



Governo do Estado do Rio de Janeiro

ANNEX VIII - PROVISIONS FOR PERFORMANCE GUARANTEES

Model no. 01 - LETTER OF PRESENTATION OF PERFORMANCE GUARANTEE IN SURETY BOND

To

State of Rio de Janeiro

Ref.: International Invitation to Bids No. [●]/[●]

Dear,

In compliance with the above mentioned ITB, the company [●], headquartered at [●], in the city of [●], State of [●], registered with the Brazilian Corporate Taxpayers' Registry (CNPJ) no. [●], herein represented by [●], bearer of the ID (RG) no. [●] and registered with the Brazilian Individual Taxpayers' Registry (CPF/MF) under no. [●], hereby presents the SURETY BOND, as condition precedent for the execution of the CONCESSION AGREEMENT of BLOCK [●], as per the attached policy.

[PLACE], [DATE].

[NOTARIZED SIGNATURE]

CONCESSIONAIRE
By its legal representative
ID (RG) no. [-]
TAX ID (CPF/MF) no. [-]

MINIMUM TERMS AND CONDITIONS OF THE SURETY BOND

1. PRINCIPAL: CONCESSIONAIRE

2. OBLIGEE: STATE OF RIO DE JANEIRO

3. PURPOSE OF THE SURETY: To ensure the perfect compliance with all obligations undertaken by the CONCESSIONAIRE before the STATE, in accordance with the CONCESSION AGREEMENT, and the Obligee shall be indemnified, for the amounts set forth in item 5 below, in the event of non-compliance with a contractual obligation, including, inter alia, the events set out in **Clause 17** of the CONCESSION AGREEMENT, as well as the fines arising from such non-compliance.

4. INSTRUMENT: The surety-bond policy issued by a surety company duly incorporated and authorized by the Superintendence of Private Insurance - SUSEP, in compliance with the terms of the directives of SUSEP.

5. SURETY VALUE: The surety-bond policy shall provide for the indemnity amounts for each period of the CONCESSION AGREEMENT **in accordance with clause 16.1:**

5.1. The performance guarantee for the CONCESSION AGREEMENT shall be readjusted annually, on the same date as the TARIFF readjustments, in accordance with the following formula:

$$Gt = Gt_{-1} \times (1 + IPCA_p)$$

Where:

Gt is the value of the readjusted Performance Guarantee;

Gt₋₁ is the current value of the Performance Guarantee;

IPCA_p is the National Broad Consumer Price Index calculated by the Brazilian Institute of Geography and Statistics (IBGE); accumulated in the period between the month of the last readjustment and the month of the readjustment in question.

6. TERM: The surety-bond policy shall have a minimum term of 12 (twelve) months as from the start of the effectiveness of the CONCESSION AGREEMENT, renewable in the cases provided for in the CONCESSION AGREEMENT.

7. GENERAL PROVISIONS: The surety-bond policy shall contain the following additional provisions:

7.1. Declaration of the surety company that it is aware of and accepts the terms and conditions of the CONCESSION AGREEMENT;

7.2. Prohibition of cancellation of the Surety-Bond Policy due to default in the payment of the premium in whole or in part;

7.3. In the event of confirmation of noncompliance by the Principal with the obligations covered by the Surety-Bond Policy, the Obligee shall have the right to claim from the Surety Company the indemnity due, when the notification to the Principal is unsuccessful;

7.4. In the event of termination of the CONCESSION, the STATE may enforce the Surety-Bond Policy for the compensation of any losses; and

7.5. In the event of legal issues between the Surety Company and the Obligee, the resolution of the dispute shall take place in the Obligee's home jurisdiction.

Any terms not expressly defined in this annex shall have the same meanings assigned to them in the ITB.

Model no. 03 - LETTER OF PRESENTATION OF PERFORMANCE GUARANTEE IN BANK GUARANTEE

To

State of Rio de Janeiro

Ref.: International Invitation to Bids No. [●]/[●]

Dear,

1. By this Guarantee Letter, the Bank [-], headquartered at [-], enrolled with the Brazilian Corporate Taxpayers' Registry (CNPJ) no. [-], ("Surety Bank"), directly by itself and by its potential successors, binds itself to [-] as joint surety of [Contactor], ("Contactor"), with express waiver of the rights provided for in articles 827, 835, 837, 838, 839 of Law no. 10.406, of January 10, 2002 (Brazilian Civil Code), for the full compliance with all obligations undertaken by the Contractor in the CONCESSION AGREEMENT, originating from the International Competitive Bid No. [-/[-], referring to BLOCK [●], ("Agreement"), to be entered into between the STATE and the Contractor, whose terms, clauses and conditions the Surety Bank expressly represents to know and accept.

2. 2. As a consequence of this Guarantee Letter, the Surety Bank undertakes, in the event that the Contractor fails to comply with any of its obligations under the Law or the CONCESSION AGREEMENT, including, inter alia, the events set out in Clause 17 of the CONCESSION AGREEMENT, as well as the fines resulting from such noncompliance, under the conditions and within the time deadlines established in the CONCESSION AGREEMENT, to pay to the STATE the following amounts:

[Values as per clause 17.1]

The value of the Bank Guarantee Letter shall be readjusted annually, on the same date as the TARIFF readjustments, according to the following formula:

$$G_t = G_{t-1} \times (1 + IPCA_p)$$

Where:

G_t is the value of the readjusted Performance Guarantee;

G_{t-1} is the current value of the Performance Guarantee;

$IPCA_p$ is the National Broad Consumer Price Index calculated by the Brazilian Institute of Geography and Statistics (IBGE); accumulated in the period between the month of the last readjustment and the month of the readjustment in question.

3. The Surety Bank also undertakes to, within the scope of the above amounts, pay for the losses caused by the Contractor, such as fines imposed by the REGULATORY AGENCY, related to the CONCESSION AGREEMENT, undertaking to make the payments arising from these events

whenever required, within a maximum period of 48 (forty-eight) hours, as from the receipt, by the Surety Bank, of the written notification sent by the STATE.

4. The Surety Bank shall not accept any objection or opposition from the Contractor or argued by the same for the purpose of evading the obligation undertaken towards the STATE pursuant to this Guarantee Letter.

5. The Surety Bank and the Contractor may not amend any of the terms of the Guarantee without the prior express authorization of the STATE.

6. Whenever the Contractor makes use of part of the total amount of the Guarantee, the Surety Bank undertakes to immediately notify the Contractor so that it may, within 10 (ten) working days of the date of such use, refund the full amount of the Guarantee.

7. In the event that the STATE goes to court to demand compliance with the obligation referred to in this Guarantee Letter, the Surety Bank shall pay any court or extrajudicial expenses.

8. The Guarantee shall be effective for a period of one (1) year, as from the date of execution of the CONCESSION AGREEMENT, according to the conditions mentioned in Clause 17, renewable for the same period.

9. The Surety Bank further represents that:

a) this guarantee letter is duly recorded in the books, fully complying with the current regulations of the Central Bank of Brazil, in addition to complying with the precepts of the applicable Banking Legislation;

b) the signatories of this instrument are authorized to give guarantees on its behalf and undertake liability; and

c) its capital stock is of R\$ [-] ([-] BRL) and it is authorized by the Central Bank of Brazil to issue Guarantee Letters, and that the value of this Guarantee Letter, in the amount of R\$ [-] ([-] BRL), is within the limits authorized by the Central Bank of Brazil.

[PLACE], [DATE].

[NOTARIZED SIGNATURE OF THE LEGAL REPRESENTATIVES]

[Signature of the Witnesses]