

INTERNATIONAL COMPETITION N ° \_\_\_\_ / SMA / DSLC / 2018

CONCESSION FOR IMPLANTATION, OPERATION, MANAGEMENT AND  
MAINTENANCE OF THE URBAN AND MARINE PARK IN THE MUNICIPALITY OF  
FLORIANÓPOLIS.

## **CONTRACT MINUTE**

**PREAMBLE**

**MINUTES OF**

**CONTRACT**

**INTERNATIONAL COMPETITION N ° \_\_\_\_\_ / SMA / DSLC / 2019**

Bu this instrument:

The Municipality of Florianópolis, domiciled at \_\_\_\_\_ Street, CNPJ n. \_\_\_\_\_, represented by the Municipal Secretary of \_\_\_\_\_, bearer of the Identity Card no. \_\_\_\_\_, registered with the CPF / MF under No. \_\_\_\_\_, residing in \_\_\_\_\_, herein called GRANTING POWER; and

The company \_\_\_\_\_, with headquarters in \_\_\_\_\_, registered with the CNPJ / MF under No. \_\_\_\_\_, represented by its president [name and qualification], holder of the Identity Card No. \_\_\_\_\_, enrolled with the CPF / MF under No. \_\_\_\_\_, resident in \_\_\_\_\_, in this act called CONCESSIONAIRE;

GRANTING AND CONCESSIONAIRE POWER, hereinafter collectively referred to as "PARTIES" and individually, as "PART",

RESOLVE to conclude the present CONCESSION contract, including the implementation, operation, management and maintenance of the urban and marine park in the city of Florianópolis, in accordance with the provisions of the International Competition Law no. \_\_\_ / SMA / DSLC / 2019, Municipal Law no. Federal Law no. 8,074 / 1995, Federal Law No. 9,074 / 1995, Federal Law 8,666 / 1993, and other rules governing the matter, subject to the clauses and conditions set forth in this instrument, transcribed below .

## CHAPTER I - GENERAL PROVISIONS

### CLAUSE 1 DEFINITIONS

1.1. For the purposes of this AGREEMENT and its ANNEXES or any other document that must be provided under this AGREEMENT, the terms listed below, when used in the singular or plural, in block capitals, shall have the meanings set forth in this sub clause:

- a) ABNT: Brazilian Standards Developing Organization;
- b) TENDERER: participant of the BID to which the PURPOSE was awarded;
- c) SUPPORTING AGENT: legal entity to be contracted by the CONCESSIONAIRE, to support the process of benchmarking performance indicators, in accordance with the CONTRACT and current legislation.
- d) ANNEXES: documents accompanying this CONTRACT;
- e) CONCESSION AREA: area to be granted for the execution of the PURPOSE OF THE CONCESSION, according to ANNEX III - PROJECT AREA DESCRIPTION, of the NOTICE;
- f) ATTRACTIONS: free areas, non-permanent installations and buildings of the URBAN AND MARINE PARK, being those existing before the CONCESSION or new ones, destined to recreation, leisure, culture, education, sport and entertainment of its users, according to the terms of ANNEX III – PROJECT AREA DESCRIPTION, of the NOTICE;
- g) REVERSIBLE GOODS: goods indispensable to the continuity of services related to the PURPOSE, which will be reverted to the GRANTING POWER to the termination of this AGREEMENT;
- h) GOODS LINKED TO THE CONCESSION: assets, whether or not belonging to the CONCESSIONAIRE's assets, necessary for the proper and continuous implementation and execution of the PURPOSE;
- i) PATHWAYS: hiking trails, streets, *cooper*, bicycle paths, sidewalks, water-front warehouse and other routes destined to the movement of USERS in the URBAN AND MARINE PARK;
- j) CASE FORTUITO AND FOREVER MAJEURE: unforeseeable and unavoidable

events that result in a veracity that is excessive for any of the PARTIES, or unequivocally prevent the continuation of the CONCESSION. 14.2 Fortuitous event is any situation arising from situation falling outside the will of the PARTIES, however coming from human acts. FORCE MAJEURE

any situation arising in fact alien to the will of the PARTIES, however, arising from acts of nature;

k) CONCESSION: concession for the achievement of the PURPOSE, granted to the CONCESSIONAIRE for the term and conditions set forth in this AGREEMENT;

l) CONCESSIONAIRE: Specific Purpose Company, constituted in accordance with the provisions of this AGREEMENT and under the Brazilian laws, for the exclusive purpose of executing the PURPOSE;

m) CONTRACT: this legal instrument, signed between the PARTIES, which regulates the terms of the CONCESSION;

n) CONTROLLED: any company, investment fund or legal entity whose CONTROL is exercised by another person, physical or legal, or investment fund;

o) PARENT COMPANY: any person, natural or legal, or investment fund that exercises CONTROL over another legal entity or investment fund;

p) CONTROL: the power held by a person or group of persons bound by a voting agreement or under common control, individually or jointly: (i) to exercise, permanently, rights that ensure a majority of the votes in the resolutions and elect the majority of the managers or managers of another legal entity, investment fund or supplementary pension entities, as the case may be; and / or (ii) effectively direct the activities and guide the operation of organs of another legal entity, investment fund or supplementary pension entity;

q) START ORDER DATE: date from which the execution of the PURPOSE will begin, according to the order to be recorded in writing by the GRANTING AUTHORITY to the CONCESSIONAIRE, after the CONTRACT statement is published in the Official Gazette of the Municipality of Florianópolis;

r) DATE OF PUBLICATION OF CONTRACT: date of publication of the extract of this CONTRACT in the Official Gazette of the Municipality of Florianópolis;

s) NOTICE: Notice No. \_\_\_\_\_ / SMA / DSLC / 2019 and its annexes;

- t) **NON-GRANTED EQUIPMENT:** the equipment of the Marina area that are not part of the CONCESSION, that is, \_\_\_\_\_, in accordance with the ANNEX III - DESCRIPTIVE MEMORY OF THE AREA;
- u) **PERFORMANCE FACTOR or FDE:** number calculated between 0 (zero) and 1 (one) depending on the performance of the CONCESSIONAIRE in the execution of the PURPOSE, measured according to the performance indicators in ANNEX V - CONTRACT PERFORMANCE MEASUREMENT SYSTEM;
- v) **FGTS:** Guarantee Fund for Time of Service, established by Federal Law 5.107, of September 13, 1966;
- w) **FINANCING:** any financial institution, development bank or multilateral credit agency, which grants financing to the CONCESSIONAIRE for the execution of the PURPOSE;
- x) **FINANCING:** any and all loans, possibly granted to the CONCESSIONAIRE, in the form of debt, to fulfill its obligations under this AGREEMENT;
- y) **REVENUE SOURCES:** revenue sources, including alternatives, complementary, accessory or associated projects, perceived by the CONCESSIONAIRE because of the exploitation of the PURPOSE;
- aa) **CONTRACT EXECUTION GUARANTEE:** the guarantee of the faithful fulfillment of the obligations of the CONCESSIONAIRE, to be maintained in favor of the GRANTING POWER;
- bb) **INDICATOR OF PERFORMANCE or ID:** set of goals, quality standards, measurement methods and periodicity to evaluate the quality of the services provided by the CONCESSIONAIRE, as provided in this AGREEMENT, in particular in its ANNEX V - PERFORMANCE MEASUREMENT SYSTEM;
- cc) **INMETRO:** National Institute of Metrology, Quality and Technology, created by Federal Law 5,966, of December 11, 1973;
- dd) **INSS:** National Institute of Social Security (INSS) ee) **REGULATORY INSTRUMENT:** Instrument concluded between the PARTIES, with the purpose of establishing and detailing contractual regulation issues;
- ff) **CPI:** Consumer Price Index, published monthly by FIPE - Foundation for Economic Research Foundation;
- gg) **IPCA:** Extended Consumer Price Index, determined by the Brazilian Institute of Geography - IBGE;

hh) BIDDING: International Competition No. 001 / SMA / DSLC / 2018;

ii) URBAN FURNITURE: elements such as furniture, purposes and equipment that can occupy the public space of the area with different purposes; jj) PURPOSE: provision of management, operation and maintenance services for the URBAN AND MARINE PARK, as well as the execution of engineering works and services;

kk) STARTING ORDER: document issued by the GRANTING AUTHORITY after the CONTRACTUAL DATE OF PUBLICATION, which sets the date for the beginning of the PURPOSE of this AGREEMENT;

ll) PARTIES: the GRANTING POWER and the CONCESSIONAIRE;

mm) CONCESSION TRANSITION PERIOD: is the period of three (3) months counted from the DATE OF THE ORDER OF INITIATION, in which the CONCESSIONAIRE will develop the OPERATIONAL TRANSFER PLAN for the URBAN AND MARINE PARK, according to the terms of ANNEX III -DA DEALDEALERSHIP;) OPERATIONAL PLANS: plans containing the obligatory and optional services and activities performed in the PARK to execute the PURPOSE OF THE CONCESSION, according to the REFERENCE TERM;

oo) GRANTING POWER: Municipality of Florianópolis;

qq) COMMERCIAL PROPOSAL: financial proposal presented by the TENDERER under the terms and conditions of the NOTICE and its ANNEXES;

rr) USER SERVICES: the services provided for the convenience of USERS in the URBAN AND MARINE PARK, such as food and beverage services, parking lots, among others, under the terms of this AGREEMENT;

ss) MANDATORY SERVICES: obligatory activities to be developed by the CONCESSIONAIRE, according to the CONTRACT and its ANNEXES, in particular the TERM OF REFERENCE;

tt) SOCIETY OF SPECIFIC PURPOSE or SPE: Specific Purpose Company that will be constituted by the TENDERER, in accordance with the laws of the Federative Republic of Brazil, for the exclusive execution of the PURPOSE;

(uu) SUSEP: Superintendence of Private Insurance, a federal agency created by Decree-Law No. 73 of November 21, 1966; and

vv) USERS: the visitors of the URBAN PARK AND MARINA.

## **CLAUSE 2 CONTRACT DOCUMENTS**

2.1 The following APPENDICES are part of this AGREEMENT, as inseparable parts:

- a) Reference Terms
- b) CONTRACT MINUTE
- c) CONCESSION AREA PLANT;
- d) PREMISES FOR RESEARCH OF ECONOMIC FINANCIAL VIABILITY;
- e) RESEARCHES OBTAINED IN PMI;
  - o SIMPLIFIED ENVIRONMENTAL DIAGNOSIS ;
  - o TERRITORIALITY RESEARCH ;
  - o SIMPLIFIED IMPACT RESEARCH;
  - o ARCHITECTURAL AND URBANISTIC PRELIMINARY RESEARCH;
- f) TECHNICAL REPORT OF THE GEOPHYSICAL, GEOMETRIC AND GEOTECHNICAL SURVEY (JET-PROBE) DONE IN THE NORTH BAY OF THE ISLAND OF SANTA CATARINA - MARINA BEIRA-MAR.

## **CLAUSE 3 APPLICABLE LAW AND THE LEGAL REGIME OF THE CONTRACT**

3.1. CONCESSION is subject to the provisions of this AGREEMENT and its ANNEXES, to the laws in force in Brazil - with express waiver of the application of any other - and to the precepts of public law, and the principles of the general theory of contracts and provisions of private law.

3.2. THE CONCESSION shall be governed by:

- a) Federal Constitution of 1988;
- b) Federal Law No. 8.987, of February 13, 1995;
- c) Federal Law 9,074 of July 7, 1995;
- d) Federal Law 8.666, of June 21, 1993.
- e) Federal Law 9.307, of September 23, 1996.
- f) Municipal Law 10,437 / 2018;



g) by other relevant legal standards, techniques and normative instructions.

3.3. In this AGREEMENT and in its ANNEXES, references to the standards applicable in Brazil shall also be understood as references to the legislation that replaces, complements or modifies them.

#### **CLAUSE 4 INTERPRETATION**

4.1. In interpreting, integrating or applying any provision of this agreement, contractual clauses should be considered, and then the provisions of the annexes which they consider to be integrated, as indicated in clause 2.

4.2. 4.1.1 In cases of conflict between the provisions of the AGREEMENT and the APPENDICES that are part of it, the provisions of the AGREEMENT shall prevail.

4.3. In cases of divergence between ANNEXES subsequently added to the CONTRACT, the most recent date will prevail.

4.4. references to the Agreement or to any other document shall include any amendments and additions that may be made between the Parties.

### **CHAPTER II - PURPOSE, CONCESSION AREA, TERM AND TRANSFER OF THE CONCESSION**

#### **CLAUSE 5 PURPOSE**

5.1. The purpose of this bid is the Common Concession of public space for the Implementation of Park and Marina in Avenida Beira Mar Norte, which will require the preparation of researches and projects, execution of works and management of public, private and commercial areas.

5.2. The equipment not granted, according to the plant attached to the TERM OF REFERENCE, are not part of the PURPOSE OF THE CONCESSION.

5.3. The characteristics and technical specifications regarding the execution of the PURPOSE are indicated in this AGREEMENT and in its respective ANNEXES.

5.4. Without prejudice to the provisions of this AGREEMENT and its ANNEXES, the execution of the PURPOSE shall comply with the rules, standards and other procedures contained in the applicable legislation.

## **CLAUSE 6 CONCESSION AREA ASSIGNMENT**

6.1. THE CONCESSION AREA will be assumed by the CONCESSIONAIRE after the DATE OF THE ORDER OF INITIATION.

6.2. The Assumption of the CONCESSION AREA will be assumed by the Concessionaire, as of the date of issuance of the Authorization of Works by the Florianópolis City Hall.

6.3. The execution of the PURPOSE of this CONTRACT shall comply with the limits of the CONCESSION AREA.

6.4. The PARTIES shall execute the Provisional Term of Acceptance of the Goods, containing the state of conservation, operation and technical specifications of the assets granted, within thirty (30) days after the Authorization of Works by the Municipality of Florianópolis. Acceptance of the Goods to be signed within ninety (90) days counted from the DATE OF THE ORDER OF INITIATION.

## **CLAUSE 7 TERM**

7.1. The term of this CONTRACT may be up to 30 (thirty) years, counted from the DATE OF THE ORDER OF INITIATION, not allowed extension, except for the effect of economic and financial rebalancing of the CONCESSION.

7.2. The CONCESSIONAIRE may, at its discretion, anticipate the obligations set forth in the schedule contained in the IMPLEMENTATION PLAN, fully assuming the risks and burdens of such anticipation.

## **CLAUSE 8 CONCESSION TRANSFER**

8.1. Throughout the term of validity, the transfer of the CONCESSION may only occur upon prior consent of the GRANTING POWER, subject to the conditions set forth in this AGREEMENT, and provided that the execution of the PURPOSE is not jeopardized.

8.2. The transfer of the CONCESSION can only be authorized after issuance of the Definitive Agreement of Acceptance of Works relative to the end of the PLAN OF IMPLANTATION, under the terms of the sub clause 12.4, and by proving the regular fulfillment of the obligations assumed by the CONCESSIONAIRE.

8.3. 7.3 For the purpose of obtaining approval for transfer of ADMINISTRATIVE CONCESSION, the interested party shall:

- a) meet the requirements of technical capacity, financial suitability and legal, fiscal and labor legal regularity necessary for the assumption of the PURPOSE;
- b) b) provide and maintain the necessary guarantees, as applicable; and
- c) c) undertake to comply with all provisions of this AGREEMENT.

8.4. 7.2 The total or partial transfer of the ADMINISTRATIVE CONCESSION, without prior authorization from the GOVERNMENT, shall result in the immediate caducity of the ADMINISTRATIVE CONCESSION.

8.5. 10.5.3 The GOVERNMENT shall review the application within 30 (thirty) days, extendable for an equal period, if necessary, and may, at its discretion, request clarification and additional documents to the CONCESSIONAIRE and FINANCER(IERS), summon the controlling shareholders of the CONCESSIONAIRE and promote any action it deems appropriate.

8.6. 10.5.4 The authorization for the transfer of control of the CONCESSIONAIRE, if granted by the GOVERNMENT, shall be formalized in writing, stating the conditions and requirements for its realization.

### **CHAPTER III - CONCESSIONAIRE**

#### **CLAUSE 9 PURPOSE AND CAPITAL STOCK**

9.1. The CONCESSIONAIRE, structured as a joint stock company under the terms of Federal Law 6,404, dated December 15, 1976, shall indicate in its bylaws, as an exclusive purpose, the exploration of the PURPOSE, its corporate composition being that presented in the BID and constant of its corporate instruments, which must be delivered, updated, to the GRANTING POWER.

9.2. The minimum subscribed capital of the CONCESSIONAIRE must be R \$ 20,000,000.00 (twenty million reais).

9.3. The CONCESSIONAIRE undertakes to keep the GRANTING POWER permanently informed on the payment of the capital mentioned in the previous sub clauses, and it is possible for the GRANTING Power to carry out the necessary diligences and audits to verify the regularity of the situation.

9.4. The CONCESSIONAIRE may not, throughout the period of execution of the

IMPLEMENTATION PLAN, reduce its capital below the minimum value established in sub clause 9.2 CONTRACT, without previous and express authorization of the GRANTING POWER.

9.5. The CONCESSIONAIRE may issue bonds, debentures or similar financial instruments that represent obligations of its responsibility, in favor of third parties.

9.6. The appeal available to the CONCESSIONAIRE shall be applied exclusively in the development of activities related to the CONCESSION dealt with in this CONTRACT.

9.7. The CONCESSIONAIRE must be based in the Municipality of Florianópolis.

#### **CLAUSE 10 TRANSFER OF CONTROL AND STATUTORY CHANGES TO THE CONCESSIONAIRE**

10.1. No alteration of the shareholding composition will be allowed under the SPE until the issuance of the Definitive Term of Acceptance of Works, except in exceptional situations, duly authorized by the GRANTING POWER, in which it is demonstrated the risk of loss for the continuity of the PURPOSE, under pain of TERMINATION OF THE CONCESSION.

10.2. As an exception to the previous sub-clause, it will be possible to authorize the GRANTING POWER to transfer the CONTROL of the CONCESSIONAIRE prior to conclusion.

10.3. Without prejudice to the provisions of sub clause 10.1, throughout the term of this CONTRACT, the direct corporate control of the CONCESSIONAIRE may only be modified by prior and express authorization of the GRANTING POWER, under penalty of expiration of the CONCESSION.

10.4. The CONCESSIONAIRE undertakes not to change, through any act, contract or other type of transaction, the SPE's direct corporate CONTROL, without prior consent of the GRANTING POWER.

10.5. Insofar as they can, individually or in block form, characterize the modification of the SPE's direct corporate CONTROL, the act (s) are also subject to the prior consent of the GRANTING POWER for purposes of this AGREEMENT:

- a) the conclusion of a shareholders' agreement;
- b) the issuance of securities convertible into shares; and
- c) the guarantee institution and rights to third parties over actions.

10.6. The issue of securities not included in the situation described in letter "b" of the previous sub clause, even in the case of securities not convertible into shares, must always be submitted to the prior knowledge of the GRANTOR.

10.7. The transfer or alteration of the indirect CONTROL or of the shareholding that does not imply the transfer of the direct corporate control of the CONCESSIONAIRE shall be purpose of communication to the GRANTING POWER, within a term of up to 10 (ten) days before the execution of the respective operation.

10.8. 10.3 The transfer of controlling interest of the CONCESSIONAIRE shall only be authorized by the GOVERNMENT when the measure does not harm, nor jeopardize the performance of the AGREEMENT.

10.9. The request for authorization of the alteration of the direct corporate control of the SPE shall be submitted to the GRANTING POWER, in writing, by the CONCESSIONAIRE or by the FUNDER (s), containing the justification for both, as well as elements that may support its analysis.

10.10. To obtain the consent for the transfer of the direct corporate control of the SPE, the entrant must:

- a) meet, as the case may be, the requirements of technical capacity, financial suitability and legal and fiscal regularity necessary for the assumption of the PURPOSE; and
- b) ensure compliance with all clauses of this AGREEMENT.

10.11. 10.5.4 The authorization for the transfer of control of the CONCESSIONAIRE, if granted by the GOVERNMENT, shall be formalized in writing, stating the conditions and requirements for its realization.

10.12. During the entire CONCESSION period, the CONCESSIONAIRE must also submit to the prior authorization of the GRANTING POWER the modifications in the respective bylaws that involve:

- a) the spin-off, merger, transformation or incorporation of the SPE;
- b) the capital reduction of the SPE; and
- c) the issuance of shares of classes of shares different from the capital stock of the SPE.

10.13.1. The GRANTING POWER will examine the order (s) forwarded by the

CONCESSIONAIRE pursuant to this clause within a period of up to 30 (thirty) days, which may be extended for an equal period, if necessary, and may request additional clarifications and documents from the CONCESSIONAIRE and (s), to call the controlling shareholders of the SPE and to take other steps deemed appropriate.

10.13.2. In the absence of a manifestation of the GRANTING POWER within the term of the previous sub clause, the application submitted by the CONCESSIONAIRE shall be deemed accepted, being incumbent upon the CONCESSIONAIRE, in relation to the omission of the GRANTING Power over the other requests, to adopt, as the case may be, the measures provided for in CHAPTER XIII of this AGREEMENT.

10.14. All documents that formalize the CONCESSIONAIRE's statutory alteration, regardless of the need for prior authorization of the GRANTOR, must be forwarded to it within a maximum of thirty (30) days of the respective alteration, for archival purposes.

## **CHAPTER IV - OBLIGATIONS OF THE PARTIES**

### **CLAUSE 11 - GENERAL OBLIGATIONS OF THE PARTIES:**

11.1 The PARTIES undertake mutually to cooperate and provide assistance required for the proper development of the activities of the ADMINISTRATIVE CONCESSION.

### **CLAUSE 12 ACCEPTANCE OF THE WORKS**

12.1. The CONCESSIONAIRE shall request the GRANTING Power to carry out an inspection, after the completion of any works or engineering services.

12.1.1. The inspection shall be carried out jointly by the PARTIES, through specially appointed representatives, within a maximum period of thirty (30) days counted from the request.

12.2. Once each survey has been carried out, the CONTRACTING AUTHORITY will accept the provisional acceptance of the works and installations related to the work in question, within a period of 15 (fifteen) days, by means of an Interim Term of Acceptance of Works (Partial or Total), this document specifies any corrections or additions that may be necessary.

12.3. The CONCESSIONAIRE will have a period of up to 90 (ninety) days to implement the corrections and / or additions indicated in the Interim Term of

Acceptance of Works (Partial or Total), under penalty of applying the corresponding penalties.

12.4. Once the corrections and / or complements mentioned in the previous sub clause have been finalized, the GRANTING Power shall perform a new inspection, within 30 (thirty) days, and the Final Term of Acceptance of Works (Partial or Total), as the case may be,

12.5. The beginning of the operation by the CONCESSIONAIRE of each of the ATTRACTIONS, REVENUE SOURCES, or other facilities or equipment will depend on the obtaining of authorizations, licenses and permits, not being bound by the inspection procedure indicated in this sub clause, without prejudice to the eventual application of the corresponding penalties in case of breach of this AGREEMENT.

12.6. The GRANTING POWER may, at any time, found that the CONCESSIONAIRE no longer meets the costs established in this AGREEMENT and its ANNEXES, or in the applicable standards, expressly state that adjustments and adjustments are made.

12.7. The CONCESSIONAIRE is responsible for any adjustments and adjustments necessary to comply with this AGREEMENT and its ANNEXES.

12.8. The realization of the eventual adjustments mentioned in sub clause 12.7 does not exempt the CONCESSIONAIRE from the payment of any fines and penalties applied for not meeting the costs established in this CONTRACT and its ANNEXES.

### **CLAUSE 13 OBLIGATIONS AND PROHIBITIONS OF THE CONCESSIONAIRE**

13.1. The CONCESSIONAIRE will always be bound to the provisions of this AGREEMENT, the NOTICE, its ANNEXES and the Brazilian legislation, regarding the execution of the PURPOSE.

13.2. The obligations of the CONCESSIONAIRE, without prejudice to the others established in this AGREEMENT, and in its ANNEXES and in the applicable legislation:

a) execute the PURPOSE, complying with and respecting the clauses and conditions of this AGREEMENT and its ANNEXES, of the COMMERCIAL PROPOSAL presented and the related documents, fully submitting to the existing regulation or that is being edited, to ABNT and / or INMETRO standards, or other competent regulatory agency, as well as to the pertinent specifications and projects, to the terms and instructions of the inspection of the GRANTING POWER, also complying with the quality goals and parameters, and other conditions for the execution of the PURPOSE;



- b) capture, apply and manage the financial appeal necessary to execute the PURPOSE;
- c) maintaining during the term of the CONTRACT the conditions necessary for the execution of the PURPOSE, including maintenance of the legal qualification requirements, tax regularity and technical qualification provided for in the TENDER;
- d) dispose of adequate equipment, materials and equipment for the fulfillment of all the obligations established in this CONTRACT, with the efficiency and quality contractually defined, for the provision of adequate service to the full attendance of the USERS;
- e) appoint and maintain a technical person in charge of the works, with powers to represent the CONCESSIONAIRE with the GRANTING POWER;
- f) adopt internal integrity mechanisms and procedures, including the elaboration of a code of ethics and conduct and internal audit mechanisms and a complaint channel to ensure their compliance, in order to prevent violations of Law 12.846 / 2013;
- g) responsible for the interlocution with third parties, such as public agencies (Military Police, Navy, Fire Brigade, Metropolitan Civil Guard, traffic control bodies, public service concessionaires, etc.), responsible for equipment not granted, Boards of Directors and private companies, aiming at the correct development of all the activities foreseen in the PURPOSE of this CONTRACT;
- h) to comply with the plans presented and, if necessary, to amend them, in accordance with the Reference Terms;
- i) ensure the maintenance of the environmental services of the URBAN AND MARINE PARK, its ecological, aesthetic and environmental balance functions;
- j) supervise the events that are held in the URBAN AND MARINE PARK, ensuring that they ensure the full integrity of the environmental patrimony;
- k) present to the GRANTING POWER the plans and projects foreseen in the REFERENCE TERM, in the terms and within the indicated periods, accompanied, as the case may be, of researches and opinions of consultants;
- l) to conclude the purpose of this concession in accordance with the rules and deadlines set forth in the edict and its annexes;
- m) keep the GRANTING POWER quarterly informed of the fulfillment of the execution stages of the works;



- n) submit to the GRANTING AUTHORITY the documents of technical responsibility of the professionals involved up to thirty (30) days from the DATE OF PUBLICATION OF CONTRACT, according to the norms of the Federal Council of Engineering and Agronomy - CONFEA;
- o) to adopt the Order Book in the works and services of engineering and architecture, in accordance with the legislation of the CONFEA / CREA system;
- p) be responsible for the installation and operation of the construction site and other operational structures, in accordance with the normative requirements, providing adequate storage and storage of the material used in the works;
- q) submit to the GRANTING AUTHORITY the communication of the beginning of the work with the Ministry of Labor, the registration of the work with the INSS - CEI and the obligatory work safety programs;
- r) assume full civil and criminal liability for the proper execution and efficiency of the activities performed, as well as for damages arising from the execution of the PURPOSE, including third parties;
- s) assume full responsibility for any work accidents in the execution of the PURPOSE, as well as for improper use of patents and / or copyrights, or any other intellectual property rights misused;
- t) assume full responsibility for the risks inherent to the execution of the CONCESSION, except for the cases expressly excepted in this AGREEMENT;
- aa) to contract the insurance for the relevant and usual risks of the CONCESSION and the insurance provided in this AGREEMENT, being responsible in any case for the damages caused by itself, its representatives, prepossessed or subcontracted, in the execution of the CONCESSION, before the GRANTING POWER or third parties;
- bb) respond to the CONTRACTING AUTHORITY and third parties for the subcontracted services;
- cc) comply with all legal and regulatory provisions regarding tax legislation and labor, social security, occupational health and safety legislation in relation to its employees, service providers, contractors or subcontractors, exempting the CONCESSION POWER from any related liability and presenting - annually, a report accompanied by the documentation proving compliance with the corresponding legal requirements;
- dd) to pay all taxes related to the execution of the PURPOSE;
- ee) to observe the provisions of the norms of the Municipality of Florianópolis;

ff) keep the CONCESSION AREA constantly clean, removing wastes, leftovers and other unserviceable materials, being responsible for the destination, sorting, transportation, storage, disposal and / or exploitation of the scrap and residues that may originate in the CONCESSION, including those resulting from compliance with applicable technical standards and the provisions of applicable federal, state and municipal legislation and the requirements for the necessary licensing and authorizations for that purpose, including environmental licenses, if applicable;

gg) comply with and observe all environmental legal norms and requirements;

hh) obtain, when applicable, all licenses, permits and authorizations required for the full execution of the PURPOSE, including for the exploitation of REVENUE SOURCES, and shall be responsible for all the necessary steps for both to the competent bodies under the current legislation and bearing all expenses and costs involved;

ii) inform the GRANTING POWER on the beginning of the processes with the competent bodies to obtain the licenses, permissions and authorizations required for the full execution of the PURPOSE;

jj) inform the GRANTING POWER immediately if any licenses, permits or authorizations for the full execution of the PURPOSE OF THE CONCESSION are withdrawn, revoked or expired, or, for any reason, cease to operate, indicating, first, the measures that have been taken and / or will be taken to obtain it;

kk) to give immediate knowledge to the GRANTING Power of any event or situation that changes in a relevant way the normal development of the execution of the PURPOSE, or that may harm or prevent the timely and timely fulfillment of the obligations set forth in the CONTRACT, including judicial proceedings and administrative procedures, and shall submit, as soon as possible, a detailed report on these facts, with the measures taken or to be taken to overcome or remedy the situation;

ll) communicate to the GRANTING Power, within 48 (forty-eight) hours, all circumstances or occurrences that, for reasons of CASE FORTUITO or FORCE MAIOR, prevent or prevent the normal execution of the PURPOSE;

mm) present to the GRANTING POWER, within the term established by it, additional or supplementary information that the GRANTOR, reasonably and without imposing a significant and unjustified additional burden on the CONCESSIONAIRE, shall formally request, including but not limited to, legally required payments of any and all charges, such as those relating to the relevant taxes and fees, the stage of negotiations and the conditions of the FINANCING contracts;

nn) cooperate for the development of the monitoring and supervision activities of the GRANTING POWER, under the terms of this AGREEMENT, allowing access to the equipment and facilities related to the PURPOSE, as well as to the accounting records, data and operational information, and as much as possible, of its subcontractors;

oo) attend calls formally forwarded by the GRANTING POWER, including to attend meetings;

pp) keep in archive all the information of the services and activities executed during the validity of the CONCESSION, allowing the GRANTING Power free access to them, at any time;

qq) submit, quarterly to the GRANTING POWER, the proof of payment of social and social security contributions referring to the CONCESSION and to the employees involved in the execution of the PURPOSE of the CONTRACT, as well as proof of the due fulfillment of all labor obligations;

rr) inform your schedule of events and works to the GRANTING POWER;

ss) to submit to the GRANTING POWER, whenever requested, the nominal relation of the employees, linked to the CONCESSIONAIRE or to third parties, working in the services and works in the CONCESSION AREA, indicating the names, positions and number of the respective Work and Social Security Portfolios - CTPS;

tt) present its required financial statements in the form and in the term established in this AGREEMENT;

uu) receive the complaints, complaints, comments and criticisms of the USERS;

vv) guarantee the free access of USERS to the free area of the URBAN AND MARINE PARK, respecting the hours of operation and the rules of the URBAN AND MARINE PARK and the onerous use of their equipment that are characterized as REVENUE SOURCES;

ww) to maintain a permanent dialogue with USERS, residents and residents;

xx) inform the USERS in advance of the prices charged in the URBAN AND MARINE PARKS for the exploitation of REVENUE SOURCES;

yy) keep the inventory and registration of REVERSIBLE GOODS current;

zz) care for the patronage of the GRANTING POWER, assuming the responsibility for its integrity;

aaa) to conserve all assets, equipment and facilities employed in the CONCESSION, keeping them up to date and in perfect working conditions, as well as repairing its units and promoting, on a timely basis, the substitutions demanded due to wear, technological overrun or end of life useful, and also to promote the repairs or modernizations necessary for the proper execution and preservation of the adequacy of the activities and services, observing the principle of the present time;

13.3. Among other prohibitions set forth in the legislation and in this AGREEMENT, it is forbidden to the CONCESSIONAIRE:

a) to grant loans, financing and / or any other form of transfer of funds to its shareholders and / or RELATED PARTIES, other than transfers of funds for dividend distribution, capital reduction, payment of interest on equity and / or eventual contracting of works or services with contracted third parties, based on market conditions, and observing, in any case, the terms and conditions set forth in this AGREEMENT;

b) provide Letter of Guarantee, surety or any other form of Guarantee in favor of its Related Parties and/or third Parties.

c) charge admission for access to the open areas of the URBAN AND MARINE PARK, under the terms of the Law.

13.4. The intellectual property rights to the researches and projects elaborated for the specific purposes of the CONCESSION, the rights related to the CONCESSION, as well as the projects, plans, plans, documents and other materials necessary for the performance of the CONCESSION activities, will be transmitted for free to the GRANTING POWER at the end of the CONTRACT.

13.5. The delay in obtaining licenses, permits and authorizations required for the full execution of the PURPOSE, or even for the exploitation of REVENUE SOURCES, by fact attributable to the Public Power at the municipal, state or federal level, understood as the delay in term more than 8 (eight) months of the order's protocol duly instructed by the CONCESSIONAIRE, will give rise to the right to the recomposition of the economic-financial balance in favor of the CONCESSIONAIRE, if necessary.

#### **CLAUSE 14 – GOVERNMENT OBLIGATIONS**

14.1. The CONTRACTING AUTHORITY's obligations are, without prejudice to other obligations set forth in this AGREEMENT and its ANNEXES and applicable legislation:

a) to guarantee permanently the free access of the CONCESSIONAIRE to the

CONCESSION AREA, for the execution of the PURPOSE OF THE CONCESSION during the validity of this AGREEMENT;

- b) issue the Terms of Acceptance of the Goods, under the terms and conditions of this AGREEMENT;
- c) issue the ORDER OF BEGINNING;
- d) issue the Authorization of Works Agreement;
- e) issue the Acceptance of Works Agreement;
- f) make available to the CONCESSIONAIRE, the CONCESSION AREA and the assets that will be under the management of the CONCESSIONAIRE, necessary for the adequate development of the PURPOSE;
- g) to rescind until the DATE OF THE START ORDER the contracts referring to CONCESSION AREA;
- h) be liable for the costs, damages, expenses, payments, indemnities and possible judicial measures arising from acts or facts, including labor or environmental, prior to the DATE OF THE ORDER OF INITIATION, related to the PURPOSE, as well as acts or facts that, although after the DATE OF THE ORDER OF INITIATION, arise from the sole fault of the GRANTING POWER or any third party contracted by it;
- i) provide information to the CONCESSIONAIRE that is available for the proper development of the CONCESSION;
- j) duly substantiate their decisions, approvals, requests or other acts performed under this AGREEMENT;
- k) formally indicate the public agent (s) responsible for monitoring this CONTRACT;
- l) monitor, monitor and certify compliance with this AGREEMENT, as well as analyze the information provided by the CONCESSIONAIRE, permitted to hire third parties to assist it and to subsidize it;
- m) apply the sanctions and penalties and adopt other measures necessary for the regular fulfillment of this CONTRACT in case of default of the obligations assumed by the CONCESSIONAIRE; and
- n) collaborate, within its sphere of competence and in compliance with the terms

of the pertinent legislation, with obtaining the licenses and authorizations that may be necessary for the CONCESSION, together with other municipal bodies, including participation in technical meetings and sending of necessary manifestations.

## **CLAUSE 15 CONCESSIONAIRE'S RIGHTS**

15.1. THE CONCESSIONAIRE, without prejudice to and in addition to other rights provided for in the applicable legislation and in this AGREEMENT, shall be entitled to:

- a) to exploit the PURPOSE with ample business freedom and to manage its activities, subject to the limitations and conditions set forth in this AGREEMENT and in the applicable legislation, and, for contracts and any type of agreements or adjustments entered into by the CONCESSIONAIRE with any RELATED PARTY, market conditions;
- b) explore REVENUE SOURCES at your own risk;
- c) perform, at your own risk, optional charges in the URBAN AND MARINE PARK, including the installation of ATTRACTIONS and URBAN FURNITURE not mandatory;
- d) use the names of the URBAN AND MARINE PARK and may add them from other names or *naming rights*;
- e) maintenance of the economic-financial balance, in the form of this AGREEMENT;
- f) subcontract third parties for the development of activities related to the execution of the PURPOSE; and
- g) distribute dividends and promote other licit forms of distribution of profits to shareholders, subject to the terms and conditions set forth in this AGREEMENT.

15.2. For the purposes of letter "f" of the previous sub clause, the CONCESSIONAIRE shall take care that the contracted third parties or subcontractors have technical capacity compatible with the PURPOSE activities of the CONCESSION.

15.3. The CONCESSIONAIRE shall request the consent of the GRANTOR for the conclusion of a contract or any type of agreement or adjustment with RELATED PARTIES, the approval of which shall be conditioned to the demonstration of

compliance with the market conditions, including from analogous contracts signed with third parties in the last 12 (twelve) months, if any.

#### **CLAUSE 16 GRANTED POWER PREROGATIVES**

16.1. The GRANTING POWER, without prejudice to and in addition to other prerogatives and rights provided for in the applicable legislation and in this AGREEMENT, has the prerogative of:

- a) intervene in the provision of the activities that make up the PURPOSE, and, consequently, in the management of the REVENUE SOURCES, being able to resume and extinguish them, in the cases and under the conditions set forth in this AGREEMENT and in the applicable legislation; and
- b) contracting third parties to, in the terms and limits of the legislation, exercise, totally or partially, the regulatory, supervisory and oversight powers of this CONTRACT.

#### **CLAUSE 17 PARK AND MARINE MANAGEMENT**

17.1. From the PROVISIONAL TERM OF WORK ACCEPTANCE (Partial or Total), the representative (s) of the CONCESSIONAIRE and the representative (s) of the GRANTOR shall meet, at a periodicity defined by mutual agreement, in order to present to each other the calendar of scheduled events and information on the works to be carried out and in progress in the URBAN AND MARINE PARK, with the purposes of informing about the scheduled activities and, if necessary, seeking joint solutions.

### **CHAPTER V - FINANCING**

#### **CLAUSE 18 FUNDING**

18.1. The CONCESSIONAIRE will be responsible for obtaining, applying, amortizing, paying interest and managing the FINANCING (S) necessary for the normal development of the CONCESSION, so that all obligations assumed in this AGREEMENT are fully and timely fulfilled.

18.2. The CONCESSIONAIRE may not claim any provision, clause or condition of the FINANCING contract (s) that may be contracted, or any delay in the formalization



of the necessary FINANCING contract (s) or, delay in the disbursement of the agreed appeal, in order to be totally or partially exempt from the obligations assumed in this AGREEMENT, the terms of which shall be fully known to the respective FUNDER (s).

18.3. The Concessionaire shall submit to the Government a certified copy of the Financing and Guarantee Agreements that it will execute, documents representing the securities Issued by it, as well as any changes to these instruments, within 30 (ten) business days from the date of its signature and Issue, as the case may be.

## **CHAPTER VI - CONCESSIONAIRE REMUNERATION**

### **CLAUSE 19 CONCESSIONAIRE COMPENSATION**

19.1. The revenues to be received by the CONCESSIONAIRE will be derived from the exploitation of REVENUE SOURCES in the CONCESSION AREA.

19.2. No amount will be owed by the GRANTING POWER to the CONCESSIONAIRE due to the execution of the PURPOSE.

19.3. THE CONCESSIONAIRE may perform any lawful activities compatible with this CONTRACT and be remunerated for the revenues earned from the development of such activities, and shall observe the rules of revenue sharing, under the terms of this AGREEMENT.

19.4. The REVENUE SOURCES shall assure the CONCESSIONAIRE the conditions to face their expenses and investments.

19.5. The REVENUE SOURCES may be exploited directly by the CONCESSIONAIRE or by third parties, with their consent.

19.6. The CONCESSIONAIRE shall forward annually and in writing to the GRANTING POWER a report containing a detailed description of the scope of the activity (s) and / or undertaking (s) developed in the CONCESSION AREA, demonstrating, among other elements to judge relevant, that the activity (s) or undertaking (s) conform to the PURPOSE OF THE CONCESSION, which do not compromise the quality of the exploration of the PURPOSE, and which obeys the Brazilian legislation, including environmental legislation.

19.7. In addition to the information provided in the previous sub clause, the GRANTING Power may, at its discretion, request other pertinent information, according to the activity (s) purpose of the request.



## **CHAPTER VIII - MONITORING AND MANAGEMENT OF THE EXECUTION OF THE CONTRACT**

### **CLAUSE 20 SUPERVISION**

20.1. The supervision of CONCESSION, covering all the activities of the CONCESSIONAIRE, throughout the term of this CONTRACT, will be executed by the GRANTING POWER, which may avail itself of technical support from third parties.

20.2. The CONCESSIONAIRE shall grant the CONCESSIONAIRE, or any other person it accredits, free access at any time to the areas, facilities and locations, documents and data relating to the CONCESSION and the CONCESSIONAIRE, including statistics, administrative and accounting records and contracts with third parties, providing, within the term established, the clarifications that are formally requested.

20.3. The CONCESSIONAIRE may request from the CONCESSIONAIRE, at any time and under any circumstance, information of a technical, operational, economic, financial and accounting nature, as well as measurements and rendering of accounts, granting, when necessary, a reasonable period for the fulfillment of the requests that to do.

20.4. The CONTRACTING AUTHORITY, directly or through its accredited representatives, may conduct, in the presence of representatives of the CONCESSIONAIRE, surveys, tests or tests that allow an adequate evaluation of the operating conditions and characteristics of the equipment, systems and facilities used in the CONCESSION.

20.5. 26.5 In the exercise of supervision, the GOVERNMENT may:

a) to monitor the execution of works and the rendering of services, activities and supplies, as well as the conservation of the GOODS LINKED TO THE CONCESSION;

b) to carry out surveys to verify the adequacy of the installations and equipment, determining the necessary corrections, repairs, removals, reconstructions or substitutions, at the expense of the CONCESSIONAIRE, when they are in disagreement with the specifications prescribed in this AGREEMENT and its ANNEXES;

c) intervene, when necessary, in the execution of the PURPOSE OF THE CONCESSION activities, in accordance with the legislation and this CONTRACT, in order to ensure the regularity and faithful fulfillment of the contractual obligations

assumed by the CONCESSIONAIRE;

d) to determine that works, activities and services, without charge to the GRANTING POWER, are reassigned if those already performed are not in accordance with the specifications of this AGREEMENT and its ANNEXES, as well as with the current legislation and applicable technical standards; and

e) penalties provided for in this AGREEMENT.

20.6. The GRANTING AUTHORITY shall designate a technical unit responsible for supervising and monitoring this Agreement, indicating its manager, who will have among its attributions the activities indicated in items (a) to (e) of the sub clause above, as well as formalize the terms of delivery of interventions and investments provided for in this AGREEMENT; and receive any requests for financial rebalancing, as well as for the initiation of any dispute settlement procedure provided for in this AGREEMENT, without prejudice to the provisions of other penalty clauses.

20.7. In the event that the CONCESSIONAIRE refuses to comply with the determinations made by the GRANTOR, it may adopt, directly or through third parties, the necessary measures to correct the situation, bearing the respective costs on behalf of the CONCESSIONAIRE, without prejudice to the application of the penalties and penalties.

20.8. The inspection by the GRANTOR does not exclude the liability of the CONCESSIONAIRE for the adequacy and quality of the investments made, as well as for the fulfillment of the contractual obligations.

## **CHAPTER IX - RISKS**

### **CLAUSE 21 RISK ALLOCATION**

21.1. The CONCESSIONAIRE is fully and exclusively responsible for all risks related to this CONCESSION, unless expressly stated otherwise in this AGREEMENT.

21.2. Included among the risks of the CONCESSIONAIRE, in this CONCESSION, those related to:

a) obtaining licenses, permits and authorizations related to the activities of the CONCESSION;

- b) changes in input costs, operating costs, maintenance costs and investments, including due to exchange rate fluctuations and changes in water and electricity tariffs;
- c) delay in the fulfillment of the deadlines established in this AGREEMENT and ANNEXES, including as a result of not obtaining authorizations, licenses and / or permissions;
- d) risk arising from the operation and maintenance of the URBAN AND MARINE PARK;
- e) changes in plans, projects or works, by the mere liberality of the CONCESSIONAIRE;
- f) the error in its projects and works, the error in its estimates of costs, expenses and / or schedule, failures in the provision of services and activities and errors or failures caused by the CONCESSIONAIRE, by its agents or employees, or by its subcontractors;
- g) the safety and health of workers who are subordinated to it in the execution of the PURPOSE and / or its subcontractors;
- h) the increase in the cost of FINANCING (S) assumed for the realization of investments or for the costing of services of the PURPOSE, including due to the increase of interest rates, except in cases where it is proven that the increase in related costs to the FUNDING (S) obtained by the CONCESSIONAIRE is derived directly from acts done by the GRANTOR under this AGREEMENT, especially those related to eventual noncompliance with the contractual obligations assumed by it;
- i) the quality in the provision of the services and activities of the PURPOSE, as well as the fulfillment of the technical specifications of the services and the PERFORMANCE FACTOR;
- j) the obsolescence, safety, robustness and full operation of the technologies, equipment and techniques used in the CONCESSION;
- k) the damages caused to third parties or to the environment due to the CONCESSIONAIRE, its employees, service providers, subcontractors, subcontractors or any other natural or legal person linked to it, in the exercise of the activities covered in this AGREEMENT;
- l) the recovery, prevention, correction and management of environmental liabilities related to the CONCESSION, whose generating event occurred after the DATE OF THE ORDER OF INITIATION, including the environmental liability referring to the final destination of the equipment and goods;

- m) the inefficiencies or economic losses resulting from failures, negligence, ineptitude or omission in the fulfillment of the PURPOSE, except for acts or omissions of the GRANTING POWER;
- n) destruction, theft, theft, vandalism, depredation, loss or any other type of damage caused to the ASSIGNED ASSETS, a liability that shall not be reduced or excluded by virtue of the control of the GRANTING POWER;
- o) the risks that may be the subject of insurance coverage offered in Brazil at the date of its occurrence, including for the hypotheses of CASO FORTUITO or FORÇA MAIOR, as well as the variation in its price;
- p) the labor, social security, tax and commercial expenses resulting from the execution of this CONTRACT, including the increase of the cost of labor by agreement, collective bargaining agreement or collective bargaining agreement, and the resulting liabilities, including those related to companies eventually subcontracted in the scope of the CONCESSION;
- q) strikes by employees hired by the CONCESSIONAIRE, subcontractors or service providers to the CONCESSIONAIRE;
- r) the interface with public entities and agencies, subcontractors, consumers and service providers of the CONCESSIONAIRE, as well as with USERS;
- s) the non-effectiveness of the projected demand in the URBAN AND MARINE PARK, ATTRACTIONS, REVENUE SOURCES or any other equipment or installation of the URBAN AND MARINE PARK, or its reduction for any reason, even if it results from competition practiced by the GRANTING POWER or by except in the event of any breach of the obligations assumed by the GRANTOR under this AGREEMENT;
- t) the construction, demand and feasibility of REVENUE SOURCES;
- u) the default of consumers or service takers of the CONCESSIONAIRE for the payments that are due to him for any title;
- v) the costs of legal actions of third parties against the CONCESSIONAIRE or subcontractors arising from the execution of the CONCESSION, except for fact attributable to the GRANTING POWER;
- w) the costs incurred and the losses incurred due to the supervening change of Fire Department standards, technical standards and / or safety standards;
- x) the damages caused to the GRANTING POWER due to the use of the CONCESSION AREA and its adjacencies in disagreement with the forecasts of this

CONTRACT and its ANNEXES, or with the applicable norms;

- y) interruption and / or intermittence in the supply of electricity, water, or other services necessary for the operation of the activities explored in the CONCESSION;
- aa) social and / or public events that jeopardize the execution of the PURPOSE or cause damages to the ASSETS LINKED to the CONCESSION.

21.3. The CONCESSIONAIRE shall indemnify and hold the CONCESSIONAIRE HOLDER harmless from any claim or damage that the CONCESSION POWER may suffer as a result of acts committed by the CONCESSIONAIRE, its administrators, employees, agents, service providers, subcontractors and third parties with whom it has contracted, or by any other natural or legal person related to it.

21.4. The CONCESSIONAIRE shall also indemnify and hold the GRANTOR SAFE from procedural expenses, defeat fees and other charges with which it, directly or indirectly, will be charged due to the hypotheses set forth in the previous sub clause.

21.5. They are not risks of the CONCESSIONAIRE, giving rise to the procedure of economic and financial rebalancing in the hypotheses of increment or reduction of the costs incurred in the execution of the PURPOSE, under the terms of this AGREEMENT:

- a) any legal taxes or charges created, altered or terminated, affecting directly or indirectly the services provided by the CONCESSIONAIRE, including the supervening incidence of Property and Urban Tax (IPTU) on the CONCESSION AREA;
- b) judicial or administrative decisions that directly impact or encumber, impede or prevent the CONCESSIONAIRE from fully or partially providing the services of the PURPOSE, except in cases in which the CONCESSIONAIRE has given cause to the situation on which said decisions are based;
- c) delays or non-fulfillment of the obligations of the CONCESSIONAIRE, caused by the delay or omission of the GRANTING POWER or of other organs or entities of the Public Administration of the Municipality of Florianópolis, provided that the formal regularity, timeliness and adequacy of the applications and requests sent by the CONCESSIONAIRE, and provided that the competent organs or entities provoked fail to observe the regulatory period granted to them for the respective manifestation;
- d) failure by the GRANTING CONTRACTOR for its contractual or regulatory obligations, including, but not limited to noncompliance with applicable time limits under this AGREEMENT and / or current legislation;

- e) delay in the fulfillment of the deadlines established in this AGREEMENT related to the obligations assumed by the CONCESSIONAIRE, as well as the breach of the FACTOR OF PERFORMANCE, when directly arising from action or omission of the GRANTING POWER;
- f) imposition, by the GRANTING POWER, of new obligations, or unilateral alteration of the obligations originally contemplated in the CONTRACT that causes impact on the costs and costs of the CONCESSIONAIRE;
- g) revisions on the parameters and meters referring to the DEFAULT FACTOR that, evidently, carry additional charges for the CONCESSIONAIRE;
- h) losses caused to third parties or to the environment by the administrators, employees, agents, service providers, occurring before the DATE OF THE ORDER OF INITIATION, in which case, in addition to the right to economic and financial rebalancing of the CONTRACT, the CONCESSIONAIRE will have the direct compensation by the GRANTING Power of any indemnities that may be paid due to the environmental liability and / or cases of civil liability that have as a matter of fact prior to the CONCESSION;
- i) costs of recovery, prevention, correction and management of environmental liabilities related to the CONCESSION, whose generating event occurred prior to the DATE OF THE ORDER OF INITIATION;
- j) investments, payments, costs and expenses arising from eventual expropriations and institution of administrative easements determined by the GRANTING POWER, in accordance with the law;
- k) lawsuits or administrative claims originating from services rendered prior to the DATE OF THE ORDER OF INITIATION;
- l) the non-approval of projects and interventions foreseen in the occupation plan contained in the obligations of the CONCESSIONAIRE, by the competent bodies;
- m) strike of employees and employees of the GRANTING POWER that demonstrates that it prevents or makes it impossible for the CONCESSIONAIRE to render all or part of the PURPOSE OF THE CONCESSION.

21.6. In the event of CASE FORTUITO or FORÇA MAIOR, whose consequences are not covered by insurance available in the Brazilian security market and under viable commercial conditions, the PARTIES will agree on whether the economic-financial balance will be restored or the CONCESSION will be terminated. the consequences of events for the continuity of the PURPOSE.



21.7. In the event of termination of the CONCESSION, in accordance with the provisions of the previous sub clause, the applicable rules and procedures for termination of the CONCESSION by the advent of the contractual term, according to this AGREEMENT, shall be applied, to the extent applicable. CONCESSIONAIRE to the receipt of the indemnity for the portion (s) of the investments related to reversible assets that have not yet been amortized or depreciated, which have been carried out with the purpose of guaranteeing the continuity and timeliness of the service granted.

21.8. The PARTIES undertake to employ all necessary measures and actions in order to minimize the effects arising from CASE FORTUITO or MAJOR FORCE events.

21.9. The Concessionaire declares:

- a) have full knowledge of the nature and extent of the risks assumed in this AGREEMENT; and
- b) have taken into account the risk sharing established in this AGREEMENT for the formulation of its COMMERCIAL PROPOSAL in the BID.

## **CHAPTER X - CONTRACTUAL REVISIONS AND FINANCIAL ECONOMIC BALANCE**

### **CLAUSE 22 ORDINARY REVISIONS**

22.1. Without prejudice to the other provisions of this AGREEMENT, and the prerogatives legally conferred on the GRANTOR in relation to the imposition of new obligations or changes to the PURPOSE, every 5 (five) years from the PUBLICATION DATE OF THE CONTRACT, the PARTIES shall promote the review of the parameters, conditions and general results of the CONCESSION, with the purpose of, being the case:

- a) revise the specifications of the PURPOSE and improve the services and activities of the PURPOSE, in accordance with the current principle;
- b) review and possibly modify the charges provided for in this AGREEMENT.

22.2. The review procedure must be initiated ex officio by the GRANTING POWER, or at the request of the CONCESSIONAIRE, within a period of 60 (sixty) days, extendable for an equal period, of the conclusion of the first five (5) years of this CONTRACT, and so on, until the end of the CONCESSION TERM.

22.3. If there is no need to change the parameters, conditions and general results of the CONCESSION, the GRANTING Power shall institute the procedure set forth in this sub clause to pronounce on the need for any revision, opening a deadline

for the CONCESSIONAIRE's manifestation.

22.4. For the purpose of analyzing the need, convenience or timeliness of the review referred to in this clause, each Party shall, within 30 (thirty) days of the initiation of the proceeding, detail any suggested changes, with the corresponding justifications, researches and other documents support your proposal.

22.5. The ordinary review procedure shall be concluded by agreement between the PARTIES, within a period of 60 (sixty) days, renewable for an equal period.

22.6. The participation of entities, representatives of civil society or specialized professionals in the revision process dealt with in this clause is allowed for the collection of data, confirmation of premises and / or technical and economic elucidations that may be necessary.

22.7. From the result of the review procedure dealt with in this clause, the economic-financial balance of the CONCESSION may be reviewed, for the benefit of the CONCESSIONAIRE or the GRANTING POWER, calculated in time of concession.

### **CLAUSE 23 EXTRAORDINARY REVIEWS**

23.1. Without prejudice to the other provisions of this AGREEMENT and the prerogatives legally conferred on the GRANTOR regarding the imposition of new obligations or changes on the PURPOSE, the GRANTOR or the CONCESSIONAIRE may request an extraordinary review of the CONTRACT, always with a view to regularity, continuity, efficiency, safety, actuality and generality of the PURPOSE services, and provided there is a proven need to include and / or exclude charges in this CONTRACT, resulting from supervening technological changes or the need to adapt the systems for measuring the quality of the services provided in this AGREEMENT technical standards recognized nationally or internationally.

23.2. The request of the CONCESSIONAIRE must be accompanied by the reasons justifying the intended revision, with the details, surveys, researches or technical opinions deemed pertinent.

23.3. In evaluating the request sent under the terms of the previous sub clause, the GRANTING Power may consult the opinion of other organs and technical entities involved.

23.4. The extraordinary review procedure shall be concluded by agreement between the PARTIES.



23.5. The ordinary review procedure shall be concluded by agreement between the PARTIES, within a period of 60 (sixty) days, renewable for an equal period.

23.6. The result of the review procedure dealt with in this clause may result in a review of the economic-financial balance, calculated at grant time.

23.7. The extraordinary review of this CONTRACT shall not consider events occurring more than 01 (one) year from the date on which the interested PART of them has become aware.

#### **CLAUSE 24 - ECONOMIC AND FINANCIAL BALANCE**

24.1. Whenever the conditions of the Agreement are met and the risk allocation established therein is maintained, its economic and financial balance shall be maintained.

24.2. Without prejudice to other hypotheses admitted in this AGREEMENT, it is a situation that justifies the economic and financial rebalancing in favor of the CONCESSIONAIRE the increase of costs and expenses incurred by the CONCESSIONAIRE, calculated in time of grant.

24.3. The GRANTING POWER may request the recomposition of the economic-financial balance, when applicable, in terms of the law and in the cases provided for in this AGREEMENT.

24.4. 29.4 The recovery of the economic and financial balance shall be made by agreement between the PARTIES, through the following ways:

- a) I Extension or reduction of the period of ADMINISTRATIVE CONCESSION;
- b) review of the costs and obligations assumed by the CONCESSIONAIRE, including deadlines binding on the CONCESSIONAIRE;

24.5. The alternatives for the recomposition of the economic-financial balance cannot change the allocation of risks originally foreseen in this AGREEMENT.

#### **CLAUSE 25 - PROCEDURE FOR RECOVERY OF THE ECONOMIC AND FINANCIAL BALANCE**

25.1. The procedure for the recomposition of the economic-financial balance may be initiated by any of the PARTIES, following an ordinary or extraordinary review

process when the economic and financial imbalance of the CONTRACT is verified, upon presentation of a technical report.

25.2. The analysis of the recomposition of the economic-financial balance presupposes the verification of the economic conditions of the adjustment, based on the effects of the events that caused it, described in a technical report to be presented by the interested PARTY, which may be accompanied by expert opinion, independent researches and / or other relevant documents.

25.3. The technical report dealt with in the previous subclasses shall demonstrate the effects of the events mentioned therein, considering, among others, the estimated investment variation, the reasoned statement of costs or expenses incurred and the suggestion of the measures to be taken for the economic and financial balance of this AGREEMENT.

25.4. The GRANTING POWER shall have free access to the information, assets and facilities of the CONCESSIONAIRE or third parties contracted by it to verify the amount alleged by the CONCESSIONAIRE in the request for the recomposition of the economic and financial balance that it has presented.

25.5. The recomposition of the economic-financial balance may be made before or after the actual impact of the event giving rise to the imbalance situation, and for that purpose the net present value of the difference between the flows estimated and projected at the valuation date is calculated.

## **CHAPTER XI - GUARANTEES AND INSURANCE**

### **GUARANTEE OF EXECUTION OF THE CONTRACT BY THE CONCESSIONAIRE**

26.1. For the faithful fulfillment of the obligations assumed, the CONCESSIONAIRE will maintain the GUARANTEE FOR IMPLEMENTATION OF THE CONTRACT PROVIDED as a condition precedent for the execution of this CONTRACT, observing the following dynamics of release during the contractual period:

a) the initial GUARANTEE FOR THE PERFORMANCE OF THE CONTRACT will correspond to 10% (five percent) of the AMOUNT OF THE FINE EXPECTED IN THE CONTRACT;

26.2. 31.3 The PERFORMANCE GUARANTEE OF THE AGREEMENT shall be used to cover:

a) the reimbursement of costs and expenses incurred by the GRANTING POWER

against the default of the CONCESSIONAIRE;

b) return of the goods belonging to the CONCESSION in disregard to the requirements established in this AGREEMENT or in its ANNEXES

26.3. THE GUARANTEE OF PERFORMANCE OF THE CONTRACT referred to in this clause may take any of the following forms:

- a) deposit in cash, in national currency, deposited in a current account to be indicated by the GRANTING POWER;
- b) collateral in federal public debt securities, not recorded with clauses of inalienability and impenetrability, nor acquired compulsorily, registered in a centralized system of liquidation and custody authorized by the Central Bank of Brazil;
- c) insurance-guarantee, provided by an insurance company authorized to operate in Brazil, with the presentation of SUSEP's respective certificate of regularity; or
- d) bank guarantee provided by a financial institution authorized to operate in Brazil, with a national scale rating higher than or equal to "Aa3.br", "brAA-" or "AA-(bra)", as disclosed by risk agencies *Moody's*, *Standard & Poor's* or *Fitch*, in favor of the GRANTING POWER.

26.4. THE GUARANTEE OF IMPLEMENTATION OF THE CONTRACT OFFERED MAY NOT CONTAIN ANY RESTRICTIONS OR CONDITIONS THAT MAY HINDER OR PREVENT THEIR PERFORMANCE, OR THAT MAY RAISE THEIR INACCURACY, AND THE CONCESSIONAIRE SHOULD PROMOTE THE RENOVATIONS AND UPDATES THAT ARE REQUIRED TO BE ENACTED BY THE CONTRACT.

26.5. THE GUARANTEES FOR THE EXECUTION OF THE CONTRACT presented in the insurance-guarantee modality shall follow SUSEP Circular No. 477/13 or in a standard that replaces it.

26.6. For the GUARANTEE FOR THE EXECUTION OF THE CONTRACT presented in the form of collateral in federal public debt securities, the following securities will be admitted:

- a) Fixed Treasury;
- b) Selic Treasury.
- c) Treasury IPCA + with Semiannual Interest;

- d) IPCA Treasury;
- e) Treasury IGPM + with Semester Interest; and
- f) Prefixed Treasury with Semester Interest.

26.7. Expenses related to the provision of the GUARANTEE FOR THE PERFORMANCE OF THE CONTRACT, including its recomposition, shall be the sole responsibility of the CONCESSIONAIRE.

26.8. 31.7 If used the performance bond method, the policy shall be valid for 01 (one) year, with renewal clause to terminate the obligations of the CONCESSIONAIRE, linked to risk reassessment.

#### **CLAUSE 27- CREDIT SATISFACTION GUARANTEE OF THE FINANCER BEFORE THE CONCESSIONAIRE**

27.1. The offer, under guarantee, of the rights arising from the CONCESSION in the FINANCING (S) linked to the PURPOSE can only occur to the limit that does not compromise the operationalization and continuity of the CONCESSION.

#### **CLAUSE 28 INSURANCE**

28.1. The CONCESSIONAIRE, in addition to the insurance required by applicable law, shall ensure, throughout the term of the CONTRACT, the existence and maintenance in force of the necessary insurance policies to guarantee the effective and comprehensive coverage of the risks inherent to the execution of the activities pertinent to the CONCESSION.

28.2. No work or service may commence or continue without the CONCESSIONAIRE submitting to the GRANTING POWER the proof that the insurance policies expressly required in this AGREEMENT are in force under the conditions established.

28.3. The policies must be contracted with national or foreign insurers of the first line authorized to operate in Brazil by SUSEP.

### **CHAPTER XII – CONCESSION OF GOODS**

#### **CLAUSE 29 GOODS LINKED TO THE CONCESSION**

29.1. THE ASSETS LINKED TO THE CONCESSION are the assets belonging to the CONCESSIONAIRE's assets or not, necessary for the implementation and proper and continuous execution of the PURPOSE.

29.2. The CONCESSIONAIRE undertakes to maintain, in good working order, conservation, hygiene, comfort, accessibility, environmental sustainability and safety, at its own expense, GOODS LINKED TO THE CONCESSION, throughout the term of the CONTRACT, renewals and adaptations necessary for the good performance of the CONCESSION.

29.3. Except as provided in this clause, the direct use of equipment, infrastructure or any other property, which are not owned by the CONCESSIONAIRE in the execution of the PURPOSE, will depend on the prior, specific and express authorization of the GRANTING POWER, upon request to it forwarded by the CONCESSIONAIRE in which it is demonstrated that there is no loss to the continuity of the services of the PURPOSE in case of extinction of the CONCESSION.

29.4. For the purposes of the authorization referred to in sub clause 31.3, the GRANTING POWER may require that the contract concluded between the third party involved and the CONCESSIONAIRE contains a provision whereby the third party undertakes, in the event of termination of the CONCESSION, to maintain such agreement and to subrogate the GRANTING POWER or third parties for that indicated in the rights arising therefrom, for a period to be adjusted in each case between the PARTIES.

29.5. The REVERSIBLE GOODS are those essential to the execution and continuity of the PURPOSE, members of the assets of the CONCESSIONAIRE, and that will revert in favor of the GRANTING POWER after the extinction of the CONCESSION.

29.6. REVERSIBLE GOODS shall be permanently inventoried by the CONCESSIONAIRE.

29.7. Without prejudice to the obligation to inventory the assets, the CONCESSIONAIRE shall submit to the GRANTING AUTHORITY, by the first working day of February of each year, a detailed report that outlines the situation of all GOODS LINKED TO THE CONCESSION.

29.8. THE CONCESSIONAIRE undertakes to deliver the REVERSIBLE GOODS in perfect conditions of operation, use and maintenance.

29.9. 35.1.2 The reversible assets shall be transferred to the GOVERNMENT

free of any liens or encumbrances.

29.10. All ASSETS LINKED TO THE CONCESSION or investments made in it shall be fully depreciated or written off by the CONCESSIONAIRE within the CONCESSION TERM, in accordance with current legislation.

29.11. The CONCESSIONAIRE may only dispose of the REVERSIBLE GOODS if it is immediately replaced by others in conditions of operation and operation identical or superior to those substituted, except in those cases where it is proved that such assets are no longer necessary for the execution of the remaining works and activities of the CONCESSION, and, for this purpose, must first notify the GRANTING POWER and proceed to update its inventory of REVERSIBLE GOODS.

29.12. 35.6 Any sale or purchase of assets that the CONCESSIONAIRE intends to carry, in the last 05 (five) years from the final period of the CONCESSION, shall be previously and expressly authorized by the GOVERNMENT.

29.13. REVERSIBLE GOODS may not be subject to a pledge or constitution of a real right under guarantee, and the provisions of sub clause 29.1.

29.14. The CONCESSIONAIRE is expressly authorized to propose, in its own name, any legal measures that may be taken to secure or recover the possession of the REVERSIBLE GOODS.

### **CLAUSE 30 REVERSAL OF GOODS LINKED TO THE CONCESSION**

30.1. Once the CONCESSION is extinguished, the REVERSIBLE GOODS, rights and privileges linked to the CONCESSIONS transferred to the CONCESSIONAIRE, or acquired or implemented by CONCESSIONAIRE, are returned to the GRANTING POWER.

30.2. Within 180 (one hundred and eighty) days before the final term of the CONTRACT, the PARTIES shall establish the procedures for evaluating the ASSIGNED GOODS, in order to identify those necessary to the continuity of the execution of the PURPOSE of this AGREEMENT and to review the inventory of REVERSIBLE GOODS.

30.3. Upon the evaluation and identification of the REVERSIBLE GOODS, the respective Final Statement of Return of the Reversible Assets will be drawn up at the time of the reversal.

30.4. The reversion will be free and automatic, with the goods in perfect conditions of operation, use and maintenance and free of any liens or charges, observing, in any case, the principle of actuality.

30.5. The current principle is understood to be the execution of the PURPOSE of the CONTRACT by means of modern goods, equipment and facilities that, throughout the CONCESSION, will accompany the innovations of technological development, especially with regard to environmental sustainability, and ensure quality in the provision of services and activities PURPOSE OF THIS AGREEMENT.

## **CHAPTER XIII - SANCTIONS AND PENALTIES APPLICABLE TO THE PARTIES**

### **CLAUSE 31 - ADMINISTRATIVE PENALTIES**

31.1. Failure by the CONCESSIONAIRE to comply with the provisions of this AGREEMENT and its ANNEXES, as well as the applicable laws and regulations, shall, without prejudice to civil and criminal liabilities and other penalties provided for in the legislation and regulations in force, concurrently with the penalties set forth in this clause.

31.2. The gradation of the penalties to which the CONCESSIONAIRE is subject will observe the nature of the infraction committed, which will vary according to the following categories:

- a) light
- b) average
- c) serious; and
- d) very serious.

31.3. The infraction will be considered light when it results from non-malicious conduct of the CONCESSIONAIRE, of which it does not benefit economically.

31.4. The commission of infractions of a light nature will lead to the application of the following penalties:

31.5. written warning, which will be formulated, when applicable, together with the determination of the adoption of necessary corrective measures; or

31.6. fine, in the event of a repeat offense in the same conduct that characterizes a light infraction, within the period of 04 (four) consecutive months, of up to 0.05% (zero



point five percent) of the amount of the CONCESSIONAIRE's annual revenues.

31.7. The infraction will be considered average when it results from willful misconduct and / or from which it is established that the CONCESSIONAIRE has benefited economically, directly or indirectly.

31.8. The committing of infraction of average nature will lead to the application of the following penalties, in an isolated or concomitant way:

31.8.1. written warning, which will be formulated, when applicable, together with the determination of the adoption of necessary corrective measures; and / or

31.8.2. fine in the amount of up to 0.5% (zero point five percent) of the amount of the annual sales of the CONCESSIONAIRE, which will also be comminuted, when applicable, together with the determination of the adoption of necessary corrective measures.

31.9. The infraction will be considered serious when it results from intentional and bad faith conduct of which it is established that the CONCESSIONAIRE has benefited economically, directly or indirectly, and that it involves economic loss to the detriment of the GRANTING POWER.

31.10. The commission of a serious infraction will lead to the application of the following penalties, in isolation or concomitant with the penalty of fine:

a) written warning, which will be formulated, when applicable, together with the determination of the adoption of necessary corrective measures;

b) a fine in the amount of up to R \$ 5,000,000.00, which will also be commenced, when applicable, together with the determination of the adoption of necessary corrective measures;

c) temporary suspension of the right to participate in bids and impediments to contract with the Administration, for a term not exceeding two (2) years.

31.11. The infraction will be considered extremely serious when the GRANTING POWER finds, in view of the characteristics of the service rendered and the act practiced by the CONCESSIONAIRE, that its consequences are very harmful to the public interest, damaging the environment, the treasury or the continuity itself of the PURPOSE of the CONCESSION.

31.12. The commission of a very serious infraction will lead to the application of the following penalties, in isolation or concomitant with the penalty of fine:

a) a fine in the amount of up to R \$ 5,000,000.00, which will also be commenced,



when applicable, together with the determination of the adoption of necessary corrective measures;

b) Temporary suspension of participation in bidding and impediment to hire with the Administration, for a period not to exceed two (02) years;

c) IV - declaration of inability to bid or contract with the Government for as long as the reasons for the punishment continue or until rehabilitation is promoted before the authority that applied the penalty, which will be granted whenever the contractor reimburses the Administration for the resulting damages and after the expiration of the term of the sanction applied based on the previous section.

31.13. Without prejudice to the application of the penalties provided for in the previous sub-clauses, the reiteration, in time, of the contractual default by the CONCESSIONAIRE shall confer on the GRANTING Power the right to commence a moratorium fine, subject to the following intervals:

a) at least 0.00005% (five hundredths of a thousandths of a percent) and at the most 0.0001% (one hundredth of a thousandth of a percentage point) of the value of the annual revenue of the concessionaire, per day, until the regularization of the situation that characterizes light or medium nature; and

b) at least 0,00015% (fifteen hundredths of a thousandths of a percent) and at most 0,00025% (twenty-five hundredths of a thousandths) of the annual revenue of the concessionaire, per day, until the regularization of the situation that characterizes infringement of a serious or very serious nature.

31.14. For the following infractions, the application of the fine will follow the limits set forth in the table below, based on the amount of the annual sales of the CONCESSIONAIRE:

|    | <b>Occurrence</b>  | <b>Limit value of the fine to be PSYCHOLOGY</b>   |
|----|--|---|
| 1. | Failure to supply to the GRANTING POWER of any documents and information pertinent to the CONCESSION | 0.01% (zero point one percent) of the amount of the CONCESSIONAIRE's annual day         |
| 2. | Failure to keep inventory of goods current   | 0.05% (zero point five percent) of the amount of the CONCESSIONAIRE's annual Occurrence |

|    |   |   |
|----|---|---|
| 3. | Delay in the deadline for termination of the IMPLEMENTATION PLAN in accordance with the provisions of this AGREEMENT                                      | 0.5% (zero point five) of the annual turnover of the CONCESSIONAIRE per day                           |
| 4. | Non-payment of the capital stock in the implementation phase of the IMPLEMENTATION PLAN in accordance with the provisions of this AGREEMENT               | 0.25% (zero point twenty-five percent) of the annual CONCESSIONAIRE per day                           |
| 5. | Not contracting or not maintaining in force, throughout the CONCESSION TERM , the insurance policies, in accordance with the provisions of this AGREEMENT | fine of up to 0.25% (zero point twenty-five percent) of the amount of the CONCESSIONAIRE's annual day |
| 6. | Not contracting or maintaining contractual performance warranties in breach of the obligations set forth in this AGREEMENT                                | fine of up to 0.5% (zero point five percent) of the annual CONCESSIONAIRE per day                     |
| 7. | 3 warnings to the CONCESSIONAIRE, whether related to the same fact or not, have been made and not answered, within 30 working days of receipt.            | 0.05% (zero point five percent) of the amount of the CONCESSIONAIRE's annual Occurrence               |
| 8. | Absence of a certain mandatory item from the IMPLEMENTATION PLAN  | 0.05% (zero point five percent) of the amount of the CONCESSIONAIRE's annual VERIFICATION             |

31.15. For the purpose of calculating the values and limits of fines referred to in this chapter, the billing of the year prior to the infraction shall be used as a basis, except for the first year of the CONCESSION.

31.16. The GRANTING Power, in the definition of the fine penalty species and the dosimetry indicated in the previous subclasses, shall take into account the circumstances of each case in a motivated manner, always observing the proportionality between the severity of the fault and the intensity of the sanction, including when the number of visitors and promoters affected and the extension, in time, of the situation that characterized the infraction.

#### **CLAUSE 32 ADMINISTRATIVE PROCEDURE FOR THE APPLICATION OF PENALTIES**

32.1. The process of applying the sanctions provided for in this AGREEMENT will begin with the drafting of the corresponding infraction notice by the GRANTING POWER, containing the details of the infraction committed and the indication of the sanction potentially applicable, and will be executed in the legal form of punishment process of companies.

#### **CHAPTER XIV - SETTLEMENT OF CONFLICTS**

##### **CLAUSE 33 SOLUTION OF DIVERGENCES BY MEDIATION**

33.1. In the event of any controversy over the interpretation or execution of the CONTRACT, a mediation procedure must be initiated for a friendly and consensual solution of the divergence.

33.2. Mediation shall be instituted before the previously designated Commission, pursuant to article 2 of Federal Law 13.140 of June 26, 2015.

##### **CLAUSE 34 - SETTLEMENT OF DIVERGENCIAS BY THE COMMISSION**

34.1. Any disputes arising out of this AGREEMENT, which involve property rights and which have not been amicably resolved through the mediation procedure, may be settled through a Specially Designated Commission.

##### **CLAUSE 35 - SETTLEMENT OF DIVERGENCIAS BY ARBITRATION**

35.1. Disputes arising out of or relating to the CONTRACT shall be settled by arbitration, including as to their interpretation where applicable.

#### **CHAPTER XV - INTERVENTION**

##### **CLAUSE 36 INTERVENTION**

36.1. The GRANTING POWER may intervene in the CONCESSION, in order to ensure the adequacy of the provision of the service of the PURPOSE, as well as the faithful compliance with the pertinent contractual, regulatory and legal norms, in terms of article 32 et seq. Of Federal Law No. 8,987 / 95.

#### **CHAPTER XVI – CONCESSION EXTINCTION**

## CLAUSE 37 EXTINCTION CASES

37.1. The CONCESSION will be considered extinct, observing the specific legal norms, when it occurs:

- a) a) Termination of the contractual term;
- b) the expropriation;
- c) the forfeiture;
- d) termination;
- e) cancellation; and
- f) Bankruptcy or extinction of the Concessionaire.

37.2. Once the CONCESSION is extinguished, all REVERSIBLE GOODS, rights and privileges attached to the CONCESSIONAIRE, including those transferred by the GRANTING POWER, or acquired by it, under the CONCESSION shall be returned to the GRANTING POWER.

37.3. 43.3 Upon termination of the ADMINISTRATIVE CONCESSION, there shall be the immediate assumption of the SERVICES by the GOVERNMENT, proceeding the necessary surveys, evaluations and assessments, and the occupancy of the premises and the use by the GOVERNMENT of all REVERSIBLE ASSETS.

37.4. 43.4 Upon termination of the AGREEMENT before its expiry, the GOVERNMENT, notwithstanding the other appropriate measures, may:

- a) occupy, temporarily, movable and immovable property and use staff employed in the provision of activities considered essential to the continuation of the CONCESSION; and
- b) b) Keep the agreements entered into by the CONCESSIONAIRE with third parties for a period and under the conditions initially set, and third parties shall be responsible for damages resulting from breach of obligations.

37.5. In any event of extinction of the CONTRACT, the GRANTOR shall assume, directly or indirectly and immediately, the operation of the CONCESSION, to guarantee its continuity and regularity.

### **CLAUSE 38 - TERMINATION OF THE CONTRACTUAL TERM**

38.1. 44.1 The ADMINISTRATIVE CONCESSION is extinguished at the time of expiration of its term, therefore, it is extinguished the contractual relationship between the PARTIES, except those expressly set forth in this AGREEMENT.

38.2. Upon the advent of the contractual term, and except for the cases expressly provided in this AGREEMENT or those that have the consent of the GRANTOR, the CONCESSIONAIRE will be responsible for closing any contracts inherent to the CONCESSION and entered into with third parties, according to the rules for calculation and payment of the residual values, in accordance with current legislation, assuming all the resulting burdens.

38.3. Up to 06 (six) months before the date of termination of the contract, the GRANTING Power shall establish, jointly and with the cooperation of the CONCESSIONAIRE, an operational demobilization program, in order to define the rules and procedures for the assumption of the operation by the GRANTING POWER, or by authorized third party.

### **CLAUSE 39 TAKEOVER**

39.1. The CONTRACTING AUTHORITY may, during the term of the CONTRACT, and for reasons of public interest, promote the resumption of the CONCESSION, according to the legislation and after previous payment, to the CONCESSIONAIRE, indemnity.

39.2. The indemnification due to the Concessionaire in case of expropriation will cover:

- a) The portions of the investments linked to the reversible assets and not yet amortized or depreciated, which have been made for the fulfillment of this agreement;
- b) all charges and burden arising from fines, termination and indemnities that may be due to suppliers, contractors and third Parties in general, including attorneys' fees, due to the consequent disruption of their contractual relationships; and
- c) all expenses caused by the expropriation, as well as the costs of early termination of the contracts entered into by the CONCESSIONAIRE for the execution of the PURPOSE OF THE CONCESSION.

39.3. The calculation of the indemnity value of non-amortized reversible goods shall be made on the basis of the book value contained in the financial statements of the concessionaire, determined in accordance with applicable law and the

relevant accounting rules, disregarded Effects of eventual revaluation of assets, except where this has been made with express and unqualified authorization in that sense of the granting authority.

39.4. The fines, indemnities and any other amounts owed by the CONCESSIONAIRE to the GRANTING POWER shall be deducted from the compensation provided for in the case of expropriation.

#### **CLAUSE 40 EXPIRATION**

40.1. In addition to the cases enumerated by Federal Law No. 8,987 / 95 and other cases provided for in this AGREEMENT, and without prejudice to the application of other applicable penalties, such as the fine, the GRANTING POWER may promote the expiration of the CONCESSION in the following cases:

- a) when the services PURPOSE of the CONTRACT are being repeatedly rendered or executed in an inadequate or deficient manner, based on the norms, criteria and other parameters defined in this AGREEMENT and its ANNEXES;
- b) when the CONCESSIONAIRE repeatedly fails to comply with contractual clauses or legal or regulatory provisions related to the CONCESSION;
- c) c) There is deviation made by the CONCESSIONAIRE from its corporate purpose;
- d) when there are significant delays in completing the deadline for completing the works, equal to or greater than 12 (twelve) months, leading to a significant and general deterioration in the quality of services rendered;
- e) when there is a change in the CONCESSIONAIRE's CONTROLLING stock, without previous and express approval of the GRANTING POWER, according to the provisions of this AGREEMENT;
- f) when the CONCESSIONAIRE paralyzes the services PURPOSE OF THE CONCESSION or compete for or lose or compromise the economic, financial, technical or operational conditions necessary for the adequate achievement of the PURPOSE of the CONCESSION;
- g) when the CONCESSIONAIRE fails to comply with the obligation to contract and keep the insurance policies in full force or when it does not maintain the GUARANTEE OF PERFORMANCE OF THE CONTRACT, under the terms of this AGREEMENT;
- h) when the CONCESSIONAIRE does not comply in a timely manner with the penalties imposed on it by the CONDUCTING POWER, including the payment of fines;

by virtue of the commission of the infractions foreseen in this AGREEMENT;

- i) when the CONCESSIONAIRE does not comply with the GRANTING CONTRACT order to regularize the provision of the services PURPOSE OF THE CONCESSION; and
- j) VII - the CONCESSIONAIRE is convicted in final judgment for tax evasion, including social contributions.

42.1. 46.2 The declaration of caducity of ADMINISTRATIVE CONCESSION should be preceded by the verification of the CONCESSIONAIRE'S default in an administrative proceeding, guaranteed the right of opportunity to be heard.

40.2. No administrative default process shall be instituted before the CONCESSIONAIRE has been notified, in detail, of the contractual breaches referred to in the previous sub clause, giving a reasonable period of time, not less than five (05) business days, to correct, if possible, the failures and transgressions and the framework in contractual terms.

40.3. Paragraph 4 – After the filing of the administrative process and the default is proven, the expiration shall be declared by the GRANTING AUTHORITY, irrespective of prior compensation, calculated in the course of the process.

40.4. 46.5 The declaration of caducity shall not result, to the GOVERNMENT, in any kind of responsibility for liens, charges, obligations or commitments with third parties entered into by CONCESSIONAIRE, especially with respect to labor, tax and social security obligations.

40.5. Once the expiration date has expired, indemnification to the CONCESSIONAIRE by the GRANTING AUTHORITY shall be limited to those portions of the investments linked to the REVERSIBLE GOODS, not yet amortized or depreciated, which have been carried out with the purpose of guaranteeing the continuity and up-to-date service, contractual damages and damages caused by the CONCESSIONAIRE.

#### **CLAUSE 41 – CONTRACT RESCISSION**

41.1 This CONTRACT may be terminated on the initiative of the CONCESSIONAIRE, in the event of non-compliance by the GRANTING Power of its obligations, by means of a special legal action for that purpose, pursuant to article 39 of Federal Law No. 8,987 / 95.

41.2. The services of the PURPOSE cannot be interrupted or paralyzed until the final sentence of the decision that decrees the termination of the CONTRACT.



41.3. The indemnification due to the CONCESSIONAIRE, in the case of judicial termination, will be equivalent to the expropriation.

#### **CLAUSE 42 CONTRACT CANCELLATION**

42.1. The CONTRACT may be annulled under the law, observing the principle of adversary and ample defense.

#### **CLAUSE 43 - BANKRUPTCY OR EXTINCTION OF THE CONCESSIONAIRE**

43.1. In the event of termination of the CONTRACT due to bankruptcy or termination of the CONCESSIONAIRE, the indemnity will be limited to the value of the installments of investments linked to REVERSIBLE GOODS, not yet amortized or depreciated, that have been made with the purpose of guaranteeing the continuity and actuality of the service granted, discounting the value of the contractual fines and any damages caused by the CONCESSIONAIRE.

43.2. The CONTRACTING AUTHORITY may, within a maximum period of twelve (12) months from the termination of the CONTRACT, promote a new bid for the service granted, granting the winner the direct payment of the indemnity payable to the FINANCIER (ES) of the former CONCESSIONAIRE.

43.3. 49.3 There may not be made the sharing of the respective corporate assets of the bankrupt CONCESSIONAIRE without the GOVERNMENT certifying by self-survey, the state in which the REVERSIBLE ASSETS are the returned, and make payment of amounts owed to the GOVERNMENT, by way of compensation or any other title.

### **CHAPTER XVI - FINAL PROVISIONS**

#### **CLAUSE 44 FULL CONTRACT**

44.1. THE CONCESSIONAIRE declares that the CONTRACT and its ANNEXES constitute the totality of the agreements that regulate the CONCESSION.

44.2. The GRANTING POWER may propose the conclusion of an addendum to this CONTRACT, with the purpose of clarifying and detailing the contractual regulation issues.

44.3. The REGULATORY INSTRUMENT that is the purpose of the additive term referred to in the previous sub clause shall serve exclusively as a mechanism for detailing the obligations set forth in this AGREEMENT, and may not create new obligations, otherwise it may constitute changes to the contractual obligations set forth in this AGREEMENT.

#### **CLAUSE 45 - COMMUNICATIONS BETWEEN THE PARTIES**

45.1. 50.1 Communications between the PARTIES shall be made in writing and delivered:

- o I in hand, since evidenced by protocol;
- o III by registered mail, with acknowledgement of receipt; and
- o d) By e-mail, provided the reception.

45.2. The following addresses and electronic address, respectively, are considered for the purposes of sending the communications:

45.3. GRANTING AUTHORITY

45.4. CONCESSIONAIRE:

45.5. Any of the PARTIES may modify their postal address and electronic address, by means of communication to the other PARTY, as above.

45.6. In the omitted cases, the CONCESSIONAIRE should request guidance from the GRANTING POWER.

#### **CLAUSE 46 EXERCISE OF RIGHTS**

46.1. 53.1 If either PARTY allow, even by omission, the failure in whole or in part, of any term or condition of this AGREEMENT and its APPENDICES, this fact cannot release, exonerate or in any way affect or impair these same terms or conditions, which remain unchanged, as if no tolerance had occurred.

46.2. 53.1.1 In any event, the novation or waiver of rights will not be made, neither prohibit the further implementation thereof.

#### **CLAUSE 47 PARTIAL INVALIDITY AND INDEPENDENCE BETWEEN THE**

## CLAUSES OF THE CONTRACT

47.1. 54.2 Whenever possible, each provision of this AGREEMENT shall be construed so as to become valid and effective in accordance with the applicable law.

47.2. 54.3 If any provision of this AGREEMENT is deemed unlawful, invalid, void or unenforceable by a court decision, it must be judged separately from the rest of the AGREEMENT, and replaced by lawful and similar provision, which reflects the intention embodied therein, in accordance with the limits of law.

47.3. All other provisions shall continue in full force and effect, not being affected or invalidated.

## CLAUSE 48 FORUM

48.1. The central forum of the District of Florianópolis, State of Santa Catarina, is hereby elected to resolve any controversy between the PARTIES arising from the CONTRACT that is not subject to the procedures of heterocomposition, as well as for the execution of the arbitration award and attendance of urgent matters.

IN WITNESS WHEREOF, the PARTIES hereto have duly executed and delivered this AGREEMENT in 02 (three) copies of equal content and form in the presence of witnesses, who also sign, in order to produce their legal and juridical effects.

Florianópolis / SC, \_\_\_\_\_ of \_\_\_\_\_ of 2019.

PARTIES:

MUNICIPALITY OF FLORIANÓPOLIS

CONCESSIONAIRE

WITNESSES:

INTERNATIONAL COMPETITION N ° \_\_\_\_ / SMA / DSLC / 2019

CONCESSION FOR IMPLANTATION, OPERATION, MANAGEMENT AND  
MAINTENANCE OF THE URBAN AND MARINE PARK IN THE MUNICIPALITY OF  
FLORIANÓPOLIS.

## **ANNEX**

# **PREMISES FOR ECONOMIC AND FINANCIAL VIABILITY RESEARCH**

The economic feasibility research should be able to assess the conditions for a project, process or service to become profitable.

In the case of the URBAN AND MARINE PARK project, the research aims to justify the TIME OF CONCESSION sent in the commercial proposal of PROPONENTE through a recognized methodology.

Therefore, the model that follows in this annex serves only as a minimum line for the evaluation to be facilitated.

You should compose the research:

- a. Present preliminary worksheet of main quantitative;
- b. Present preliminary budget of the construction costs of the enterprise, including pre-investment costs (research and survey values executed in this stage of the PMI and post-grant detail) and investment;
- c. Present preliminary basic budget of the operation costs of the enterprise;
- d. Present estimates of revenue and operating capacity of the enterprise;
- e. To present the research and evaluation of the financial performance of the enterprise as a whole in order to subsidize the public power;
- f. Present assumptions adopted for the preparation of the Business Plan (values of contingencies and other receivables considered in the research, total revenue generated by the project, total investment and other assumptions deemed necessary) and feasibility indicators of the research (internal rate of return, return, net present value of the project cash flow and other viability indicators judged necessary);
- g. To present the research and evaluation of the financial performance of the enterprise as a whole;
- h. Present an investment spreadsheet detailing the physical-financial schedule of the investments planned for the implementation of the project;
- i. Demonstration of the economic and financial viability of the model submitted by the interested party for the implementation of the project, as well as indication of the economic, social, environmental and operational advantage of the project.
- j. Risk matrix (identification, allocation and mitigation);
- k. Matrix of responsibilities (identification, allocation, mitigation and penalties);
- l. Tax aspects (taxation during project implementation and operation of the project).