clause Sixty-Second.

43.3.1. In case of the provided in Clause 43.3, the GRANTING AUTHORITY may maintain the contracts signed by the CONCESSIONAIRE with third parties for the period and in the conditions initially adjusted, observing the current legislation.

43.4. The GRANTING AUTHORITY may hold a new bid for the services granted, attributing to the new winner the onus of paying the indemnification directly to the SPONSORS and other creditors of the former CONCESSIONAIRE or directly to the CONCESSIONAIRE, as the case may be.

- 43.4.1. The provided in Clause 43.4 it does not preclude or prejudice the right of the CONCESSIONAIRE to adopt collection measures, as from the moment that the indemnity becomes due, and until its payment occurs.
- 43.5. During the term of the AGREEMENT, the CONCESSIONAIRE must authorize the entry into the SPONSORED CONCESSION, by the GRANTING AUTHORITY, by ARTESP or third parties, to carry out studies or technical visits aimed at promoting or proceeding with bidding processes, subject to, if relevant, rules or procedures established by CONCESSIONAIRE to mitigate any impacts that such inflows may cause to the activities developed in the SPONSORED CONCESSION.
- 43.6. Upon completion of the administrative process that leads to the materialization of any of the hypotheses of early termination of the AGREEMENT, the CONCESSIONAIRE shall immediately submit the DEMOBILIZATION PLAN for consideration and approval by ARTESP, pursuant to Clause Fifty-Third.

#### **CLAUSE FORTY-FOURTH - ADVENT OF THE CONTRACTUAL TERM**

- 44.1. The SPONSORED CONCESSION is extinguished when the CONCESSION TERM expires, consequently terminating the contractual relations between the PARTIES, with the exception of those expressly provided for in this AGREEMENT and post-contractual obligations attributed to the CONCESSIONAIRE and to ARTESP.
- 44.2. In the event of the advent of the final contractual term, without prejudice to any subrogation of the SUCCESSOR in the contracts in progress, the CONCESSIONAIRE will be fully and exclusively responsible for the termination of any contractual relationships to which it is a party entered into with third parties, not assuming the GRANTING AUTHORITY or ARTESP any liability or burden in relation to such contracts.
- 44.2.1. The GRANTING AUTHORITY and ARTESP shall not assume, except in the event of exercising the prerogative to subrogate itself in contracts entered into by the CONCESSIONAIRE, any responsibility or burden regarding the contracts signed by the CONCESSIONAIRE, with no indemnity due to the CONCESSIONAIRE or third parties for the termination of such contractual relations.
- 44.2.2. The CONCESSIONAIRE shall take the necessary measures to facilitate the dealings between the GRANTING AUTHORITY, ARTESP and the third parties contracted by it in order to guarantee the possibility of exercising the prerogative mentioned in the Clause 44.2.1.
- 44.3. It is the CONCESSIONAIRE's obligation to cooperate with the GRANTING AUTHORITY and ARTESP so that there is no interruption in the provision of services or damage to the REVERSIBLE ASSETS, with the advent of the contractual term and the consequent extinction of this AGREEMENT, pursuant to the terms of ANNEX 10 and must, for example, cooperate in, for assumption of the DELEGATED SERVICE, the training of the GRANTING AUTHORITY servers, or another entity of PUBLIC ADMINISTRATION appointed by him or any SUCCESSOR, collaborating in the transition and in whatever is necessary for the continuity of the exploration and maintenance of REVERSIBLE ASSET, safeguarding duly justified situations of business secrecy and with the consent of ARTESP.



- 44.4. Three (3) years prior to the date to end the CONCESSION TERM, the CONCESSIONAIRE shall submit the DEMOBILIZATION PLAN, under the terms in Clause Fifty-Third.
- 44.5. In the last ORDINARY REVISION that precedes the end of the CONCESSION TERM, the PARTIES and ARTESP must anticipate any investments necessary for demobilization, being certain that such investments must be amortized until the CONCESSION TERM advent, according to Clause Fifty-Second.
- 44.6. With the advent of the contractual term, the CONCESSIONAIRE will not be entitled to any indemnification related to investments in REVERSIBLE ASSETS, as established in Clause Fifty-Second.

#### **CLAUSE FORTY-FIFTH - GENERAL INDEMNITY REGULATION**

- 45.1. In the event of early termination of this AGREEMENT, the CONCESSIONAIRE shall be entitled to indemnity, pursuant to art. 36 of Federal Law No. 8,987/95, of the portions of investments made and linked to REVERSIBLE ASSETS, not yet amortized or depreciated, and shall consider, for the purposes of calculating the indemnity, the following methodological assumptions:
- i. The amortization method used in the calculation will be the straight line (constant amortization), considering the recognition of the REVERSIBLE ASSET and the shortest period between (i) the term of the AGREEMENT, or (ii) the useful life of the respective REVERSIBLE ASSET;
  - ii. Any values recorded as interest and other capitalizable financial expenses during the CONSTRUCTION PERIOD and the PRE-CONSTRUCTION PERIOD will not be considered;
  - iii. Any values accounted for as capitalizable pre-operational expenses will not be considered, thus considered those realized prior to the formal incorporation of the SPECIFIC PURPOSE COMPANY;
  - iv. Any values possibly accounted for as margins for construction shall not be considered;
  - v. Extra amounts for acquisition shall not be considered.
  - vi. only the costs and expenses that have been recognized in the accounts by the CONCESSIONAIRE will be considered, not considering any costs and expenses recognized by shareholders or RELATED PARTIES of the CONCESSIONAIRE, even if for the benefit of the activities carried out in the DELEGATED SERVICE;
  - vii. any amounts accounted for as the INSPECTION FEE will not be considered;

- viii. The value of the installments of the investments linked to REVERSIBLE ASSETS not yet amortized or depreciated will be calculated from the intangible and/or financial assets of the CONCESSIONAIRE, and having as final term the date of notification of the termination of the AGREEMENT to the CONCESSIONAIRE, considering the accounting rules, notably the Technical Interpretation ICPC 01 (R1), related pronouncements and guidelines, and also the respective revisions, all issued by the Accounting Pronouncements Committee - CPC, duly updated according to the IPCA/IBGE from the contractual year of the recognition of the investment until the contractual year of the payment of compensation;
  - ix. The accounted costs, according to the systematic of the viii clause section 45.1, will have the maximum limit:
    - a. for investments originally provided for in the AGREEMENT, the values indicated in the EVTE, duly updated according to the IPCA/IBGE from the original base date of the AGREEMENT until the contractual year of payment of the indemnity;
    - b. the values calculated for additional investments, provided for in the contract amendment, duly updated according to the IPCA/IBGE of the contract year of reference of the price provided for in the amendment until the contract year of payment of the indemnity; and
    - c. for other investments in REVERSIBLE ASSETS made, when there is no forecast of similar investment in EVTE, the amounts to be approved by ARTESP, by applying the methodology provided for in Clause 25.5.2, considering estimated values at the time of the corresponding investments, duly updated according to the IPCA/IBGE of the contractual year from the base date of the value of these investments until the contractual year of payment of the indemnity.
  - x. The portions of investments linked to REVERSIBLE ASSETS not yet amortized or depreciated will not be accounted for, if such investments have been carried out with amounts from the PUBLIC CONTRIBUTION.
- 45.1.1. REVERSIBLE ASSETS that have been incorporated into the CONCESSIONAIRE's assets through a donation or through indemnity from the GRANTING AUTHORITY will not make up the indemnified amount.
- 45.1.2. Any costs with the repair and/or reconstruction of REVERSIBLE ASSETS delivered in a situation other than that established in this AGREEMENT and its ANNEXES, will be deducted from the indemnified amount.
- 45.2. The calculation of the indemnity carried out in the form established in this clause and in the subsequent ones, and its effective payment in administrative scope, when accepted by the CONCESSIONAIRE, will correspond to the complete, general and unrestricted settlement as to the due by the GRANTING AUTHORITY as a result of the extinction, the CONCESSIONAIRE cannot to demand, administratively or judicially, in any capacity, other indemnities, including, for loss of profits and emergent damages.

- 45.2.1. If the indemnity values, calculated in accordance with the provisions of this Clause Forty-Fifth and subsequent clauses, are subject to taxation at the time of payment, the value to be paid shall be increased to ensure the receipt by the CONCESSIONAIRE, of a net value of taxes equivalent to the amount calculated for the indemnity, with the exception of the values provided for in the item ii of Clause 46.2, whose eventual tax incidence should be borne by the CONCESSIONAIRE.
- 45.2.2. The amount of indemnification due to the CONCESSIONAIRE, calculated based on the methodology provided for in this Chapter, will be added or subtracted from the balance of economic and financial imbalances, in favor, respectively, of the CONCESSIONAIRE or the GRANTING AUTHORITY, which are already liquid and payable after the closure of the administrative proceeding, in a decision from which there is no longer an appeal at the administrative scope.
- 45.3. From the indemnity due to the CONCESSIONAIRE, considering the provisions of the Clause 45.2.2, and except in the event of forfeiture, the following will be discounted, always in the order of preference below and regardless of the CONCESSIONAIRE's consent:
- i. the values received by the CONCESSIONAIRE as insurance coverage related to the events or circumstances that gave rise to the extinction;
  - ii. the balance due to the SPONSORS related to financing whose main scope is to raise funds for investments linked to REVERSIBLE ASSETS, plus the contractual interest agreed in the respective contractual instruments.
  - iii. the value of the fines imposed on the CONCESSIONAIRE during the execution of the AGREEMENT, due to final and unappealable proceedings and/or sanctioning proceedings already concluded, in a decision from which no further administrative appeal is possible; e
  - iv. the value of the material damage proven to have been caused by the CONCESSIONAIRE to ARTESP or to the GRANTING AUTHORITY, recognized in a decision no longer subject to administrative appeal.
- 45.3.1. The value described in item ii shall be paid by the GRANTING AUTHORITY directly to the SPONSORS.
- 45.3.2. The penalty amount, the administrative proceeding of which is in progress, when the amounts of indemnity are calculated, will be retained from the amount of the indemnity until the end of the administrative proceeding with a decision which no longer has appeal, this amount being updated by the IPC/IBGE, and paid to the CONCESSIONAIRE in the event of a favorable decision at the end of the administrative process.
- 45.3.3. In case of expiry, the items iii and **Error! Reference source not found.** will have priority in the order of discounts, in relation to the item ii, both of Clause 45.3.

45.4. The exemption of the CONCESSIONAIRE in relation to the obligations arising from other financing agreements entered into by it for the fulfillment of the AGREEMENT not covered by Clause 45.3, item ii , can be performed by:

- i. assumption, by the GRANTING AUTHORITY or by third parties, by subrogation, before the SPONSORS or creditors, by agreement of such parties, of the CONCESSIONAIRE's remaining contractual obligations, up to the limit of the amount due to the CONCESSIONAIRE after the discounts provided for in the Clause 45.3, as long as there is agreement from the SPONSORS; or
- ii. prior indemnity to the CONCESSIONAIRE, limited to the amount of indemnity calculated as provided for in Clause 45.3, of the total remaining debts that it has with SPONSORS or creditors.

45.4.1. The amount referring to the exemption treated in Clause 45.4 must be deducted from the amount of the indemnity due to the CONCESSIONAIRE and cannot, under any circumstances, exceed the total amount of the indemnity due.

45.5. The general indemnity rule provided for in this Clause Forty-Fifth is applicable to all cases of early termination, and the payment of indemnity for specific items in each of the early termination clauses set forth below must always be observed.

#### **CLAUSE TWENTY-SIXTH - EXPROPRIATION**

46.1. The GRANTING AUTHORITY may, throughout the term of the AGREEMENT, organize a seizure, in justified public interest, by means of a specific authorizing law and previous indemnification, under the terms established in this AGREEMENT.

46.2. In case of termination, in addition to the provisions of Clause Forty-Fifth, the compensation due to the CONCESSIONAIRE shall cover:

- i. All charges and burdens resulting from fines, terminations and indemnities that are due to suppliers, contractors and third parties in general, as a result of the early termination of contractual ties, and such values must be compatible with those practiced in the market, especially in case of RELATED PARTIES, and be expressly provided for in the contract or result from a court decision, not being included in the compensation any values referring to loss of profits or similar sums, even if provided for in the contracts signed by the CONCESSIONAIRE; and
- ii. The loss of profits, calculated in the form of Clause 46.3.

46.3. The component indicated on item ii (iii) of Clause above 46.2 shall be calculated in accordance with the following formula:

$$LC = A \times [(1 + NTNB')^n - 1]$$

Where:

LC = loss of profits indicated in item ii of Clause 46.2 .

$A$  = the indicated investments in Clause 45.1.

$NTNB'$  = the real gross sales interest rate of the National Treasury Notes - Series B (NTN-B), ex-ante deducting Income Tax, with maturity compatible with the end of the AGREEMENT, if there was no early termination, published by the National Treasury Secretariat, considering the average of the quotations available in the 12 (twelve) months prior to the date of payment of the indemnity.

$n$  = the remaining period, in years, between the date of the payment of the indemnity and the advent of the contractual term, if there had been no early termination of the AGREEMENT, on the same  $NTNB'$  basis.

46.4. The compensation due as a result of the shutdown is limited to the amounts established in this Clause 46, and no other amounts will be due as indemnities, loss of profits beyond those foreseen in this Clause Forty-Sixth and/or emergent damages.

46.5. The indemnity must be disbursed until the exact moment the SPONSORED CONCESSION is resumed and as a condition for it to be resumed.

#### **CLAUSE FORTY-SEVENTH - EXPIRY**

47.1. The total or partial non-performance of the AGREEMENT, or of the duties imposed by law or regulation, will result, at the discretion of the GRANTING AUTHORITY, after previous manifestation of ARTESP, and observing the provisions of this AGREEMENT, in the declaration of expiration of the SPONSORED CONCESSION, which will be preceded by the competent administrative process, guaranteeing the due legal process, especially the right to full defense and adversary proceedings, after exhausting the possibilities of solution provided for in this AGREEMENT, without prejudice to the application of contractual sanctions.

47.2. The GRANTING AUTHORITY's decision to decree the forfeiture of the SPONSORED CONCESSION, when one or more of the situations provided for in this Clause Forty-Seventh is present, involves a judgment of convenience and opportunity on the part of the GRANTING AUTHORITY, which may, in view of the peculiarities of the situation, decide by the application of other measures provided for in the AGREEMENT that, in its opinion, best meet the public interest, such as the application of penalties or the decree of intervention in the SPONSORED CONCESSION, when admissible.

47.3. Expiry of the SPONSORED CONCESSION may be declared in the following situations, besides those listed in the Federal Act No 8,987/95 and changes and with no effect on other possibilities established in this AGREEMENT:

- i. Loss or impairment of the economic-financial, technical or operational conditions, necessary for the adequate provision of the service granted and the realization of investments;
- ii. Non-performance of the Contractual clauses, the legal provisions or regulations related to the SPONSORED CONCESSION, which compromise the continuity of services or the safety of USERS, employees or third parties;
- iii. The CONCESSIONAIRE's intentional or accidental suspension of the DELEGATED SERVICE, or if the CONCESSIONAIRE has contributed to said



suspension, except for the possibilities resulting from fortuity or force majeure, in compliance with this AGREEMENT;

- iv. CONCESSIONAIRE's failure to comply with the ARTESP summons to, within 180 (one hundred and eighty) days, present the documentation relating to tax and labor compliance, pursuant to art. 29 of Federal Law No. 8,666/93;
- v. Non-compliance with the obligation to reinstate the full amount of the PERFORMANCE BOND, in the event of cancellation or termination of the bank guarantee letter or the guarantee insurance policy and/or non-renewal of these at least 30 (thirty) days before your maturity, under the terms of Clause Thirty-Fifth;
- vi. Non-maintenance or non-renewal of the entire IMPLEMENTATION GUARANTEE and required insurances and eventual impracticability or unjustified difficulty in the execution of insurances and IMPLEMENTATION GUARANTEE by ARTESP or by the GRANTING AUTHORITY, in the hypothesis that lead to the execution;
- vii. Attribution to the CONCESSIONAIRE of CSP below 50% (fifty percent), even without compromising the CONCESSIONAIRE's financial situation, for at least 3 (three) consecutive quarters or 6 (six) non-consecutive quarters in a period of 2 (two) years;
- viii. TRANSFER OF CONTROL of the CONCESSIONAIRE, in the situations described in Clause Thirty, or encumbrance of its shares without the prior and express consent of ARTESP, except in case of assumption of CONTROL by the SPONSORS, under the terms of this AGREEMENT;
- ix. Transferring the SPONSORED CONCESSION itself without the prior and express agreement from ARTESP, except when established in the THREE-PARTY AGREEMENT, should it be signed;
- x. Non-compliance with the summons from ARTESP and/or the GRANTING AUTHORITY to regularize the provision of services, observing the established deadlines, as the case may be;
- xi. In the event of repeated opposition to the inspection, non-observance of the GRANTING AUTHORITY or ARTESP's determinations, recurrence or disobedience to the operation rules and if the other penalties provided in this AGREEMENT prove ineffective;
- xii. If the corporate purpose of the CONCESSIONAIRE is deviated;

47.4. When the CONCESSIONAIRE's breach of contract characterizes a violation of a continuous nature or delay by the CONCESSIONAIRE in fulfilling a contractual obligation, the fact that ARTESP applies, or has applied, any of the penalties provided for in this AGREEMENT and in ANNEX 11, does not rule out the possibility of decreeing the expiry

of the SPONSORED CONCESSION, when this AGREEMENT so allows, if the CONCESSIONAIRE, despite the penalty(s) applied, persists in a situation of breach of contract.

47.5. Prior to decreeing the expiry of the SPONSORED CONCESSION, Contractual default on the part of the CONCESSIONAIRE shall be verified in standard administrative proceedings, assuring due legal process, especially the right to ample defense and contestation, as well as respecting the clauses established in the THREE-PARTY AGREEMENT, should that be the case.

47.5.1. The initiation of the administrative process to verify default and decree of forfeiture will be preceded by a communication to the CONCESSIONAIRE, in which the legal, contractual and regulatory breaches committed must be pointed out in detail, granting it a period of not less than 30 (thirty) days to remedy the identified irregularities.

47.5.2. After the period established without the CONCESSIONAIRE remedying the irregularities or taking measures that, at the discretion of ARTESP, demonstrate the effective capacity to remedy them, the latter will propose the decree of expiry.

47.5.3. Installing an administrative proceeding and proving default, invalidation shall be decreed by the Governor of the State of São Paulo, regardless of previously paid indemnification, whose amount shall be verified throughout the course of the administrative proceeding.

47.6. Decreeing invalidation shall imply in the GRANTING AUTHORITY immediately seizing all assets and responsibility from the CONCESSIONAIRE for all and any type of burden, fine, penalty, indemnity, surcharge or commitments to third parties, notably in relation to obligations of a labor, tax and pension nature.

47.7. The expiration of the SPONSORED CONCESSION will authorize the GRANTING AUTHORITY and ARTESP to:

- i. Assume the performance of the object of the AGREEMENT herein, at the location in the state it is situated;
- ii. occupy and use the location, facilities, equipment, materials and human resources employed to perform the DELEGATED SERVICES, needed to continue services;
- iii. retain and execute the PERFORMANCE BOND, to compensate for the losses suffered by the GRANTING AUTHORITY and/or by ARTESP;
- iv. retain any CONCESSIONAIRE credits arising from the AGREEMENT, in cases where the PERFORMANCE BOND is not sufficient to compensate the GRANTING AUTHORITY and ARTESP, and up to the limit of the losses caused; and
- v. Apply the penalty for the decree of forfeiture, provided for in item 7.5 of ANNEX 11, which will be deducted from the indemnity due to the CONCESSIONAIRE.

- 47.7.1. The credits withheld in the form of the item iv of the Clause 47.7 , which eventually exceed what is necessary for the payment of amounts due to ARTESP and/or the GRANTING AUTHORITY will be released to the CONCESIONAIRE when calculating and paying the indemnity due.
- 47.8. The declaration of forfeiture does not exempt the CONCESSIONAIRE from the reimbursement of damages that it has caused to the GRANTING AUTHORITY, to ARTESP or third parties, even if its effects have repercussions after the SPONSORED CONCESSION has been terminated.
- 47.9. Once invalidation has been decreed and the possible respective indemnification has been paid, the GRANTING AUTHORITY or to ARTESP shall not be held responsible or accountable for any charges, onuses, obligations or commitments to third parties or the CONCESSIONAIRE's employees, including labor or pension debts.
- 47.10. In case of transfer of the AGREEMENT carried out under the THREE-PARTY AGREEMENT, the GRANTING AUTHORITY and ARTESP undertake to ratify the validity of the AGREEMENT vis-à-vis the assignee, without prejudice to the maintenance of the GRANTING AUTHORITY's or ARTESP's right to claim full satisfaction before the assigning CONCESSIONAIRE of all its rights for legal or contractual violations of responsibility of the CONCESSIONAIRE for acts prior to the date of the assignment of the AGREEMENT.
- 47.11. The indemnity owed by the GRANTING AUTHORITY due to the forfeiture is limited to the amounts charged in the form established in this Clause Forty-seventh and Clause Forty-fifth, with no other VALUES due as indemnities, lost profits and/or emergent damages.

## **CLAUSE FORTY-EIGHTH - TERMINATION**

### **Friendly resiliency**

- 48.1. This AGREEMENT may be terminated amicably by the PARTIES, observing the terms of article 26 of State Law No. 7,835/1992.

### **Unilateral resilience**

- 48.2. The hypotheses described in Clause 6.5, items i and ii may give rise to unilateral termination, regardless of agreement between the PARTIES at the time of termination, and by initiative of any of the PARTIES.

- 48.2.1. For each of the cases provided for in the Clause 6.5, the indemnities due will be calculated taking into account the following elements:

- i. for cases of extinction of the AGREEMENT resulting from the materialization of the event provided for in item i of the Clause 6.5 , the compensation will be calculated according to the formula established contractually for cases of expropriation, based on the moment immediately prior to the occurrence of the event of fortuitous event or force majeure, except for lost profits provided for in Clause 46.3, which will not be due;

- ii. in the event of termination of the AGREEMENT resulting from the materialization of the event provided for in item ii of the Clause 6.5 , the indemnity due to the CONCESSIONAIRE will be calculated according to the same rule established contractually for cases of forfeiture, under the terms of Clause Forty-seventh, with the exception of the penalty provided for in Clause 47.7, item v , which will not be applied.

#### **Termination via Arbitral Proceedings**

- 48.3. This AGREEMENT may be terminated at the initiative of the CONCESIONAIRE, in the event of non-compliance with the contractual rules by the GRANTING AUTHORITY or by ARTESP, through an arbitration procedure brought especially for this purpose.
- 48.4. The CONCESSIONAIRE shall, prior to the initiation of an arbitration proceeding, notify ARTESP of its intention to terminate the AGREEMENT, in the event of non-compliance with the contractual rules by the ARTESP or by the GRANTING AUTHORITY, setting out the reasons for which it intends to initiate an arbitration procedure for that purpose, under the terms provided for relevant legislation and regulations of ARTESP.
  - 48.4.1. In case of the Clause 48.4 above, the CONCESSIONAIRE shall grant a period of no less than 30 (thirty) days for the contractual non-compliance to be overcome, in an administrative scope.
- 48.5. The services provided by the CONCESSIONAIRE may not be interrupted or paralyzed until an arbitration decision which no longer has any appeal, decreeing the contractual termination.
- 48.6. In the case of termination of the AGREEMENT by arbitral award, the compensation due to the CONCESSIONAIRE will be equivalent to that required in the event of termination, and will be calculated in the same way, under the terms of Clause Forty-Sixth.

#### **Re-bidding**

- 48.7. This AGREEMENT may be terminated after the re-bidding procedure, as provided for in article 8 of State Law Nº 16.933/2019, which will depend on an agreement between the GRANTING AUTHORITY and the CONCESSIONAIRE, in a procedure that guarantees the continuity of the provision of the DELEGATED SERVICE until the conclusion of a new bidding process for the SUCCESSOR to take over activities.
  - 48.7.1. The CONCESIONAIRE does not have any right to have a re-bidding process instated, launched, conducted or concluded, and the GRANTING AUTHORITY, in the form of article 9, paragraph 1, of the State Law 16.933/2019, must exercise its judgment as to the need, pertinence and reasonableness of instating and conducting the procedure, given the alternatives of continuing the AGREEMENT, or of termination for any other of the reasons provided for in Clause Forty-Third.
  - 48.7.2. CONCESSIONAIRE required the qualification of the AGREEMENT for the purposes of re-bidding, with the demonstration of recurrent or permanent disregard of contractual provisions or inability to fulfill assumed contractual or financial obligations, the GRANTING AUTHORITY will only analyze the order if accompanied

by the documents provided for in the article 9, paragraph 2, of State Law N° 16.933/2019.

48.7.3. If the AGREEMENT is qualified for the purpose of re-bidding, and if it is decided to adopt the procedure, the GRANTING AUTHORITY and the CONCESSIONAIRE shall sign an amendment to the AGREEMENT, whose content will observe, in addition to the provisions of article 10 of State Law 16,933/2019, other elements considered relevant by the GRANTING AUTHORITY to ensure the continuity of the provision of the DELEGATED SERVICE

48.7.4. The indemnity will be equivalent to that provided for in the event of lapse, calculated in the form of Clause Forty-seventh.

#### **CLAUSE FORTY-NINTH - ANNULMENT**

49.1. The AGREEMENT may be annulled in case of illegality that cannot be validated in the bidding process, in the formalization of the AGREEMENT or in an essential clause that compromises the provision of the service, through the due administrative procedure, initiated from the notification sent from one PARTY to the other, or by ARTESP to both PARTIES, assured the adversary and full defense.

49.1.1. If the illegality aforementioned in Clause 49.1 above is not the result of an action committed by the CONCESSIONAIRE and it is possible to make good use of said action, the PARTIES and ARTESP shall communicate with each other, aiming to maintain the AGREEMENT.

49.2. In the event of extinction of the SPONSORED CONCESSION by annulment:

- i. if the annulment does not result from a fact attributable to the CONCESSIONAIRE or its shareholders, current or past, the indemnity will be equivalent to that calculated for the hypothesis of early termination of the AGREEMENT due to unforeseeable circumstances or force majeure, pursuant to Clause 48.2.1, I,;
- ii. if the annulment is due to a fact attributable to the CONCESSIONAIRE or its current or past shareholders, the indemnity will be equivalent to that calculated for the event of early termination of the AGREEMENT due to expiry; and
- iii. if the cancellation is due to a fact attributable to the GRANTING AUTHORITY, the indemnity will be equivalent to that calculated for the hypothesis of early termination of the AGREEMENT by expropriation.

#### **CLAUSE FIFTY - BANKRUPTCY AND TERMINATION OF THE CONCESSIONAIRE**



- 50.1. The SPONSORED CONCESSION shall be considered extinct in the event the CONCESSIONAIRE is legally declared bankrupt or enters into legal composition with creditors that may compromise the performance of the AGREEMENT.
- 50.2. Once bankruptcy is declared, the GRANTING AUTHORITY shall assume possession of all REVERSIBLE ASSETS and shall immediately assume the task of performing the object of this AGREEMENT.
- 50.3. In the event of termination of the CONCESSIONAIRE by decree of bankruptcy, or concession of judicial reorganization, in this case, which impairs the execution of the AGREEMENT, or, still, in the event of dissolution of the CONCESSIONAIRE by resolution of its shareholders, the same provisions regarding the expiration of the SPONSORED CONCESSION will apply, with the instauration of the due administrative process for the verification of the effective damage and determination of the applicable sanctions.
- 50.4. No liquid assets of the extinct CONCESSIONAIRE shall be distributed among its shareholders prior to payment of all obligations to the GRANTING AUTHORITY and to ARTESP, nor without ARTESP issuing the Definitive Term for Return.
- 50.5. The conditions established in Clause herein shall not harm or have any effect on fulfilling the obligations established in favor of the SPONSORS in the THREE-PARTY AGREEMENT, should there be one.

#### **CLAUSE FIFTY-FIRST – ACT OF GOD AND FORCE MAJEURE**

- 51.1. Act of God or force majeure shall be defined, with the consequence established in the AGREEMENT herein, as an event is thus defined under civil law and which has a direct impact on developing activities within the SPONSORED CONCESSION.

- 51.1.1. Examples of act of God and force majeure include:

- i. national and international wars that directly involve the performance of the contract;
- ii. acts of terrorism;
- iii. nuclear, chemical or biological contamination, including epidemics or pandemics, as declared by the national health authorities or the World Health Organization, and that produce relevant effects on the area covered by the SPONSORED CONCESSION or on the activities of the CONCESSIONAIRE, except, in all hypotheses, if arising from acts of the CONCESSIONAIRE;
- iv. trade embargos from a foreign country;
- v. natural events, such as earthquakes, hurricanes or floods, when their impacts could not be avoided by preventive measures reasonably required by the CONCESSIONAIRE.

- 51.2. Failure to comply with contractual obligations, including those related to the achievement of time frames, proven to be due to unforeseeable circumstances or force majeure, pursuant to this AGREEMENT and ANNEXES, shall not be subject to penalty.

- 51.3. The PARTY whose performance is affected by fortuity or force majeure shall advise ARTESP of the said event within forty-eight (48) hours.
- 51.4. An event classified as fortuity or force majeure shall not be considered, for the purposes of restructuring the economic-financial balance of the AGREEMENT herein if, during the period of the event, this represents an insurable risk in Brazil, for at least two (2) years, up to the limit of the average indemnifiable amount for policies normally practiced in the market by at least two (2) companies in the sector, regardless of whether the CONCESSIONAIRE has hired them, in compliance with list of risks established in this AGREEMENT.
- 51.5. In the occurrence of an act of God or force majeure, whose consequences 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 it is verified that the effects may irreversibly compromise the operation of the SPONSORED CONCESSION, any of the PARTIES may avail itself of the faculty foreseen in Clause 6.5, item i.
- 51.5.1. In the event the SPONSORED CONCESSION is made extinct as the result of an event characterized as fortuity or force majeure, indemnification owed to the CONCESSIONAIRE shall be calculated in accordance with the rules established in section of i Clause 48.2.1.
- 51.6. Except when ARTESP establishes other instruction in writing, the CONCESSIONAIRE shall continue to perform its obligations within the AGREEMENT herein, to the best of its abilities, and shall seek to, by all means possible, fulfill its obligations that are not interrupted by the event of fortuity or force majeure, and ARTESP and the GRANTING AUTHORITY shall also fulfill their obligations that have not been interrupted by act of God or force majeure.
- 51.7. In case of proven occurrence of unforeseeable circumstances or force majeure, without the extinction of the SPONSORED CONCESSION under the terms of Clause 6.5, item i, the financial reflexes of the IQDs that have been impacted by the occurrence will be suspended, until the normalization of the situation and cessation of its effects.
- 51.8. The PARTIES and ARTESP shall commit to employ all measures and means needed to minimize the effects from act of God and force majeure.

## **CHAPTER X – REVERTING**

### **CLAUSE FIFTY-SECOND - REVERSAL OF ASSETS**

- 52.1. Once the CONCESSION is made extinct, the GRANTING AUTHORITY shall receive the REVERTIBLE ASSETS, rights and privileges linked to the CONCESSION and transferred or made available to the CONCESSIONAIRE under the terms in the AGREEMENT herein, or any rights and privileges constituted, implemented or acquired within the scope of the CONCESSION, free of and bound by no onus or surcharge, regardless of any notifications or formalities.

- 52.2. Except in case of early termination of the AGREEMENT, in which the indemnity will be calculated in the form of Chapter IX of this AGREEMENT, in the termination motivated by the advent of the contractual term, the reversal will be free of charge, with no residual value or collection due in favor of the CONCESSIONAIRE.
- 52.3. Regardless of the event of termination of the AGREEMENT, the reversal will be automatic, and will take place at the time of termination of the SPONSORED CONCESSION, and the REVERSIBLE ASSETS must be reverted in an adequate condition for operation, use and maintenance, as well as free and clear of any burden, charges, taxes, obligation, encumbrance or collection of any amount by the CONCESSIONAIRE, with the characteristics and technical requirements that allow the full operation of the service granted.
- 52.4. Upon termination of the AGREEMENT due to the expiration of term, the REVERSIBLE ASSETS must be in adequate conditions of conservation and operation, allowing the continuity of the services object of this AGREEMENT, for a minimum additional period of 5 (five) years, counted from the date of termination of the AGREEMENT, except for those with a shorter useful life, pursuant to ANNEX 10.
- 52.4.1. Any costs related to these investments shall be amortized and depreciated prior to terminating the validity of the AGREEMENT herein, and the CONCESSIONAIRE shall have no right to indemnification in this case.
- 52.4.2. All information on the REVERTIBLE ASSET, including descriptions, the state of conservation and the remaining lifespan, shall be included in the INVENTORY that the CONCESSIONAIRE shall maintain throughout the term of the SPONSORED CONCESSION and delivered, in the end, to ARTESP.
- 52.4.3. In the case of nonconformity between the TERM OF REDEMPTION OF REVERSIBLE ASSETS and the actual situation of the REVERSIBLE ASSETS, the CONCESSIONER, if such difference is detrimental to the GRANTING AUTHORITY or to ARTESP, must take all appropriate measures, including the acquisition of new assets or execution of works, in order to deliver the REVERSIBLE ASSETS in the same conditions of the TERM OF REDEMPTION OF REVERSIBLE ASSETS.
- 52.5. If the reversal of the assets does not occur under the conditions established herein, the CONCESSIONAIRE shall indemnify the GRANTING AUTHORITY, and the indemnity shall cover the costs to restore the required condition, under the terms of the AGREEMENT, without prejudice to the applicable sanctions and execution of any insurance and PERFORMANCE BOND.
- 52.6. During the procedure for terminating the SPONSORED CONCESSION and contractual transition, ARTESP will carry out an inspection of the assets to be reversed, in which a representative of the CONCESSIONAIRE will participate, intended to verify the state of conservation and maintenance of the assets, applying, in what fits, the provisions of ANNEX 10.

#### **CLAUSE FIFTY-THIRD - DEMOBILIZATION**

- 53.1. Three (3) years prior to the termination of the AGREEMENT herein, the CONCESSIONAIRE shall submit to ARTESP for approval the DEMOBILIZATION PLAN

for the ROAD SYSTEM, which shall establish the procedure for demobilization and the due return of REVERTIBLE ASSETS, with no interruption to the rendering of services.

53.2. The DEMOBILIZATION PLAN for the ROAD SYSTEM shall establish, in the very minimum, the following :

- i. The method for returning REVERTIBLE ASSETS;
- ii. The state of conservation and maintenance of the REVERTIBLE ASSETS, with technical reports issued by qualified professionals;
- iii. The state of depreciation of the REVERTIBLE ASSETS
- iv. Maintenance measures, repairs and replacements, to be carried out until the end of the AGREEMENT, in order to ensure adequate conditions for the reversal of the assets;
- v. way of replacing the employees of the CONCESSIONAIRE by the servers of the GRANTING AUTHORITY, ARTESP and/or the SUCCESSOR;
- vi. Period of time and the method to train civil servants from the GRANTING AUTHORITY and/or from the new CONCESSIONAIRE that shall begin operating the ROAD SYSTEM.

53.3. The GRANTING AUTHORITY and ARTESP may carry out the inspections it deems necessary for the full execution of its activities, in order to guarantee the contractual transition without any prejudice to the continuity of the DELEGATED SERVICES, in addition to monitoring the execution of technical reports and reports.

53.4. When there is one (1) year remaining in the effective term of the AGREEMENT herein, the CONCESSIONAIRE shall train people appointed by the GRANTING AUTHORITY, as well as transferring technical, administrative documents and operational guidance related to the ROAD SYSTEM, which have not already been delivered, in compliance with Clause Fifty-Fourth.

53.5. The CONCESSIONAIRE shall be entirely and exclusively responsible for the termination of any contracts to which it is a party at the end of the term of the SPONSORED CONCESSION, the GRANTING AUTHORITY, ARTESP or the SUCCESSOR not assuming any responsibility or burden in relation to them, and no indemnification is due to CONCESSIONAIRE, unless otherwise agreed, under the terms authorized by this AGREEMENT.

53.6. As long as the DEFINITIVE RECEIPT TERM has not been issued, the PERFORMANCE BOND will not be released.

53.7. Any indemnities due to the CONCESISONAIRE upon the termination of the SPONSORED CONCESSION will not prevent the resumption of the SPONSORED CONCESSION, observing, in case of expropriation, the provisions of Clause Forty-sixth.

- 53.8. The definitive receipt of the ROAD SYSTEM does not exclude any civil or ethical-professional responsibility related to the rendering of services that are the object of this AGREEMENT, within the limitations established in the law.
- 53.9. With the DEMOBILIZATION PLAN for the ROAD SYSTEM, transferring and returning assets shall take place without misconduct or unexpected actions, and the ROAD SYSTEM operations shall not be negatively affected.
- 53.10. Should the CONCESSIONAIRE omit information when presenting the DEMOBILIZATION PLAN, this shall be deemed a serious infraction giving rise to apply applicable penalties on the CONCESSIONAIRE.
- 53.11. The CONCESSIONAIRE, from 6 (six) months before the end of the CONCESSION TERM, or from the date on which any process aimed at the early termination of the CONCESSION, operated for another reason, may not carry out dissolution, sharing of the assets, or distribute amounts in any capacity among its shareholders, except for distributions arising from a legal obligation, before ARTESP, through the DEFINITIVE RECEIPT TERM, certifies that the reversed assets are in perfect conditions of operation, use and maintenance, free of any encumbrances or charges, and that the payment of the amounts due to the GRANTING AUTHORITY, as penalties, indemnity, or any other title is fully assured.

#### **CLAUSE FIFTY-FOURTH – TRANSITION**

- 54.1. With no effect on the provisions in ANNEX 10 hereto, the CONCESSIONAIRE, to properly operationalize the transition to the GRANTING AUTHORITY or to the SUCCESSOR, shall be obliged to:
- i. Adopt the necessary measures to transfer ownership of ENVIRONMENTAL LICENSES and other environmental obligations of the CONCESSIONAIRE;
  - ii. make available documents and agreements related to the object of the SPONSORED CONCESSION herein;
  - iii. provide operational documents relating to the object of the SPONSORED CONCESSION;
  - iv. Make available other information related to the operations of the ROAD SYSTEM;
  - v. cooperate with the SUCCESSOR, ARTESP and/or with the GRANTING AUTHORITY for the proper transmission of knowledge and information;
  - vi. Allow the monitoring of the ROAD SYSTEM operation and the regular activities of the CONCESSIONER by ARTESP, the GRANTING AUTHORITY and/or the SUCCESSOR;
  - vii. Promote training for the GRANTING AUTHORITY's staff and /or that of ARTESP and/or that of the SUCCESSOR related to the ROAD SYSTEM operations;



- viii. Collaborate with ARTESP, with the GRANTING AUTHORITY or with the SUCCESSOR in the preparation of any reports required for the transition process;
- ix. Recommend professionals in specialist areas that are important for the operational transition while the GRANTING AUTHORITY or the SUCCESSOR are assuming the services;
- x. provide physical space to receive work groups from the GRANTING AUTHORITY and/or the SUCCESSOR, throughout this period;
- xi. Help plan the list of staff members; and
- xii. Interact with the GRANTING AUTHORITY, ARTESP, the SUCCESSOR and other players and agents involved in the ROAD SYSTEM operations.

## **CHAPTER XI – DISPUTE RESOLUTION**

### **CLAUSE FIFTY-FIFTH – FRIENDLY DISPUTE RESOLUTION**

- 55.1. The PARTIES and ARTESP shall make their best efforts to amicably resolve any disagreement or conflict of interest resulting from the AGREEMENT, using the principle of good faith, through direct negotiation.
- 55.2. In the event of divergences under the terms of this Clause, the interested PARTY shall communicate in writing to ARTESP presenting all its allegations about the divergence, and must also present a suggestion for its solution and/or elucidation.
- 55.2.1. ARTESP shall notify the other PARTY within 10 (ten) business days, except in cases in which ARTESP itself appears as a defendant.
- 55.2.2. The PARTY notified shall have ten (10) business days, as of the receipt of the notification, to answer whether it agrees with the solution offered.
- 55.2.3. In the event the PARTY notified agrees with the solution offered, the PARTIES shall deem the disagreement or conflict of interests resolved and shall take the measures required to implement what has been agreed.
- 55.2.4. In the event an agreement is not reached, the PARTY notified shall present to the other PARTY, also within ten (10) days, the reasons for disagreeing with the solution offered, and shall, in this case, present an alternative offer for the situation.
- 55.3. The amicable dispute settlement procedure provided for in this Clause is not mandatory in urgent cases, where there is a risk that the right will perish or the situation will worsen.
- 55.4. The adoption of the procedures indicated in Clause 55.2 and respective sub-items does not exempt the PARTIES and ARTESP from following up and complying with their

contractual obligations, and it is the duty of the PARTIES and ARTESP to ensure the continuity of the provision of the DELEGATED SERVICE and compliance with the work schedules.

55.4.1. The stoppage of works or services will only be allowed when the object of the divergence involves risks to the safety of people and/or the provision of the DELEGATED SERVICE, provided that the stoppage proves to be the most appropriate measure for neutralization or, when this is not possible, to the mitigation of the risk that may exist, obtaining, when possible, without compromising safety, the consent of ARTESP prior to the stoppage.

55.5. The resolution of the conflict may also occur before the chamber of prevention and administrative resolution of conflicts or by mediation, under the terms of Law 13.140/15.

55.6. In compliance with the contractual rules, the PARTIES may use the TECHNICAL BOARD, independent rapporteur or other forms of amicable conflict resolution to resolve technical issues and, even, any doubts, request clarifications or demand technical opinions or manifestations that serve the perfect understanding of related aspects:

- i. Incorporation of technological innovations that are relative to rendering the DELEGATED SERVICES that are the object of the SPONSORED CONCESSION;
- ii. The transition from the ROAD SYSTEM to the GRANTING AUTHORITY or to the SUCCESSOR at the end of the AGREEMENT;
- iii. Calculations for indemnification possible owed to the CONCESSIONAIRE in the possibilities established in the AGREEMENT;
- iv. The solution of any divergences of a technical and/or economic-financial nature during the execution of the AGREEMENT.

55.6.1. For the constitution of the TECHNICAL BOARD, the interested PARTY shall, by means of a written communication addressed to ARTESP, request the constitution of the TECHNICAL BOARD, indicating, from the outset, the member responsible for it, in accordance with the rules established below.

55.6.1.1. The TECHNICAL BOARD will be formed by 3 (three) specialized members, with experience in the management of advisory services to long-term projects in the road concession and/or heavy construction sector, who shall, within the scope of their competence, act encouraging the PARTIES to avoid disputes and assist them in the solution of those that cannot be avoided, aiming at their definitive solution, always applying the provisions of the AGREEMENT and its ANNEXES and observing the applicable legislation.

55.6.1.2. Each of the PARTIES will appoint a member to compose the TECHNICAL BOARD, and the appointed members shall, by mutual agreement, appoint the third member, who will be the chairman of the TECHNICAL BOARD.

55.6.1.3. The TECHNICAL BOARD shall issue an opinion on disputes that are presented to it within 60 (sixty) calendar days, if the dispute resolution does not involve the production of technical expertise, or within 90 (ninety) calendar days, if the

controversy involves the production of technical expertise, unless otherwise disciplined. During this period, none of the PARTIES may submit the same dispute to the arbitration mechanism provided for in this AGREEMENT.

55.6.1.4. The CONCESSIONAIRE shall be responsible for paying the entirety of the costs related to the installation and maintenance of the TECHNICAL BOARD, including administrative expenses, the fees of the members appointed by the PARTIES and the costs arising from the hiring of any specialized technical assistance by the TECHNICAL BOARD.

55.6.1.4.1. The CONCESSIONAIRE shall be entitled to reimbursement of 50% (fifty percent) of the costs related to the TECHNICAL BOARD if the opinion given has been partially or entirely favorable to its claim, regardless of who has raised the divergence brought to the TECHNICAL BOARD.

55.6.1.5. The manifestations of the TECHNICAL BOARD will be exclusively opinionated, not binding the performance of the PARTIES.

## CLAUSE FIFTY-SIXTH - ARBITRATION

56.1. The PARTIES and ARTESP agree to submit to arbitration disputes relating to available property rights, as defined by article 18, §4, of State Law No. 16.933/2019, which have not been resolved amicably, under the terms of this AGREEMENT.

56.2. Installing an arbitration proceeding does not exempt the Parties from complying with their contractual obligations.

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

56.3.1. In the event that there is no arbitral chamber registered by the State of São Paulo, the choice will be made by the party that requests the initiation of the arbitration procedure, based on the following criteria:

- i. Present space available for holding hearings and secretarial services, at no additional cost to the parties, in the city of São Paulo;
- ii. Be regularly constituted for at least five years;
- iii. Meet the legal requirements for receiving payment by the Public Administration of the State of São Paulo;
- iv. Have recognized reputation, competence and experience in the administration of arbitration proceedings with the Public Administration.

56.4. The arbitration proceedings shall observe the Regulations of the Arbitration Tribunal chosen, as well as what is stated in Act Nº 9.307/96 and further amendments, as well as the provisions in this AGREEMENT.

- 56.5. The ARBITRAL COURT shall be composed of three members, appointed in accordance with the rules of the arbitration chamber, and may be chosen, by agreement between the PARTIES, as the sole arbitrator.
- 56.5.1. The arbitrators appointed by the PARTIES must have proven experience in the matter that will be discussed in the arbitral proceedings.
- 56.6. The ARBITRAL COURT shall be established in the city of São Paulo, São Paulo State, and may meet in any location, provided that all the parties are notified.
- 56.7. The arbitration will 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.
- 56.7.1. Arbitration must comply with any judicial decisions that, under the terms of the current Brazilian legislation, have binding efficacy and impose their observance by the organs of the Judiciary.
- 56.7.2. At the request of the CONCESSIONAIRE and with the consent of the GRANTING AUTHORITY and/or ARTESP, the arbitration may be partially bilingual, and the decisions are produced in Portuguese and English or another foreign language versions.
- 56.7.3. In the event arbitration is partially conducted in two languages, the CONCESSIONAIRE shall be responsible for expenses related to the translation of documents, even when the translation is the result of actions conducted by ARTESP and/or the GRANTING AUTHORITY, and these costs shall not be included in legal expenses.
- 56.7.4. In the event there are discrepancies concerning the content in the documents in Portuguese and those translated, the content in the Portuguese version shall prevail.
- 56.8. The ARBITRAL COURT may not rely on equity in their ruling pertaining to this AGREEMENT.
- 56.9. The payment of the costs and expenses related to the arbitration proceeding shall observe, by analogy, the system of loss of suit provided in the Code of Civil Procedure, being forbidden the condemnation of the losing PARTY to refund the contractual attorneys' fees of the winning PARTY.
- 56.9.1. Regardless of the PARTY that has triggered the establishment of the arbitration procedure, the advance of expenses and costs eventually requested by the chosen arbitration chamber shall, pursuant to article 18, paragraph 2, of State Law 16.933/2019, be paid by the CONCESSIONAIRE, which may, when appropriate, be refunded in accordance with a subsequent final decision in an arbitration body.
- 56.10. Should the Parties refuse to take the measures required for the arbitration proceedings to begin, the Party that requested the arbitration proceedings may appeal to one of the Courts in São Paulo, in the State of São Paulo, to obtain the legal measures, based on Article 7 of Act N° 9.307/96 and its amendments.

- 56.11. The verdict and award shall be considered final in relation to the controversy between the PARTIES, and shall be unappealable and binding to both PARTIES.
- 56.12. The proceedings of the arbitration process shall be public, with the exception of legal hypotheses of secrecy or judicial confidentiality.
- 56.13. Either PARTY may appeal to the court of the District of São Paulo, State of São Paulo, to settle any dispute not subject to arbitration, as well as to obtain (a) possible precautionary measure necessary before the formation of the ARBITRAL COURT, in compliance with the provisions of articles 22 -A and 22-B of Federal Law N°9.307 / 1996; or (b) promote the execution of a precautionary measure, preliminary injunction or sentence issued by the ARBITRAL COURT.
- 56.14. The decisions handed down by the ARBITRAL COURT that impose a pecuniary obligation on the GRANTING AUTHORITY will be enforced according to the system of court orders or small value obligation, under the same conditions imposed on the other judicial executive titles.
- 56.15. The parties acknowledge that decisions handed down by the ARBITRAL COURT may be regularly performed in Brazil, following the procedure for performance against Public Finance, and the GRANTING AUTHORITY shall have no sovereign immunity that inhibits such performance.

#### **CLAUSE FIFTY-SEVENTH - COURT**

- 57.1. The District Court of São Paulo, State of São Paulo, will be competent for any and all claims of a precautionary nature or urgent relief that cannot wait for the establishment of the Arbitral Tribunal for the respective appreciation, as well as to settle any dispute that cannot be of an amicable solution or subject to arbitration, under the terms of this AGREEMENT.

### **CHAPTER XIII – FINAL PROVISIONS**

#### **CLAUSE FIFTY-EIGHTH - FINAL PROVISIONS**

- 58.1. With respect to all matters established in the AGREEMENT herein, as well as decisions handed down by ARTESP or by the GRANTING AUTHORITY, the CONCESSIONAIRE shall be entitled to due administrative proceedings, under the terms of State Act No 10,177/98.
- 58.2. This AGREEMENT binds ARTESP, the PARTIES and their successors in all its aspects.
- 58.3. Possible amendments to the AGREEMENT herein shall only be valid when agreed upon and signed by both PARTIES, by means of a Term of Contractual Amendment, except when the possibility to make unilateral changes to the AGREEMENT herein is offered by the GRANTING AUTHORITY, under the terms of the applicable legislation.
- 58.4. If ARTESP any of the PARTIES, even by means of omission, allows full or partial non-performance of any of the Clauses or conditions in the AGREEMENT herein and its ANNEXES, this fact shall not free, relieve or in any way affect or impinge on the validity



and efficiency of said Clauses and conditions, which shall remain unchanged, as if no tolerance had been invoked.

58.4.1. In the event a PARTY renounces any right, this shall not be valid unless done so in writing and this shall be interpreted in a restrictive fashion, restraining its extension to any other right or obligation established in this AGREEMENT.

58.4.2. Annulling or invalidating any Clause in the AGREEMENT herein shall obstruct the validity and the production of the effects of any other Clause in this AGREEMENT.

58.5. All communication related to the AGREEMENT herein shall be forwarded in writing, to the addresses and in the names of the people listed below:

For the CONCESSIONAIRE: [●]

For ARTESP: [●]

For the GRANTING AUTHORITY: [●]

58.6. The PARTIES and ARTESP may modify the data indicated above through simple written communication to the others.

58.7. Notifications and communications will be deemed duly received on the date (i) contained in the acknowledgment of receipt; (ii) delivery of the judicial or extrajudicial letter; (iii) proof of facsimile delivery; (iv) proof of delivery by internationally known courier service; (v) proof of delivery of e-mail with acknowledgment of receipt to the address indicated in the Clause 58.5; or (vi) a protocol of ARTESP, GRANTING AUTHORITY or at the address of the CONCESSIONAIRE indicated in the Clause 58.5.

58.8. All documents related to this AGREEMENT and to the SPONSORED CONCESSION shall be written in Portuguese, or translated into Portuguese, by means of sworn translators, when documents are of foreign origin.

58.8.1. In the event of any conflict or inconsistency, the rule provided for in item 10.29 et seq. of the REQUEST FOR BIDS will apply.

58.9. When counting the deadlines or time-frames established in the AGREEMENT herein, this shall exclude the initial day and shall expire on the due date, computing successive days, unless otherwise established.

58.9.1. When the deadlines end on weekends, holidays or days when there is no time in the STATE PUBLIC ADMINISTRATION, the period will be automatically postponed to the first subsequent business day;

58.10. ARTESP shall designate a technical branch to inspect and accompany this AGREEMENT, designating the manager.

In witness whereof, duly and mutually agreed, the PARTIES and ARTESP hereby sign the AGREEMENT herein in three (3) copies of equal tenor and form, in the presence of two (2) witnesses, who have signed below, for all legal purposes and effects.

São Paulo, [●].

**ARTESP, PARTIES AND SIGNATURES:**

Rodoanel Norte - parcerias@sp.gov.br - Christine Munhoz - Subsecretaria de Parcerias - 8/15/2022 6:49:42 PM - 201.55.53.80