
PARTNERSHIP (CONCESSION) AGREEMENT

No. *[number of the Agreement]*

by and between

[Name of the Awarding Authority], *[if applicable Name of the Assignor,]* *[Name of the Investor]*

and *[name of the Concessionaire]*

regarding the awarding and performance of the
Concession for implementation of the Project *[Name of the Project]*

[day] [month] [year]

[Place]

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I. INTRODUCTION

[The Awarding Authority], the address *[address]*, legal entity registration number *[legal entity registration number]*, represented by *[title and full name of the representative]*, acting in accordance with the *[basis for representation (Articles of Association, resolution of the Awarding Authority, etc.)]*, which is the Awarding Authority in the sense of Part 7 of Article 2 of the Law on Concessions (hereinafter referred to as the **Awarding Authority**);

[If the Concessionaire is provided property, controlled and/or used not by the Awarding Authority [name of the Assignor], the address [address, legal entity registration number], represented by [title and full name of the representative], acting in accordance with the [basis for representation (Articles of Association, resolution, etc.)], (hereinafter referred to as the Assignor);]

and

[name of the Investor], *[the legal form]*, incorporated and acting according to the laws of *[the country]*, the address *[address]*, legal entity registration number *[legal entity registration number]*, represented by *[title and full name of the representative]*, acting in accordance with the *[basis for representation]*, whose Offer won the Tender (hereinafter referred to as **the Investor**);

[name of the Concessionaire], *[the legal form]*, incorporated and acting according to the laws of *[the country]*, the address *[address]*, legal entity registration number *[legal entity registration number]*, represented by *[title and full name of the representative]*, acting in accordance with the *[basis for representation]* (hereinafter referred to as **the Concessionaire**),

hereinafter the Awarding Authority, *[if applicable the Assignor,]* the Investor and the Concessionaire shall individually be referred to as **Party**, and collectively – as **the Parties**;

WHEREAS:

- A. The Awarding Authority reaches for awarding the concession for *[brief description of the subject of concession]* to the Concessionaire, able to ensure uninterrupted provision of quality and efficient services at lowest cost, by using the public and private partnership model and ensuring the largest social and economic benefit;
- B. *[The legal basis (legal acts), by which the Awarding Authority is empowered to award the concession for implementing the PPP project];*
- C. The Awarding Authority, in accordance to the Law on Concessions of the Republic of Lithuania, has prepared, approved and on *[date]* announced the tender for awarding the concession for implementing the investment project *[name of the Project]* in the Information Supplement No. *[number]* *[in case the announcement is also performed in other media - [date] in the daily [name of the daily], and on [date] at the webpage of the Awarding Authority [address]];*
- D. The Investor has expressed its interest in participation in the Tender and provided a comprehensive binding offer and the Awarding Authority, upon, according to the established procedure, completing the procedures of services concession awarding tender and after evaluating all the received offers,

recognized the Investor as the winner of the Tender;

- E. The Investor, in accordance with the Conditions of Tender, on *[state the date of incorporation or establishment of the Concessionaire]*, has incorporated the Concessionaire for performance of the obligations under the Partnership (Concession) Agreement;
- F. For the purposes of the Partnership (Concession) Agreement, the Awarding Authority agrees to transfer the Property, controlled and/or used by the Awarding Authority *[if applicable – and/or by the Assignor]* *[state the rights of such control and/or use]*, foreseen for the Concessionaire, incorporated by the Investor or established for the purpose of implementation of the Project under this Partnership (Concession) Agreement and necessary for performance of the Concessionaire's obligations under the Partnership (Concession) Agreement and the Concessionaire, on the conditions and to the extent, foreseen in the Partnership (Concession) Agreement, agrees to accept such Property or the rights and responsibilities, related with the Property, arising from the agreements, concluded by the Awarding Authority *[if applicable – and/or by the Assignor]*, undertake all the rights and obligations of the Concessionaire, foreseen in the Partnership (Concession) Agreement and holds the necessary financial resources, knowledge, experience and qualified personnel, necessary in order to implement the above;
- G. The Parties reach to implement the objective *[state the objective]*.

The Awarding Authority *[if applicable – and the Assignor]*, from one side and the Investor and the Concessionaire, from the other side, for the purpose of undertaking the contractual obligations, have, in good will, concluded this Partnership (Concession) Agreement (hereinafter referred to as **the Agreement**):

II. CONCEPTS AND THEIR DEFINITIONS

1. Concepts, used in the Agreement, and their definitions

1.1. The Concepts, presented in initial capital letters in this Agreement, its annexes and amendments and/or supplements, as well as in other documents, related with this Agreement and its implementation, shall have the following definitions, except for the cases, where they are expressly stated otherwise in the corresponding documents:

Case of exemption The cases, in which the basis for termination of the Agreement, foreseen under Paragraph 38 and the liability under Paragraph 46 shall not be applicable to the Concessionaire;

Business day The days, on which banks execute their activities in the Republic of Lithuania, except Saturdays and Sundays and other official holidays;

Insurance The insurance agreements, foreseen in Annex 7;

agreements

EU The European Union;

Essential amendment of legal acts

Amendment of special legal acts, having an adverse effect on the Parties' rights and obligations hereunder. No Essential amendment of the legal acts shall be considered in the cases when a prudent business entity, providing services, similar to those, provided under the Agreement, referring to the national draft legal acts, activity strategies, plans or similar EU documents, on the date of entering into the Agreement, could have possibly foreseen amendments of such legal acts and:

- a) Such documents were publicly announced prior to execution of the Agreement;
- b) The provisions and plans, provided in these documents, in their essence, are similar or essentially have the same effect as an Essential amendment of legal acts;

Funder

The subject, providing the funding to the Concessionaire, foreseen in the Financial activity model, necessary in order to be able to appropriately perform the obligations hereunder and with whom the Awarding Authority may conclude the Direct Agreement;

Financial activity model

The financial activity model, prepared according to Annex "Requirements to the financial activity model" to the Conditions of Tender, provided in Annex 1 hereto, provided together with the Offer and stating the structure and conditions of financing of the Concessionaire's activities, financially/economically, technically and socially substantiated aims of funding and providing evaluation of the return on investment as well as other efficiency indicators;

Good business practice

Performance of activities in observance of the standards, methods, practices, procedures, not in conflict with the applicable legal acts and the level of care, which may be expected from qualified and

	experienced entities, engaged in similar activities in the same or similar conditions;
Information Supplement	The Information Supplement to the Official Gazette “Valstybės žinios” of the Republic of Lithuania
Investor	<i>[The name and legal requisites of the participant/participants, with which the Awarding Authority is going to conclude the Partnership (Concession) Agreement]</i> , whose Offer won the Tender and with whose Concessionaire the Agreement is concluded and the persons, who replace the above in the cases foreseen in the Agreement;
Investment	The mandatory investment into the Property, used for provision of the Services or other investment, necessary for proper provision of the Services, stated in Annex 2 hereto;
Return on investment	Any income, receivable by the Investor from the Concessionaire (dividends, interest, amounts payable in case the Concessionaire’s capital is reduced or the economic benefit, received in any other form);
Rate of return on investment	The internal rate of return, in case of which the current value of the flows of return, receivable by the Investor from the Concessionaire, is equalled to zero and which is calculated according to the procedure, established in the Financial Activity Model;
Law on Investments	The Law on Investments of the Republic of Lithuania;
Early conditions for entering into effect of the Agreement	The conditions, foreseen in Annex 5 to the Agreement, the performance of which is necessary for full entering into effect of the Agreement;
Commission	The Tender Commission, performing the Tender procedures, formed by Order No. <i>[number]</i> of the

Head of the Awarding Authority of *[date]*;

Compensation event

The event, the risk of which according to the Agreement and the matrix of distribution of risks between the parties, is exclusively or partially borne by the Awarding Authority and the negative consequences of which must be fully or in part compensated to the Concessionaire according to the procedure, established in the Agreement and with regard to which the time periods for implementation of the Concessionaire's obligations, established in the Agreement, may be extended;

Concessionaire

The economic entity, incorporated or established by the Investor for the purpose of implementing the Project in accordance with Part 1 of Article 16 of the Law on Concessions, which shall become a party to the Agreement and perform the activities under the Agreement and which, at the moment of entering into the Agreement, must:

- *[recommended have the legal form of a private limited liability company; and]*
- Be owned only by the Investor (i.e. 100 per cent of the shares); and
- Be intended only for performing the activities, intended for implementation of the Project; and
- Have no debts of other liabilities, not related with performance of the Agreement; and
- Apply the valid business accounting standards;
- *[if applicable be a registered VAT payer.]*

The Concessionaire must be incorporated or established by the Investor before signing the Agreement;

Law on Concessions

The Law on Concessions of the Republic of Lithuania;

Tender

Tender for awarding the concession for implementing the investment project *[name of the*

	<p>Project], announced by the Awarding Authority, in accordance with the Law on Concessions and the Law on Investments on <i>[date]</i> in the Information Supplement No. <i>[number]</i> <i>[in case the announcement is also performed in other media - [date] in the daily [name of the daily], and on [date] at the webpage of the Awarding Authority [address]]</i>;</p>
<p><i>[if applicable]</i> Benchmarking</p>	<p>The procedure, aimed at comparing the prices and other parameters of the provided services with those of similar services, provided by the market leaders;]</p>
Fee	<p>The lease fee for the Assigned Property, paid by the Concessionaire to the Awarding Authority or another fee, foreseen hereunder;</p>
Lease agreements	<p>The agreements, foreseen in Annex 6 hereto, by which the Property and the rights and obligations under the agreements, related to the Property, shall be assigned to the Concessionaire for control and use on the basis of lease;</p>
Additional investment	<p>Any other Concessionaire's investment into the Property, used for provision of Services, not specified in Annex 2 to the Agreement. Such investment is not mandatory;</p>
Offer	<p>Comprehensive and binding offer, provided during the Tender, clarified considering the conditions, agreed upon during the Tender negotiating procedure and attached as Annex 2 to the Agreement;</p>
Services	<p>The services, provided by the Concessionaire according to the Conditions, the Offer and the Agreement <i>[list the services, provided under the Agreement]</i>;</p>
Service provision plan	<p>The technical, engineering and organizational solution, provided by the Concessionaire and covering the Service provision activities and their succession;</p>
Commencement of provision of	<p>The day of operation of the Property (or a part thereof), starting with which the Concessionaire commences providing the Services in the</p>

services	corresponding part of the Property;
Assigned Property	The movable and immovable property, necessary for provision of the Services, assigned by the Awarding Authority <i>[if applicable – and/or by the Assignor]</i> to the Concessionaire for control and use according to the Lease Agreements <i>[if applicable, except the Plot of Land.]</i> The comprehensive list of the Assigned Property is attached as an annex to the corresponding Lease Agreement and shall be held an integral part thereof;
<i>[if applicable the Assignor]</i>	The entity, directly or indirectly controlled by the state or a municipality, whose property, controlled and/or used by title of ownership or trust, is assigned to the Concessionaire for performing the Agreement;]
Obligations performance security	The obligations performance security, specified in Paragraph 30.1 of the Agreement, used for securing the performance of the Concessionaire’s obligations under the Agreement;
Project	The investment project <i>[name of the project]</i> , implemented by the Awarding Authority by way of concession, described in the Conditions of Tender;
<i>[if applicable Market examination]</i>	The examination of the market of the examined services, performed by the Concessionaire according to the procedure, provided in Paragraph 23 of the Agreement;
<i>[if applicable Market examination date]</i>	<i>[date]</i> of <i>[month]</i> of <i>[number]</i> year (calculating from the date of commencement of provision of Services);
Amendment of the special legal acts	Amendment of any legal acts, relating only to regulation of provision of the Services or the rights and obligations of the Concessionaire’s shareholders, arising from the Concessionaire’s activities, as well as amendments of legal acts, the provisions of which are directly applicable to: <ul style="list-style-type: none"> a) The Services, listed in the Agreement; b) The Concessionaire;

c) The entities, implementing the Project;

For clarity, such amendments of legal acts, which are general, not discriminating the Concessionaire and applicable to a wide range of entities (for instance, amendments of legal acts, regulating profit and value added tax, etc.) shall not be held amendments of special legal acts;

Specifications

The annex “Specifications” to the Conditions, provided in Annex 1 to the Agreement, establishing the requirements and indicators, which the Services must satisfy;

Sub-suppliers

The economic entities, stated in the Offer, or other entities, replacing the latter according to the procedure, established in the Agreement or new economic entities, providing the Services, for provision of which the Concessionaire is responsible and to whom the Concessionaire pays remuneration for provision of the said Services;

Related Person

- a) A related company;
- b) Members of the related company’s supervision and management bodies;
- c) A spouse of a member of the Investor’s or Related person’s supervision and management bodies, his/her closest relatives, as well as persons, connected by in-law relations up to the second degree inclusive;
- d) Companies, related with the persons, mentioned in paragraph c) and members of such companies’ supervision and management bodies;

Related Company

Any company, economic partnership, limited liability company, fund or another entity (legal or not legal), controlled by the Concessionaire directly or indirectly or who itself directly or indirectly controls the Concessionaire, or who is, together with the Concessionaire, directly or indirectly controlled by another entity, holding the title of ownership, a share of capital or implementing the requirements of the legal acts,

applicable to such controlled entity. An entity shall be considered in control of other companies, if such entity, directly or indirectly:

- a) Holds more than a half of shares or other securities, issued by such controlled company; or
- b) Has all the votes, granted by the shares or other securities, issued by the controlled company; or
- c) Has the possibility to appoint or elect more than a half of members of the management or another body of such controlled company (except the shareholders' meeting); or
- d) Has entered into an agreement, according to which the controlled company is obliged to implement the controlling company's decisions and instructions; or
- e) Has the title of ownership to no less than one half of the property, profit or residual liability of the controlled company.

The list of related companies is attached to the Agreement as Annex 8 and must be continually updated in case of change of any data, stated therein;

Agreement

This Agreement between *[the name of the Awarding Authority]* *[if applicable, and the Assignor]* and *[name of the Investor]* and *[name of the Concessionaire]*, concluded for the purpose of implementing the public-private partnership project for implementation of the Project, as provided in the Law on Concessions;

Awarding Authority

[name of the Awarding Authority], which, according to its competence and authorizations, established by the legal acts of the Republic of Lithuania, is responsible for the corresponding functions and areas of activities, which can be implemented and ensured by awarding concessions according to the Conditions and the Agreement;

Direct agreement

The agreement between the Funder and the

Awarding Authority, by which the Awarding Authority undertakes to the Funder (or the entity, appointed by the Funder) to, on the conditions, established by the agreement, use the right of step-in for the purpose of performing the Agreement instead of the Concessionaire;

Property

The Assigned Property and the New Property *[if applicable, also the Plot of Land]*;

Activity reports

Regular reports or any other source of information, document or data, developed, prepared or drafted in observance of the Agreement and the activity monitoring programme, as it is defined in the Specifications;

[if applicable Plot of Land]

[specify the plot of land or a part thereof and its characteristics];

[if applicable Plot Lease Agreement]

The agreement for lease of the Plot of Land, assigned for the Project implementation purposes, concluded by and between the Concessionaire and [state the entity, with which, in accordance with the Law on Land of the Republic of Lithuania and the requirements, provided by the legal acts, related to the Law on Land, the agreement for lease of land, belonging to the state and/or municipalities, must be concluded].

1.2. In case the context of use of the concept does not stipulate otherwise:

- 1.2.1. The words, used in masculine gender also include the words, used in feminine and vice versa;
- 1.2.2. The words, used in singular also include the words, used in plural and vice versa;
- 1.2.3. References to articles, paragraphs, tables or annexes mean references to the articles, paragraphs, tables of or annexes to the Agreement, except the cases where it is expressly stated otherwise;
- 1.2.4. References to the Agreement also mean references to its annexes;
- 1.2.5. “Execution” of the Agreement or any other document means that the Agreement or such document was signed by all the parties to the Agreement or the document;
- 1.2.6. Any reference to legal acts shall be construed as the reference to the editions of the legal acts, in effect at the time of implementation of the Agreement, except the cases where it is expressly stated otherwise;
- 1.2.7. Headings of paragraphs and other provisions are provided for convenience only and shall not have any effect on interpretation of the Agreement.

1.3. The annexes shall be held integral parts of the Agreement. The Parties' obligations under the Agreement or disagreements as regards any contradictions or discrepancies, found in the Agreement documents, shall be interpreted in accordance with the following priority of documents:

1.3.1. Direct agreement with the Funder;

1.3.2. The Agreement;

1.3.3. The annexes to the Agreement and the Conditions:

- a) Specifications;
- b) Financial Activity Model;
- c) Monitoring and deduction mechanism procedure;
- d) The matrix of distribution of risks between the Parties;
- e) Other Conditions of Tender;
- f) Other parts of the Offer;
- g) List of mandatory insurance agreements;
- h) Lease agreements;
- i) Other annexes to the Agreement.

III. SUBJECT AND AIM OF THE AGREEMENT

2. Subject and aim of the Agreement

2.1. The Concessionaire shall, according to the procedures, established in the Agreement and in observance of the established requirements, provide the Services, undertake the relating risk, as it is foreseen in the Agreement, appropriately control and use the Property and, upon expiry of the Agreement, return the Property (if not provided otherwise in the Agreement) to the Awarding Authority [*if applicable – and/or to the Assignor*] according to the procedure, established in the normative legal acts, duly perform other of its obligations under the Agreement, not abuse the rights, acquired under the Agreement and the Awarding Authority shall award to the Concessionaire the right to provide the Services and perform economic and commercial activities, as well as to ensure the compliance of the condition of the Assigned Property with the requirements, established to the corresponding services and shall also, according to the procedure, established by the Agreement, award to the Concessionaire the right to control and use the Assigned Property, undertake the risk, identified in the Agreement and appropriately perform other of its obligations under the Agreement.

2.2. The principal aim of the Agreement is to ensure uninterrupted provision of quality Services and, throughout the period of validity of the Agreement, reach for efficiency of the Services, improvement of quality and rational use of the Property.

IV. TIME PERIOD OF VALIDITY AND PERFORMANCE OF THE AGREEMENT

3. Entering into effect

3.1. The Agreement shall fully enter into effect on the following Business day after all the advance conditions for entering into effect of the Agreement, foreseen in Annex 5 to the Agreement, are fulfilled. The advance conditions for entering into effect of the Agreement must be fulfilled not later than within [*state the time period, recommended*

period – 60 (sixty) days] after the date of signing the Agreement, except for the cases where the Parties agree on an extension of the time period for fulfilling the advance conditions for entering into effect of the Agreement.

- 3.2. The advance conditions for entering into effect of the Agreement shall be considered fulfilled, when the fulfilment is confirmed by the Awarding Authority in writing not later than within [*state the time period, recommended period – 5 (five) Business days*] as of the moment of receipt of all information on fulfilment of the advance conditions for entering into effect of the Agreement, or the Awarding Authority, within the said period, must state to the Concessionaire its refusal to confirm the fulfilment of the advance conditions for entering into effect of the Agreement.
- 3.3. In case, due to objective reasons, independent of the Parties, the Agreement does not fully enter into effect till the expiry of the term, stated in Paragraph 3.1, the Parties, by mutual written agreement, may extend the time period for full entering into effect of the Agreement, however for no longer than [*state the time period, recommended period – 90 (ninety) days*].
- 3.4. For the purpose of implementing the advance conditions for entering into effect of the Agreement and properly preparing for performance of their contractual obligations, the Awarding Authority, [*if applicable – and the Assignor,*], the Investor and the Concessionaire, throughout the time period till the full entering into effect of the Agreement, shall collaborate, cooperate and make the maximum efforts, including the cooperation for obtaining the necessary licenses, permits, consents, certificates and other documents, as foreseen in Paragraph 12.
- 3.5. In case the Agreement does not fully enter into effect till the deadline, stated in Paragraph 3.1, and in case the said time period is extended and the Agreement does not enter into effect notwithstanding the extension of the time period of entering into effect of the Agreement, stated in Paragraph 3.3, the Agreement shall be held expired and the following consequences of expiry of the Agreement shall emerge:
 - 3.5.1. In case the Agreement does not fully enter into effect due to reasons, within control of or due to the fault or risks of the Concessionaire and/or the Investor, attributed to them hereunder: the Awarding Authority shall have the right to request from the Concessionaire and the Investor to collectively pay the fine of the amount of [*state the amount – for instance: 100 000 (one hundred thousand)*] euro, which shall be considered the final damages of the Awarding Authority, agreed by the Parties in advance;
 - 3.5.2. In case the Agreement does not fully enter into effect due to reasons, within control of or due to the fault or risks of the Awarding Authority, attributed to it hereunder: the Concessionaire and the Investor shall have the right to request from the Awarding Authority to pay the fine of the amount of [*state the amount – for instance: 100 000 (one hundred thousand)*] euro, which shall be considered the final damages of the Concessionaire and the Investor, agreed by the Parties in advance;
 - 3.5.3. In case the Agreement does not fully enter into effect due to reasons, not within control of or not due to the fault or risks of the Parties, attributed to them hereunder, the Parties shall apply full restitution and return to each other everything that was received from each other under this Agreement, however the Parties are not required to indemnify to each other any costs, expenses, damages/loss and are not required to pay any forfeit.

In any case of non-entering into effect of the Agreement, stated in Paragraph 3.53.5, the Parties shall apply full restitution and return to each other everything that was received from each other under this Agreement.

4. Commencement and duration of provision of the Services

- 4.1. The Services in the corresponding part of the Property must be commenced to be provided in full, as it is foreseen in the Services provision plan, not later than within [state the time period, recommended period – 30 (thirty) days] as of the date of full entering into effect of the Agreement and shall be provided till expiry of the Agreement.
- 4.2. The time of commencement of provision of the Services, established in Paragraph 4.1, may be extended by a written agreement between the Parties, however for a time period no longer than [*state the time period, recommended period – 60 (sixty) days*] and only in case of the following conditions, due to which the Services cannot be provided:
 - 4.2.1. Force majeure circumstances, as they are defined in Paragraph 41 of the Agreement; or
 - 4.2.2. Fault of the Awarding Authority; or
 - 4.2.3. Exemption case; or
 - 4.2.4. Compensation event.
- 4.3. In case the Parties agree to postpone the time of commencement of provision of the Services, the period of validity of the Agreement shall not be changed.
- 4.4. The Services shall be provided according to the procedure and in phases, stated in the Specifications, the Offer and in the Agreement.

5. Time period of validity of the Agreement

- 5.1. This Agreement shall remain in effect for [*state the time period*] years as of the moment of entering into effect. The moment of entering into effect of the Agreement is defined in Paragraph 3.1.
- 5.2. Including all the possible extensions of the time period of validity of the Agreement, the Agreement may not remain in effect longer than 25 (twenty-five) years as of the date of its full entering into effect.

V. REPRESENTATIONS AND GUARANTEES BY THE PARTIES

6. Representations and guarantees by the Awarding Authority [*if applicable – and by the Assignor*]

- 6.1. The Awarding Authority [*if applicable – and the Assignor*] correspondingly represent and guarantee:
 - 6.1.1. The Awarding Authority [*if applicable – and the Assignor*] has performed the necessary actions and obtained the official licenses and/or permits, necessary in order to be able to conclude the Agreement and perform the obligations under it. The Agreement creates to the Awarding Authority [*if applicable – and to the Assignor*] legal and valid obligations under the provisions of the Agreement, which may be enforced against the Awarding Authority [*if applicable – and the Assignor*];

- 6.1.2. The Awarding Authority shall, according to its competence and authorizations, established by the legal acts of the Republic of Lithuania, valid on the day of conclusion of the Agreement, be responsible for the corresponding functions and areas of activities, implemented and ensured when concluding the Agreement, therefore the Awarding Authority is an awarding authority in the sense, defined in the Law on Concessions;
- 6.1.3. The Awarding Authority *[if applicable – and the Assignor]* have provided to the Investor and the Concessionaire all the essential and, to their knowledge, correct information, required by the Concessionaire, relating to the Assigned Property *[if applicable to the Plot of Land]* and to the contractual obligations of the Awarding Authority *[if applicable – and the Assignor]*. The provided information is correct as of the day of concluding of the Agreement, except the possible changes of the condition of the Assigned Property as the result of usual economic operation, which come into existence during the time period between the date of provision of information and the date of signing the Agreement. There are no concealed facts, able to have an essential effect on execution of the Agreement and performance of the foreseen obligations;
- 6.1.4. When concluding and performing the Agreement, the Awarding Authority *[if applicable – and the Assignor]* does not violate any essential agreements or obligations, to which the Awarding Authority *[if applicable – and the Assignor]* is a party, there are no pending decisions, rulings, verdicts or resolutions of court (or arbitration), as well as no requirements, applicable under the laws and other legal acts in regard to the Awarding Authority *[if applicable – and the Assignor]*;
- 6.1.5. The Awarding Authority *[if applicable – and the Assignor]* has the right to transfer the Assigned Property to the Concessionaire for control and use by title of ownership, according to the procedure and conditions, established in the Agreement. The Assigned Property is not transferred to other parties, is not mortgaged or arrested;
- 6.1.6. The Awarding Authority *[if applicable – and the Assignor]* has not received any notifications or citations to court or arbitration and there are no litigations, arbitration or other legal proceedings against the Awarding Authority *[if applicable – and the Assignor]*, and there are no litigations, arbitration or other legal proceedings, initiated by the Awarding Authority *[if applicable – and the Assignor]* against another party, which might have an essential adverse effect on the financial standing of the Awarding Authority *[if applicable – and the Assignor]* and/or its possibilities to perform its obligations under the Agreement;
- 6.1.7. The Assigned Property is not on the list of objects to be privatized;
- 6.1.8. *[if applicable The Plot of Land is not on the list of objects to be privatized, there are no persons, having the right to restore their rights of ownership to the Plot of Land according to the Law on the restoration of the rights of ownership of citizens to the existing real property of the Republic of Lithuania and there are no restrictions, which would prevent the Concessionaire from concluding the lease agreement for the Plot of Land or use the Plot for the purposes and according to the procedure, established in the Agreement;]*
- 6.1.9. Representatives of the Awarding Authority *[if applicable – and the Assignor]* hold all the authorizations, necessary in order to be able to conclude the Agreement.

- 6.2. Except the cases, where Paragraph 6.1 of the Agreement expressly states otherwise, the representations and guarantees of the Awarding Authority [*if applicable – and the Assignor*], established in Paragraph 6.1, shall be valid to full extent as of the moment of executing the Agreement.
- 6.3. The Awarding Authority [*if applicable – and the Assignor*] undertakes to immediately notify the Concessionaire on any events or circumstances, due to which any of the representations or guarantees of the Awarding Authority [*if applicable – and the Assignor*] will become incorrect or might become incorrect in the future.
- 6.4. The Awarding Authority [*if applicable – and the Assignor*] understands that the information, collected by the Investor and the Concessionaire, stated in Paragraph 7.1.10, is limited to the information, provided by the Awarding Authority [*if applicable – and the Assignor*] during the Tender and other information, announced before the provision of comprehensive binding offers, with which any entity was able to get familiarized with no restrictions.
- 6.5. The Awarding Authority [*if applicable – and the Assignor*] understands that the Investor and the Concessionaire conclude the Agreement in confidence of the representations and guarantees of the Awarding Authority [*if applicable – and the Assignor*] and the information, provided to the Investor and the Concessionaire.

7. Representations and guarantees by the Concessionaire and the Investor

- 7.1. The Concessionaire and the Investor represent and guarantee the following:
 - 7.1.1. The Concessionaire and the Investor are legal entities, duly incorporated and legally acting according to the legal acts of [*specify the state or states*], holding all the rights and authorizations and having completed all the actions, necessary to be able to enter into the Agreement and execute their rights and obligations under the Agreement;
 - 7.1.2. 100 % of the Concessionaire's shares are and will be owned by the Investor, except the cases, where transfer of shares is expressly allowed under the Agreement. The Concessionaire is not engaged in any other activities, not related to performance of its obligations under the Agreement and shall not, without a prior written consent by the Awarding Authority, engage in any other activities throughout the period of the Agreement;
 - 7.1.3. The Concessionaire must and can, within the reasonable period after the execution of the Agreement, acquire the right to engage in the economic activities, necessary in order to be able to perform the Agreement;
 - 7.1.4. The Investor and the Concessionaire, as well as the employees, duly authorized by the Concessionaire, its managers and shareholders have performed all the actions and obtained all the permits, necessary in order to be able to conclude the Agreement and perform the undertaken obligations. The Agreement creates to the Concessionaire and the Investor legitimate and valid obligations, which may be enforced against them according to the provisions of the Agreement;
 - 7.1.5. When concluding and performing the Agreement, the Concessionaire and the Investor do not violate any essential agreements or obligations, to which they are parties and any decision, ruling, verdict or resolution by court (or arbitration), as well as any requirements, provided by the applicable laws or other legal acts, applied to the Concessionaire and the Investor;

- 7.1.6. The Concessionaire and the Investor have not received any notifications or citations to court or arbitration and there are no litigations, arbitration or other legal proceedings against the Concessionaire and the Investor, and there are no litigations, arbitration or other legal proceedings, initiated by the Concessionaire and the Investor against another party, which might have an essential adverse effect on the financial standing and/or business of the Concessionaire and the Investor and/or their possibilities to perform their obligations under the Agreement, on which the Awarding Authority is not notified in writing;
- 7.1.7. The Concessionaire and the Investor, when providing their offer, were fully and unconditionally compliant and, when entering into the Agreement, are compliant and throughout the period of the Agreement shall be compliant with all the requirements, established to them in the Conditions of Tender, taking into consideration the non-completed part of the Agreement;
- 7.1.8. The Concessionaire and the Investor conclude the Agreement, having a long-term (not shorter than the period of the Agreement) real business interest to ensure the provision of the Services and receive profit from such activities;
- 7.1.9. All the information, provided by the Concessionaire and/or the Investor during the Tender, including the information on its activities, experience, knowledge and availability of qualified staff, financial standing, contractual obligations, shareholders and Related companies is correct, comprehensive and reflecting the real situation;
- 7.1.10. The Concessionaire and the Investor have collected all, in their opinion, necessary and sufficient information, necessary in order to be able to perform their obligations under the Agreement;
- 7.1.11. The Concessionaire and the Investor confirm that they had a possibility to get familiarized with all the documents, provided to them, as well as with publically available documents and information, on the basis of which the Investor and the Concessionaire had the possibility to independently make conclusions on the Parties' rights and obligations under the Agreement and make decisions on their participation in the Tender. The Concessionaire and the Investor accept all responsibility as regards the obligations hereunder and evaluation of the risks, relating to such obligations;
- 7.1.12. The Concessionaire and the Investor are not aware of any circumstances, which could possibly prevent them from proper performance of their obligations under the Agreement;
- 7.1.13. Representatives of the Concessionaire and the Investor hold all authorizations, necessary in order to be able to conclude the Agreement.
- 7.2. Except the cases, where it is expressly stated otherwise in Paragraph 7.1, the representations and guarantees by the Concessionaire and the Investor, established in Paragraph 7.1, are valid to full extent as of the moment of conclusion of the Agreement.
- 7.3. The Concessionaire and the Investor must immediately notify the Awarding Authority on any events or circumstances, due to which any of their representations or guarantees will become incorrect or may become incorrect in the future.
- 7.4. The Concessionaire and the Investor understand that the Awarding Authority *[if available – and the Assignor]* conclude the Agreement in confidence of the representations and guarantees of the Concessionaire and the Investor and the

information, provided by the Concessionaire and the Investor to the Awarding Authority. The Awarding Authority *[if available – and the Assignor]* have not performed any independent investigation as regards the correctness and accuracy of the representations and guarantees of the Concessionaire and the Investor.

VI. ASSIGNMENT AND RETURN OF THE PROPERTY

8. Assigned Property *[if applicable – the Plot of Land]* and the agreements

- 8.1. The Lease agreements *[if applicable – Land plot lease agreement]* shall enter into effect and the Assigned Property *[if applicable – Land plot]* shall be leased to the Concessionaire when performing the advance conditions of entering into effect of the Agreement. The rights and obligations under the Lease agreements *[if applicable – Land plot lease agreement]* shall be considered assigned as of the moment of entering into effect of the Lease agreements *[if applicable – Land plot lease agreement]*.
- 8.2. The expiry of the Lease agreements *[if applicable – Land plot lease agreement]* shall coincide with the expiry of the Agreement, in case no earlier expiry of Lease agreements is foreseen therein *[if applicable – Land plot lease agreement]*. The Concessionaire and the Investor, at their risk and expense must take all the reasonable actions in order for the rights and obligations under the Lease agreements *[if applicable – Land plot lease agreement]*, upon expiry of the Agreement, to be transferred to the Awarding Authority or to the entity, indicated by the Awarding Authority in advance in writing.
- 8.3. The Awarding Authority *[if applicable – and the Assignor]* undertake to, within *[state the time period, recommended period – 3 (three) Business days]* after the entering into effect of the Lease agreements, provide to the Concessionaire the documents, proving the right of ownership / trust to the Property, assigned under the Agreements.
- 8.4. *[if applicable Not later than within [state the time period, recommended period – 5 (five) Business days] as of the moment of entering into effect of the Lease agreements on control and use of the immovable property, the Concessionaire must apply to the [state the responsible institution] regarding concluding the agreement for lease of the Plot of Land, assigned to the transferred immovable property. When applying, it is necessary to state that the Land plot lease agreement shall expire upon expiry of the time period of control and use of the assigned immovable property.]*
- 8.5. The Awarding Authority *[if applicable – and the Assignor]*, within the limits of its competence, shall perform all the actions and make each and every effort in order to have all the necessary decisions made and obtain all the licenses and permits, necessary in order to be able to transfer the Assigned Property, mentioned in Paragraph 8 *[if applicable – the Plot of Land]* to the Concessionaire.
- 8.6. The Awarding Authority *[if applicable – and the Assignor]* shall not require any additional payments for the Assigned Property *[if applicable – the Plot of Land]*, relating to the control and use of the Assigned Property *[if applicable – the Plot of Land]*, except the payments and rent, foreseen in the Monitoring and deduction mechanism, provided in Annex 3 to the Agreement, which must be paid by the owner/leaseholder of the property under the requirements, provided by the applicable legal acts.

8.7. *[if applicable – the Awarding Authority [if applicable – and the Assignor]* undertakes to, within the limits of its competence, make each and every effort in order for the Concessionaire to be released from the obligation to pay the Property lease fee.]

9. Rights and responsibilities of the Concessionaire when controlling and using the Assigned Property *[if applicable – the Plot of Land]* and when performing the Lease agreements *[if applicable – Land Plot Lease Agreement]*

9.1. The Concessionaire shall control and use the Property, assigned when performing the Agreement *[if applicable – the Plot of Land]* according to the right of lease, i.e. no property rights shall be assigned.

9.2. All actions, relating to registering the changed data of the Assigned Property *[if applicable – the Plot of Land]* with the Register of real estate (including covering the relating costs) shall be performed by the Concessionaire, by providing all the necessary information and authorizations to the Awarding Authority *[if applicable – and to the Assignor]*.

9.3. The Concessionaire undertakes to ensure that throughout the period of the Lease agreements *[if applicable – Land plot lease agreement]* the Assigned Property *[if applicable – the Plot of Land]* is used according to its purpose and the conditions of the Agreement and the rights and obligations according to the agreements, relating to the Assigned Property *[if applicable – the Plot of Land]*, transferred to the Concessionaire, are executed in observance of the requirements, provided in the agreements. The Concessionaire shall be responsible for the appropriate performance of the obligations under the Lease agreements *[if applicable – Land plot lease agreement]* as of the moment of their assignment, stated in Paragraph 8.1.

9.4. The Concessionaire shall be responsible for the control and use of the Assigned Property *[if applicable – the Plot of Land]* without violation of the legal acts of the Republic of Lithuania, including those regulating environmental protection and hygiene norms.

9.5. The Assigned Property *[if applicable – the Plot of Land]*, at the advance written consent by the Awarding Authority, may be used for other purposes, to the extent such use does not hinder efficient and quality provision of the Services and assurance of compliance of the Services to the requirements, provided by the applicable legal acts, the Agreement and its annexes. By the requirement of the Awarding Authority the use of the Assigned Property *[if applicable – the Plot of Land]* for other purposes must be discontinued in case such requirement is provided not later than *[state the time period, recommended period – 15 (fifteen) days]* before the requested date of termination. In case the use of the Assigned Property *[if applicable – the Plot of Land]* for other purposes, different than implementation of the Agreement hinders to duly perform the Agreement, at the requirement of the Awarding Authority such use must be discontinued outright upon receiving the request. The disputes as regards the soundness of the requirements, foreseen in this Paragraph, shall be resolved by the Commission, specified in Paragraph 51.

9.6. In case the Concessionaire, on the basis, stated in Paragraph 9.5, uses the Assigned Property *[if applicable – the Plot of Land]* for other purposes, the Concessionaire must

ensure that such Assigned Property *[if applicable – the Plot of Land]* is free of any burdens at the moment of expiry of the Agreement.

- 9.7. In case the Assigned Property is worn or can no longer be used according to its primary purpose, the Concessionaire must repair such property or replace it with similar or better property, answering the same purpose and utilize or provide the unfit Assigned Property for recycling at its own expense. The Awarding Authority undertakes to make all the necessary decisions, necessary for the Concessionaire to be able to perform its obligations under this Paragraph.
- 9.8. During the time period of validity of the Agreement the Concessionaire has the right to apply to the Awarding Authority *[if applicable – and/or to the Assignor]* with the request to terminate/modify the Lease agreements *[if applicable – Land plot lease agreement]* and accept back the Assigned Property *[if applicable – Plot of land]*, which had become not needed by the Concessionaire for the Services provision purposes. The Awarding Authority must provide a motivated decision as regards such request not later than within *[state the time period, recommended period – 30 (thirty) days]* as of the moment of receipt of the Concessionaire's request, however the Awarding Authority does not necessarily have to satisfy the Concessionaire's request.

10. Return of the Property

- 10.1. After the expiry of the Lease agreements *[if applicable – Land plot lease agreement]*, also when returning the Assigned Property *[if applicable – Plot of land]* in the case, foreseen in Paragraph 9.8, the Concessionaire shall return the Assigned Property to the Awarding Authority *[if applicable – to the Assignor]* according to the procedure, prescribed by the applicable legal acts.
- 10.2. The parties agree that when returning the Property must be compliant with the requirements, established in Annex 9.
- 10.3. The returning and transfer of the Property shall be arranged by the experts' commission, formed by the Concessionaire and the Awarding Authority, which shall include two experts, appointed by each Party. The said two experts shall choose the third independent expert. The experts' commission must be formed at the latest *[state the time period, the recommended period – 6 (six) months]* before the expiry of the Agreement. The formation of the experts' commission shall be initiated by the Concessionaire without violating the terms, stated in Paragraph 10.3. The experts' commission, not later than within *[state the time period, the recommended period – 3 (three) months]* as of the moment of returning the Property, must inspect the condition of the Property and compliance with the requirements, provided in Paragraph 10 and provide motivated conclusions. Referring to the conclusions of the inspections, the Awarding Authority shall, within *[state the time period, the recommended period – 30 (thirty) days]* confirm the compliance of the returned property with the raised requirements, or provide a well substantiated refusal, stating the specific incompliance. In case the inspection of the condition of the Property is performed during the cold season of the year, the inspection period may be extended till the moment when the condition of the Property may be physically inspected.
- 10.4. The Concessionaire must return and transfer the Property, compliant with the requirements, stated in the Agreement and annexes hereto against the Statement of transfer and acceptance (return), signed by the Parties, to the Awarding Authority *[if applicable – and/or to the Assignor]* according to the procedure, prescribed by the

applicable legal acts, on the date, following the date of expiry or early termination of the Agreement. The deficiencies, established by the Commission, which are not rectified, must be stated in the Statement of transfer and acceptance (return). The Statement must also state the time period, within which all the identified deficiencies must be rectified.

- 10.5. In case the returned Property fails to comply with the requirements, stated in this Paragraph, the Concessionaire must, within a reasonable time period, stated by the Awarding Authority, rectify such deficiencies in the way, chosen by the Concessionaire: by repairing such property, replacing it by other equal property, indemnifying the Awarding Authority the substantiated cost of repairing the property or replacement by other equal property or by covering the difference between the required value of the returned Assigned Property and the actual established value of the Property. The Concessionaire's liability when performing the Awarding Authority's requirements as regards the rectification of the deficiencies of the Assigned Property shall not be limited.

VII. THE PARTIES' OBLIGATIONS

11. Transfer and storage of documents

- 11.1. The Parties shall furnish to each other all the documents, necessary for performance of the Agreement, held by the Parties till the 15th (fifteenth) day as of the date of signing the Agreement.
- 11.2. The Concessionaire shall keep all the financial documents and agreements, relating to performance of the obligations under the Agreement, for a time period not shorter than till the expiry of the Agreement and for 2 (two) years after the expiry of the Agreement. In case the Concessionaire is liquidated after the expiry of the Agreement, the documents, mentioned in this Paragraph, shall be transferred to the Investor.
- 11.3. After the expiry of the Agreement, the Concessionaire shall, at its own cost, ensure the appropriate transfer of its documents, relating to performance of the obligations under the Agreement to the Awarding Authority or the institutions/persons, stated by the Awarding Authority. In any case, such documents shall be transferred to the Awarding Authority not later than till the moment of signing of the Statement of transfer and acceptance (return) of the Property.

12. Obligations of the Awarding Authority

- 12.1. The Awarding Authority shall perform its obligations under the Agreement in due time and cooperate with the Concessionaire for the purpose of resolving the issues, relating to performance of the Agreement as actively as possible.
- 12.2. The Awarding Authority shall ensure that, when the Awarding Authority or the persons, authorized by the Awarding Authority use the rights, provided to the Awarding Authority under the Agreement, the Concessionaire's activities and performance of the Agreement are hindered in the smallest extent possible.
- 12.3. At the Concessionaire's request, the Awarding Authority shall, according to its competence, make all the efforts in order to ensure the issuance of all the licenses and permits, necessary for the Concessionaire in order to implement all the rights and obligations, foreseen in the Agreement, in case the Concessionaire's rights to obtain such permits and licenses are foreseen by the applicable legal acts or the Agreement and the Awarding Authority has received all the necessary information and documents.

- 12.4. In case the issuance of the permits and licenses, necessary for performance of the Agreement, is not within the competence of the Awarding Authority, but other state/municipal institutions, the Awarding Authority, at the Concessionaire's request and within the limits of its competence, shall make each and every effort (mediate, provide additional information, give consents or authorizations, etc.) in order to obtain the necessary licenses and permits. This provision is applicable only with regard to the permits and licenses, which are necessary in order to commence the provision of Services, however not renewal of such licenses and/or permits.
- 12.5. At the Concessionaire's request the Awarding Authority shall provide all the information, which may be necessary in order to obtain the permits and licenses, necessary for performance of the Agreement.
- 12.6. In the cases, foreseen in the Agreement, when the Awarding Authority issues authorizations to the Concessionaire, the Awarding Authority must issue such authorizations within the established time period. In case no time period for issuance of the authorization is established, the Awarding Authority must issue such authorization within a reasonable time period. In case the Awarding Authority's refuses to issue the authorization, such refusal must be properly substantiated.

13. Obligations of the Concessionaire

- 13.1. The Concessionaire undertakes to, efficiently and in due time and quality, provide the Services and actively cooperate with the Awarding Authority and the persons, appointed by the Awarding Authority on all the issues relating to the performance of the Agreement.
- 13.2. The Concessionaire shall, at its own cost and risk, ensure that both the Concessionaire and the persons providing the Services hold the licenses, permits, certificates, authorizations and references, necessary in order to be able to perform the Agreement, throughout the period of validity of the Agreement or throughout the period of provision of the corresponding Services, for provision of which the Concessionaire needs to have the specified documents, and observe and perform the conditions, stated in such documents. The Concessionaire shall not be allowed to refer to the absence of such documents when attempting to avoid amenability for the failure to duly perform its obligations hereunder and shall be fully liable for the resulting consequences due to the absence or delayed receipt of such documents.
- 13.3. The Concessionaire shall ensure that the Concessionaire and/or Sub-suppliers, throughout the period of the Agreement have the necessary number of qualified employees, needed for proper performance of their obligations hereunder.
- 13.4. The Concessionaire shall observe all the conditions, provided in all the issued licenses, certificates and permits and make each and every effort in order to ensure observance of the said conditions by the Concessionaire's staff or Sub-suppliers, providing the Services.
- 13.5. The Concessionaire undertakes to observe the requirements, provided by the environmental protection regulating legal acts. The investment, relating to implementation of such requirements, shall be performed and the corresponding risk shall be undertaken by the Concessionaire.

- 13.6. The Concessionaire shall, at its own cost, handle its bookkeeping in observance of the Law on the Principles of Accounting of the Republic of Lithuania and other legal acts of the Republic of Lithuania and the EU.
- 13.7. The Concessionaire shall be exclusively responsible that its obligations hereunder are performed:
- 13.7.1. Without violation of the requirements, provided by the applicable legal acts, as well as the conditions of issuance of permits and licenses and abstaining from the actions, which could become an obstacle for a later issuance and/or renewal of the necessary licenses and permits;
- 13.7.2. Without violation of the provisions of the Agreement;
- 13.7.3. In observance of the Financial Activity Model;
- 13.7.4. In accordance with the Good Business Practice;
- 13.7.5. Without violation of the Conditions of Tender and the obligations, provided in the Offer, except the cases, when the obligations are modified in the cases, foreseen in the Agreement;
- 13.7.6. In observance of the requirements, provided in the Insurance agreements.
- 13.8. The Concessionaire undertakes not to, during the period of validity of the Agreement, without a prior authorization by the Awarding Authority, make any decisions and not perform reorganization, sell a significant share of its property and not undertake essential financial liabilities. For the purposes of this Paragraph, a significant share of the Concessionaire's property shall be considered the *[state what shall be considered a significant share of the Concessionaire's property]*. Essential financial liabilities shall be considered the *[state the financial liabilities, which shall be considered essential]*, the total value of which exceeds *[state the limit]*, or, according to which the payments exceed *[state the limit]* within a fiscal year. However the financial liabilities, according to the arrangements with the Funder, foreseen in the Financial Activity Model, shall not be considered essential in the sense of this Paragraph.
- 13.9. The Concessionaire and the Investor undertake to notify the Awarding Authority on any lawsuits, raised in any court or arbitration, in which the Concessionaire participates in any status and which are aimed at resolving disputes and/or issues, arising from and / or related with the provision of the Services, not later than *[state the time period, recommended period – 15 (fifteen) days]* as of the moment of commencement of such participation or becoming aware of such participation.
- 13.10. The Concessionaire shall perform its obligations under the Agreement at its own risk and expense and without any financial support by the Awarding Authority, except for the cases, where it expressly stated otherwise.
- 13.11. After the Agreement is terminated or expired, the Concessionaire shall unconditionally and as soon as possible, return to the Awarding Authority or to the entities, specified by the Awarding Authority all the Property, foreseen to be returned by the Agreement, as well as all the rights and authorizations, relating to the returned Property or provided Services, including the agreements, relating to the performance of the Agreement, which, in the cases, allowed for hereunder, do not expire together with the Agreement. For this purpose the Concessionaire shall, at its own cost, take all the

necessary actions, including the transfer of the Property, its rights or obligations or renewal of the necessary agreements.

13.12. The Concessionaire, during the period of the Agreement, shall, each year, pay the Charge of the size, established in the Monitoring and deduction mechanism, provided in Annex 3 to the Agreement.

14. Sharing the risks

14.1. The Parties shall share the risks, relating with their obligations, established by the Agreement, according to the procedure, established in this Agreement and its annexes, including the matrix of sharing the risks between the Parties, provided in Annex 4 to the Agreement.

15. Investments and investing procedure

15.1. The Concessionaire shall execute the investment into the Property and assurance of quality provision of the Services of the amount no smaller than that stated in the Financial Activity Model, in observance of the deadlines, stated in the Services provision plan and in the Specifications.

15.2. The Concessionaire shall ensure that the Property and the Services, not later than starting from the moment, foreseen in Paragraph 3.1, taking into consideration the possible extensions of deadlines according to Paragraph 4, throughout the remaining time period of the Agreement, shall be compliant with the requirements, provided by the applicable legal acts, the Agreement, the Specifications and the Offer. The Concessionaire shall implement the said obligation independently by finding and using the necessary funds and choosing the necessary methods and tools. The Concessionaire shall have the right to change the sources and conditions of funding, specified in the Financial Activity Model, in case such changes increase the return on investment in regard to the risk, undertaken by any of the Parties and does not increase the liabilities of the Awarding Authority, including the obligations in cases of termination of the Agreement where there is no default on behalf of the Awarding Authority. Such change of sources of funding shall require an advance written authorization by the Awarding Authority, which the Awarding Authority may not unreasonably withhold. Such authorization or motivated refusal to provide the authorization shall be furnished by the Awarding Authority within *[state the time period, recommended period – 15 (fifteen) days]* as of the moment of provision of the request, accompanied with all the information and documents, substantiating request, to the Awarding Authority. For the purpose of this Paragraph, a change of the return on investment shall be the difference of the current values of the income flows, constituting the return on investment before the change of the sources or conditions of funding and after such change. The rate of return on investment, stated in the Financial Activity Model when providing the Offer shall be used as the discount rate for calculating the value of the current cash flows.

15.3. In case the sources of funding, stated in the Financial Activity Model or the conditions of received funding are changed in the case, described in Paragraph 15.2 and this results in an increase of the return on investment, the amounts, payable to the Awarding Authority under Paragraph 22 shall be increased by *[state the size, recommended size – 50 (fifty)]* per cent of such increase.

15.4. The Concessionaire, upon receiving the advance written authorization by the Awarding Authority, shall have the right to change the investments, stated in the Financial

Activity Model by other investment or postpone or put forward the time periods for execution of the Investments, in case the same or bigger value, received by the Service users of the Awarding Authority for the payment to the Concessionaire is ensured. The Awarding Authority must provide such authorization or a motivated refusal to provide the authorization within [*state the time period, recommended period – 15 (fifteen) days*] as of the moment of provision of the request, accompanied by all the substantiating information, to the Awarding Authority.

16. Supplementary services

- 16.1. By instruction of the Awarding Authority, the additional services, not foreseen in the Agreement and its annexes, may be provided and paid for only upon providing a concession in their regard according to the procedure, provided in the Law on Concessions.
- 16.2. The investor, when preparing its Offer, had to, in advance, foresee and evaluate all the services and actions, necessary in order to be able to perform all the obligations and reach all the results, provided in the Agreement and reflect such evaluation in the Financial Activity Model.
- 16.3. In case of the need for supplementary services, which are not foreseen under the Agreement and annexes thereof and the risk of which, according to the matrix of sharing the risks between the Parties, is fully or partially undertaken by the Concessionaire (for instance, when the requirements to the Services, stated in the Specification, are changed due to the change of the requirements, provided in the applicable legal acts), and which are directly related with the Services, foreseen hereunder and necessary to be provided in order to perform the Agreement, such services may be performed and paid for only in case the services are coordinated with the Awarding Authority in written form and in case provision of such supplementary services results in increase of costs, taking into consideration the savings, resulting from the part of the Services, no longer needed to be provided due to provision of the supplementary services.
- 16.4. Provision of additional services may be initiated both by the Awarding Authority and by the Concessionaire.
- 16.5. In order to coordinate the supplementary services, the Awarding Authority is provided a motivated offer, stating the necessity for supplementary services, substantiated by experts' conclusions. The Awarding Authority must immediately initiate provision of additional concession regarding such supplementary services, according to the procedure, foreseen in the Law on Concessions, in case, after receiving a motivated explanation of the person, authorized by the Concessionaire on the need for the supplementary services and whether it was possible to foresee the necessity for such services and, not later than within [*state the time period, recommended period – 30 (thirty) days*] as of the day of receipt of all necessary documents, substantiating the necessity for the supplementary services and after examining the said documents, it is established that such services are necessary for appropriate performance of the Agreement.
- 16.6. When concluding the additional agreement on the basis, established in Paragraph 16.5, the supplementary services are stated, indicating their names, quantities, arguments as regards the necessity of their provision or specifications with experts' signatures and substantiation of the set prices or tariffs. The additional agreement must also provide the conditions on extension of the time period of delivery of the Services, relating with provision of supplementary services (in case such extension is necessary).

Supplementary services may be provided outright after the entering into effect of the additional concession agreement.

- 16.7. In case, within the time period, established in Paragraph 16.5, the Awarding Authority does not provide a motivated reply as regards its consent to provide supplementary services, it shall be held that the Awarding Authority refuses to award the concession for the supplementary services.
- 16.8. The costs of provision of supplementary services must be calculated according to the Methodology of setting the prices of public purchase and sales agreement and the pricing rules, approved by Order No. 1S-21 of the Director of the Public Procurement Office of 25 February 2003 (or another edition of the said Methodology or another methodology, replacing the said Methodology, valid during the execution or performance of the Agreement), according to the average market price, which shall be set by choice after evaluating the prices of no less than 3 (three) other economic entities, operating on the market and calculating the average price, except for the cases where there are less than three such entities on the market, in which case the prices of services, provided by all the economic entities, operating on the market, shall be evaluated and the average price shall be derived. The Parties shall identify the economic entities, whose prices shall be evaluated and set the number of such economic entities by mutual agreement. In case no mutual agreement is reached within *[state the time period, recommended period – 15 (fifteen) days]* as of the moment of provision of the offer to provide supplementary services, each Party shall provide for evaluation the prices of 2 (two) economic entities, not related with them and the average of the said prices shall be derived.

17. Provision of services

- 17.1. The Concessionaire shall, from the commencement of provision of the Services, ensure the possibility for the users to use the Services in an uninterrupted manner and ensure non-discriminating conditions in line with the Offer and the Specifications.
- 17.2. The Concessionaire shall ensure that the character, amount and quality of the provided Services shall continuously and utterly be compliant with the requirements, provided by the applicable legal acts, the Agreement, the Specifications and the Offer. In case of any dispute as regards the compliance of the Services with the specified documents, such disputes shall be resolved by the experts' commission, formed from the competent experts for evaluating the compliance of the corresponding Services to the stated documents, according to the procedure and conditions, established in Paragraph 10.3.
- 17.3. The Concessionaire shall provide the Services at the location of the Assigned Property, with the exception of the cases, foreseen herein or the Services, which, according to the Specifications, the Offer or their very nature, must be provided at another location.
- 17.4. The requirements for provision of the Services may be deviated from only in cases and to the extent, stated in the Specifications. The permitted uninterrupted and total duration of each of such deviations is stated in the Specifications.

18. Sub-suppliers

- 18.1. The Concessionaire may, for the provision of Services, with the exception of the case, stated in Paragraph 18.5, employ only the Sub-suppliers, compliant with the criteria for advance selection of Sub-suppliers, provided in Annex *[state the number of the annex]* to the Conditions, provided in Annex 1 and upon receiving the advance consent from the Awarding Authority, which may not be unreasonably withheld.

- 18.2. The Sub-suppliers, when providing the Services, must observe the same requirements, which are raised to the Concessionaire as regards the corresponding Services, provided under the Agreement.
- 18.3. Sub-suppliers may be replaced by other economic entities in the following cases:
- 18.3.1. The replacement entities *[in case the Sub-suppliers' capacities were taken into consideration when selecting the winner of the Tender ensure the resources and capacities, not poorer than those, provided by the replacement Sub-suppliers, necessary in order to be able to perform the remaining part of the Agreement]* are compliant with the requirements, raised for the Sub-suppliers in the Conditions; and
- 18.3.2. The Concessionaire receives an advance written authorization by the Awarding Authority, which may not be unreasonably withheld.
- 18.4. After concluding the agreement with the Sub-supplier, the Concessionaire shall, not later than within *[state the time period, recommended time period – 3 (three) Business days]* as of the moment of concluding the agreement, provide a copy of the agreement to the Awarding Authority.
- 18.5. Notwithstanding Paragraph 18.1, the Concessionaire shall have the right to hire a new Sub-supplier, which is not compliant with the requirements, provided in Paragraph 18.1 and with no advance written authorization by the Awarding Authority, in case the total value of the services, provided by such Sub-supplier, does not exceed *[state the amount]*.
- 18.6. The agreements with the Sub-suppliers must be concluded in observance of the principles of transparency and arm's length and according to the Good business practice. The agreements must be valid for a time period, no longer than till the termination or expiry of the Agreement, or it shall be allowed to unilaterally terminate the agreements with no negative consequences not later than *[state the time period, recommended period – 30 (thirty) days]* till the requested date of termination.
- 18.7. Independently of the fact whether the Services are provided by the Concessionaire or by the Sub-supplier, the Concessionaire shall be responsible for the proper provision of the Services and their compliance with the requirements, provided by the Specifications and the Offer.

19. Coordinating actions with the Awarding Authority

- 19.1. The Concessionaire shall coordinate the following with the Awarding Authority:
- 19.1.1. In the case, foreseen in Paragraph 9.5 – the conditions of the agreements, relating with usage of the Property for the purposes, other than those, established in the Agreement;
- 19.1.2. In the case, foreseen in Paragraph 15.2 – the conditions of changing the sources of funding, foreseen in the Financial Activity Model;
- 19.1.3. In the case, foreseen in Paragraph 15.2– changing the Investment by other investment or the time periods of execution of Investment;
- 19.1.4. Candidacies of the persons, whose competence, during the Tender, was used for substantiation by the Concessionaire of its compliance with the advance selection criteria;
- 19.1.5. Candidacies of the experts, stated in Paragraph 26.1;
- 19.1.6. Candidacies of the Concessionaire's auditor;

- 19.2. In all cases the Concessionaire must obtain the advance written authorization of the Awarding Authority as regards the following:
- 19.2.1. Utilization or recycling of the Assigned Property, as foreseen in Paragraph 9.7;
 - 19.2.2. Changing the sources of funding, as foreseen in Paragraph 15.215.2;
 - 19.2.3. Changing the Financial Activity Model, as foreseen in Paragraph 15.4;
 - 19.2.4. Replacing the Sub-suppliers, as foreseen in Paragraph 18 (with the exception of the case, established in Paragraph 18.5);
 - 19.2.5. Ensuring the performance of the transactions, foreseen in Paragraph 31, related with the Concessionaire's obligations to third parties;
 - 19.2.6. Failure to conclude temporary insurance agreements in the case, foreseen in Paragraph 32.5;
 - 19.2.7. Use of the payments for loss of the Property, received according to the Insurance agreements, for recovering property, other than stated in Paragraph 32.9;
 - 19.2.8. Any transactions between the Concessionaire and the Related persons;
 - 19.2.9. Other transactions, on the basis of which the Concessionaire undertakes its obligations, the amount of which during the current fiscal year exceeds EUR *[state the amount]* (w/o the VAT) or the total amount of the agreement exceeds EUR *[state the amount]* (w/o the VAT). Where it is impossible to identify the said values in advance, the authorization by the Awarding Authority shall be necessary in the following cases:
 - a) The time period of the agreements is longer than *[state the time period]* or than the time period of the Agreement; or
 - b) The agreements are concluded for an indefinite period, except the cases where (1) the agreements foresee possibility of unilateral termination, by notifying the other party not later than *[state the time period, recommended period – 30 (thirty) days]* in advance and (2) in case the agreement is terminated in the said manner, the Concessionaire is free of the obligation to cover the losses or pay any forfeit;
 - 19.2.10. The Concessionaire must obtain the advance written authorization from the Awarding Authority as regards the transfer of the Concessionaire's shares, as foreseen in Paragraph 27.3 of the Agreement.
- 19.3. The transactions, entered into in violation of the requirements, provided in Paragraph 19.219.2, to obtain the authorization by the Awarding Authority, shall be held null and void. The Awarding Authority shall have the right to require covering the losses.
- 19.4. The Awarding Authority shall express its consent or motivated refusal to issue its authorization to enter into the transactions, mentioned in Paragraph 19.2 not later than within *[state the time period, recommended period – 15 (fifteen) days]* as of the date of application by the Concessionaire. In case the Awarding Authority, within the established time period, does not provide any comments or objections, it shall be considered that the Awarding Authority agrees with the proposed actions. In case the Awarding Authority grants its authorization to enter into the stated transactions, such transactions must be entered into on the market conditions, in observance of the arm's length principle. The Concessionaire shall notify the Awarding Authority on entering

into the transaction immediately, however no later than within *[state the time period, recommended period – 3 (three) days]*, by providing copies of the agreement and/or other relating documents.

VIII. EXEMPTION CASES AND COMPENSATION EVENTS

20. Exemption cases

20.1. The following situations shall be considered exemption cases, in which the Concessionaire shall have the right to temporarily suspend the provision of the Services:

20.1.1. It is impossible to provide the Services due to the non-performance of the contractual obligations by the Awarding Authority;

20.1.2. The Concessionaire is fully or partially unable to provide the Services due to an essential violation of the applicable legal acts.

20.2. In case, on the grounds, established in Paragraph 20.1 of the Agreement, the provision of the Services is fully or partially suspended, the Concessionaire shall:

20.2.1. In advance, not later than before *[state the time period, recommended period – 3 (three) Business days]*, or, in case it is not possible, outright when such possibility emerges, notify the Awarding Authority on the issue and substantiate the reasons for such suspension;

20.2.2. Within *[state the time period, recommended period – 15 (fifteen) Business days]* as of the moment of provision of the request to apply the Exemption case and provide to the Awarding Authority all the information, relating to the Exemption case, including:

20.2.2.1. Detailed description of the Exemption case, including its character, the date of occurrence and its duration;

20.2.2.2. The obligations, as regards the effect of the Exemption case on the Concessionaire's possibilities to perform the obligations, established in this Agreement, stating the specific obligations, which cannot be performed;

20.2.2.3. Description of the measures, planned to be taken by the Concessionaire in order to mitigate the consequences of the Exemption case;

20.2.3. Take all the reasonably available measures in order to recommence provision of the Services to the full extent as soon as possible;

20.2.4. Take the reasonable actions in order to ensure the security of the Property.

20.3. In case the Exemption case arises from the performance of the advance conditions for entering into effect of the Agreement or before the commencement of provision of the Services, the time periods for entering into effect of the Agreement, established in Paragraph 3 and the time periods for commencement of provision of the Services, established in Paragraph 4, shall be correspondingly extended for the time period of the Exemption case, however the total time period of the Agreement shall not be extended.

20.4. In an Exemption case the amenability, foreseen in Paragraph 46 and the basis for termination of the Agreement, foreseen in Paragraph 38, shall not be applicable with regard to the Concessionaire.

20.5. Any disagreements between the Parties as regards an Exemption case shall be resolved according to the disputes resolution procedure, established in this Agreement.

21. Compensation events

- 21.1. The Concessionaire's losses, arising due a Compensation event, shall be covered according to the share of risk, undertaken by the Awarding Authority.
- 21.2. In case of a Compensation event, the Concessionaire must immediately, but not later than within [*state the time period, recommended period – 15 (fifteen) days*] as of the moment of becoming aware of the Compensation event, notify the Awarding Authority on the issue. Such notification must be accompanied by all the information on the Compensation event, evidencing its effect on the size of the Investment, stated in the Financial Activity model or the terms, established in the Agreement, the Specifications, the Offer or other terms, agreed upon by and between the Parties.
- 21.3. The Awarding Authority, within [*state the time period, recommended – 15 (fifteen) days*] as of the date of receipt of the documents, evidencing the loss insured and its size or the necessity to extent the established deadlines, shall make a motivated decision as regards confirmation of the Compensation event or a motivated refusal to do so.
- 21.4. After the Compensation event is confirmed, the Concessionaire shall be indemnified (fully or in part, depending on whether the Awarding Authority has assumed all the risk or only a certain share thereof):
 - 21.4.1. In case the Investment into the Property increases as the result of a Compensation event, the Concessionaire shall be indemnified for such increase of Investment, allowing for ensuring an unchanged return on investment;
 - 21.4.2. In case the Compensation event results in an increase of the Concessionaire's costs, relating to the provision of the Services, the Concessionaire shall be indemnified for the necessary increase of such costs, allowing for ensuring an unchanged return on investment;
 - 21.4.3. [*if applicable – in case a Compensation event results in a reduction of the substantiated earnings of the Concessionaire, relating with the provision of the Services, the Concessionaire shall be indemnified for such reduction of the income, allowing for ensuring an unchanged return of investment.*]
- 21.5. The compensation, provided for in Paragraph 21.4, shall be calculated and paid in accordance with the Monitoring and deduction mechanism, provided in Annex 3 to the Agreement.
- 21.6. After the Compensation event is confirmed, the time periods for entering into effect of the Agreement, established in Paragraph 3 or the time periods for commencement of provision of the Services, established in Paragraph 4, or other time periods, foreseen in the Agreement, the Specifications and the Offer or other time periods, agreed upon between the Parties, shall be extended for the time period, necessary in order to rectify the consequences of the Compensation event.
- 21.7. In case the Concessionaire provides its notification on the Compensation event without observance of the time period, established in Paragraph 21.2, no compensation shall be paid for the time period of such delay and, in case of extension, such period shall be included into the extended time period.
- 21.8. After the Concessionaire executes its right as regards provision of supplementary services and payment for such supplementary services according to the procedure, established by the Monitoring and deduction mechanism, provided in Annex 3 to the

Agreement, no additional compensation shall be paid to the Concessionaire as regards the same aspect according to the procedure, established in Paragraph 21 and the Concessionaire shall have no right to require payment of such compensations.

- 21.9. Any disputes between the Parties as regards the presence of a Compensation event, the amount and procedure of payment of compensation and extension of the time periods shall be resolved according to the disputes resolution procedure, established in Paragraph 53.
- 21.10. In case of a Compensation event, the liability, foreseen under Paragraph 46 and the basis for termination of the Agreement, provided in Paragraph 38, shall not be applicable with regard to the Concessionaire.

IX. PAYMENTS

22. Payments and their procedure

The Concessionaire shall receive a payment for the Provision of Services from the consumers of the Services by accepting the payment, which shall be determined *[specify the amount of the payment (at the Concessionaire's discretion, in accordance with the approved fees or other means) which can be received by the Concessionaire and who determines it]*. The amount of this payment may be changed only in accordance with *[if the requirements for the changing of the payment amount are specified in Annex the requirements, specified in the Monitoring and Deductions Mechanism, provided in Annex 3 of the Agreement / if the requirements of the change are specified in the text of the Agreement the following requirements:*

22.1.1. *[specify the requirements for the change of the payment amount];*

22.1.2. *[. . .];]*

Any other payments from the consumers cannot be taken, unless the Agreement clearly states otherwise.

22.2. In cases, where the Concessionaire is permitted to use the Property for other activity than needed for the implementation of the Agreement, the Concessionaire has the right to determine the amount of the received payment for such a use at its own discretion, unless the Property is used for the activity of the Involved Persons – in this case, the transactions regarding the use of the Property must be concluded in accordance with the arm's length principle.

22.3. If the payment amount, specified in Paragraph 22.1 of the Agreement, is reduced not in compliance with the requirements, specified in that Paragraph, due to the circumstances depending on the Awarding Authority or assigned to its risk, such a reduction shall be considered the Compensation Event and shall be compensated in accordance with the procedure, applied to the Compensation Events.

22.4. *[If applicable, the Awarding Authority receives from the Concessionaire the fee, specified in accordance with the procedure, established in the Monitoring and Deduction Mechanism, provided in Annex 3 of the Agreement for the right, granted to the Concessionaire to provide the Services and to receive for it the payment, specified in the above-mentioned Paragraph 22 of the Agreement.]*

22.5. *[If there is no payment for the Assigned Property, the Concessionaire shall not pay for the Assigned Property / if the payment is paid for the Assigned Property or its part, in accordance with [specify the Lease Agreements, in accordance to which the*

Concessionaire shall pay for the received Property], the Concessionaire undertakes *[if there is a need to pay the established amount of money to pay [the amount] of payment in euros [specify, when and how it shall be paid] for the Assigned Property. / If there is a need to pay a periodic payment from the entry into force of the Agreement to pay for the Awarding Authority [specify the amount to be paid and how it will be paid] .]*

22.6. *[If the Awarding Authority pays a fee to the Concessionaire, the amounts payable to the Concessionaire shall be reduced or increased in such cases and amounts, which are specified in accordance with the procedure, established in the Monitoring and Deduction Mechanisms, provided in Annex 3 of the Agreement.]*

22.7. *[If the Concessionaire makes payments for the Awarding Authority in accordance with Paragraph 22.4 of the Agreement – to the Awarding Authority for the right, granted to the Concessionaire to provide Services and to receive the payment for them, the payments paid can be increased or reduced in such cases and amounts, that are specified in the Monitoring and Deduction Mechanism, provided in Annex 3 of the Agreement.]*

22.8. Any taxes, fees or any other charges of any kind cannot be deducted from one Party to another Party, except for the fines, penalties, damages or forfeit, payable under the Agreement or in accordance with Paragraph 22 of the Agreement, another Party's payable amounts to the first Party, whose payment maturity is already expired, and in the case, specified in Paragraph 32.4 of the Agreement, the Awarding Authority's costs for the concluding of Insurance agreements.

22.9. *[If the procedure of the change of the payments amount due to the changed taxes is specified in Annex 3 of the Agreement, in the Monitoring and Deduction Mechanism, due to the tax law changes, the amount of the Payments for the Services is changed in accordance with the procedure, established in the Monitoring and Deduction Mechanism, specified in Annex 3 of the Agreement. / if due to the changed taxes, the procedure of the change of the payments amount is specified in the text of the Agreement Upon the change of the value added tax rate, in accordance with the Agreement, the amount of the payments, made by one Party to another Party, subject to the change of the value added tax rate, shall be changed accordingly.]*

22.10. *Other tax changes than those specified in Paragraph 22.9 of the Agreement, do not have any impact on payments among the Parties. / or the amount of payments among the Parties shall be changed [specify other taxes, the change of which has an impact on the payments] due to the tax changes as well. The changes shall be made in the following order:*

22.10.1. *[specify the tax] – [specify, which payments and how they will be changed due to the changed tax];*

22.10.2. *[. . .].*

On the basis of Paragraph 22.10 of this Agreement, the changed amount of the payments is applied from coming into effect of the respective tax rate change.]

22.11. In accordance with the Agreement, all the payments, annually made by the Awarding Authority or the Concessionaire are indexed in accordance with the procedure, established in the Monitoring and Deduction Mechanism, provided in Annex 3 of the Agreement. The indexed amount of payments is applicable *[specify the date from which the indexed amount of payments is applied]*.

- 22.12. In accordance with Paragraph 22 of the Agreement, all the payments shall be made in accordance with the procedure, established in the Monitoring and Deduction Mechanism, provided in Annex 3 of the Agreement.
- 22.13. All the payments shall be established and made in euros.
- 22.14. All the costs, related to the respective Party's fulfilment of the obligations under the Agreement, incur to the respective Party and shall not be compensated at the expense of other Parties, except for the cases, when the Agreement clearly states otherwise.

23. [if applicable] Market Testing and Benchmarking

- 23.1. The Concessionaire undertakes to carry out the Market Testing / the Benchmarking at its own expense, to organize its performance in respect to the types of the services, specified by the Awarding Authority at least 6 (six) months prior to the date of the respective Market Inspection or prior a written reasoned requirement of the Awarding Authority accordance with the following procedure and conditions:
- 23.1.1. the Awarding Authority can also assign independent specialists to carry out the Market Testing / the Benchmarking by its own decision and at its own expense. The Awarding Authority can also assign independent specialists to carry out the Market Testing / the Benchmarking by its decision in that case, if there are any doubts concerning the validity and (or) reliability of the results of the Value Analysis, carried out by the Concessionaire. If in this case it is established that the results of the Market Testing / the Benchmarking, carried out / organized by the Concessionaire, are reasonable and reliable, the analysis costs shall not be compensated to the Awarding Authority. However, if the inspection establishes the groundlessness and (or) unreliability of the results of the Market Testing / Benchmarking, provided by the Concessionaire, all the costs of the inspection shall be compensated by the Concessionaire to the Awarding Authority not later than within *[state the time period, recommended period – 30 (thirty) days]* term after the Awarding Authority's submission of the request to the Concessionaire;
- 23.1.2. The Concessionaire shall carry out the Market Testing / the Benchmarking not later than within 3 (three) months from the date of the Market Testing or from the day of the Awarding Authority's submission of a written reasonable request. Before carrying out the Market Testing / the Benchmarking, the Parties shall agree upon the effective and transparent Market Testing / the Benchmarking performance methodology that must be followed during the performance of the Market Testing / the Benchmarking. If there is a disagreement on the Market Testing / the Benchmarking performance methodology combination, such a methodology shall be prepared and confirmed by the Commission, specified in Paragraph 51 of the Agreement;
- 2.1.3. On the basis of the results of the Market Inspection / the Benchmarking, after discovering the more effective methods of activity and (or) measures and (or) after finding the more effective potential subcontractors of services, similar to the Services in the market, the Awarding Authority can offer to the Concessionaire to implement and (or) to use them, thus improving the activity results of the fulfilment of the obligations, established in the Agreement (for example, by reducing operating costs, improving the quality of the Services, etc.). The Concessionaire has the right to object to the implementation of the discovered more effective methods and measures of activity and (or) use more effective potential subcontractors only if such a change would cause negative consequences for it

– the increase of investments or the increase of the costs of the provision of the Services, or the Concessionaire would incur other losses, which would not be compensated by the benefit, obtained by such a change. The benefit, obtained from the changes is shared between the Parties in accordance with the procedure, established in the Monitoring and Deduction Mechanism, provided in Annex 3 of the Agreement.]

X. OBLIGATIONS FULFILMENT CONTROL

24. The Awarding Authority’s right to control

24.1. The Awarding Authority has the right to control, how the Concessionaire fulfils his obligations under the Agreement, including the right to inspect with the measures of its choice:

24.1.1. the Property, and the fulfilment of all the Concessionaire’s obligations, undertaken under the Agreement;

24.1.2. the compliance of the Services, provided by the Concessionaire with the requirements, laid down in the Agreement and its Annexes.

24.2. While the Awarding Authority exercises its rights to inspect and control the Concessionaire’s activity, the Concessionaire is required to completely cooperate with the Awarding Authority or its authorized representatives, to permit and allow them to access the documents, to inspect the premises / location, where the activity, related to the provision of the Services is performed, and to provide all the requested information, related to the obligations fulfilment, undertaken under the Agreement.

24.3. Paragraph 24 of the Agreement, providing the Awarding Authority the rights to control the Concessionaire’s activity, do not make any impact on other provisions of the Agreement, which give the Awarding Authority the right to use identical or similar control rights.

24.4. Any provision of the Agreement cannot be understood as exempting the Concessionaire from the responsibility for the violations, established by the state institutions or penalties imposed, or for the damage, made to third Parties.

25. Provision of information

25.1. The Concessionaire provides information to the Awarding Authority and allows control over his activities, related to the fulfilment of the rights and obligations, provided in the Agreement. The Concessionaire provides for the Awarding Authority the following information not later than within the time limits, specified below:

No.	Information	Term
1.	The Concessionaire’s audited financial accountability documents and annual activity accounts	Not later than <i>[state the time period, recommended period – 130 (one hundred and thirty) days]</i> after the end of each financial year
2.	The account of the inspection, provided in Paragraph 26 of the Agreement of the compliance with the requirements, established in Paragraph 17.2 of the Agreement	Not later than <i>[state the time period, recommended period – 30 (thirty) days]</i> after the delivery of the Awarding Authority’s written request

No.	Information	Term
		to conduct an inspection.
3.	The accounts of Financial Business Model, which contain information about the investments made, together with the agreements concluded, received and paid bills, and other information and documents, required by the Awarding Authority.	Not later than within [<i>state the time period, recommended period – 20 (twenty) days</i>] after the end of each quarter of the financial year.
4.	The agreements, concluded with Subcontractors	Within the terms, provided in the Agreement
5.	The Insurance agreements, provided in Paragraph 32.1 of the Agreement	Within the terms, provided in the Agreement
6.	The Concessionaire's agreements, provided in Paragraphs 18.2-18.7 and 19.2.8-19.2.9 of the Agreement	Within the terms, provided in the Agreement
7.	Other information, requested by the Awarding Authority and / or documents, if they have or may have an impact on the fulfilment of the obligations under the Agreement	Within the reasonable term, specified in the Awarding Authority's request

26. The Inspection of the Services Provided

26.1. In the cases, referred to in the Specifications or upon the motivated request of the Awarding Authority, the Concessionaire shall carry out the inspection of the compliance with the requirements, laid down in Paragraph 17.2 of the Agreement through independent financial, technical, legal experts at its own expense and to submit its account to the Awarding Authority. If during the inspection, there are established discrepancies to the requirements, established in Paragraph 17.2 of the Agreement, the Concessionaire shall additionally identify their reasons to the Awarding Authority.

26.2. The Awarding Authority can also carry out the inspection (full or partial) of the compliance of the Concessionaire's activity with the requirements, established in Paragraph 17.2 of the Agreement, if at least one of the following grounds is present:

26.2.1. the inspection account, provided by the Concessionaire, of the compliance with the requirements, established in Paragraph 17.2 of the Agreement, is incomplete and contradictory;

26.2.2. the Awarding Authority has information about the potential violations of the requirements, established in Paragraph 17.2 of the Agreement;

26.2.3. the state and / or municipal institution initiates the inspections or investigations of the activity in relation to the Concessionaire, imposes penalties;

- 26.2.4. the possibility of periodic inspections is provided in the Specifications;
- 26.2.5. the implementation terms of the requirements for the Services, provided in the Specifications, ends.
- 26.3. The Awarding Authority can carry out the inspection on its own or through independent financial, technical, legal experts. If the violations of the requirements, laid down in Paragraph 17.2 of the Agreement, are established, the Awarding Authority may require the Concessionaire to cover the costs of performing such an inspection.

XI. TRANSFER OF RIGHTS AND OBLIGATIONS

27. Transfer of rights and obligations

- 27.1. The Awarding Authority has no right to transfer its rights and obligations, provided in the Agreement, without a prior consent of another Party, unless imperatively required by the laws of the Republic of Lithuania or the EU legal acts. In the latter case, the Awarding Authority shall ensure that the Concessionaire shall not incur any damage and any of his legitimate expectations will not be violated.
- 27.2. Having a prior consent of the Awarding Authority, the Concessionaire has the right to transfer its rights and obligations under the Agreement only to its subdivision or another company, which is the Concessionaire's subsidiary company, and to which the Concessionaire can make a direct influence. *[if applicable, as defined in Article 5 of the Law on Companies of the Republic of Lithuania.]* In this case, the Concessionaire shall submit in advance the same guarantee for the proper fulfilment of the taken over Obligations by the company, which takes over the rights and obligations under the Agreement. The entity, which took over the rights and obligations, shall submit the same guarantee of fulfilment of Obligations, as the Concessionaire. The guarantee of the fulfilment of Obligations, submitted by the Concessionaire, shall be returned, but he remains solidary liable for the proper fulfilment of the Agreement. After fulfilling of all these provisions, the entity, which took over the Concessionaire's rights and obligations, continues to be considered as the Concessionaire in accordance with the interpretation of this Agreement.
- 27.3. Except for the cases, specified in Paragraphs 29.2 and 31.2 of the Agreement, the Concessionaire does not have the right to assign his rights and obligations under the Agreement, but has the right to transfer part of its shares. The part of the Concessionaire's shares can be transferred only with the prior written consent of the Awarding Authority, which shall be issued immediately, if the following conditions are met:
- 27.3.1. the Services are fully commenced; and
- 27.3.2. it is ensured that the Investor will retain the Concessionaire's control during all the validity time of the Agreement, as it is understood in accordance with the Law on Concessions.

28. Temporary transfer of the Concessionaire's obligations

- 28.1. If there are exceptional circumstances, due to which the Concessionaire (the Subcontractors, assigned by him) cannot ensure a continuous and effective provision of the Services, because they cannot fulfil any of their obligations under the Agreement, the Awarding Authority has the right to temporarily, not longer than *[state the time period, recommended period – 90 (ninety) days]*, to take over and / or to transfer such

an obligation fulfilment or if there is no possibility to fulfil such an obligation otherwise – the fulfilment of all the obligations to third parties. The Awarding Authority's right, specified in Paragraph 28.1 of the Agreement, does not have any impact on its other rights under the Agreement.

28.2. The Concessionaire's obligations on the grounds of Paragraph 28.1 of the Agreement shall be transferred to another entity after the receipt of the Awarding Authority's written instruction. In this case, all the Concessionaire's rights and obligations, necessary for the proper fulfillment of the transferred obligations, also including the rights arising from the Concessionaire's agreements with third parties, are transferred to the entity, specified by the Awarding Authority. The Concessionaire shall ensure a proper transfer of the provision of the Services and an immediate proper formalization of necessary powers, and to perform other necessary actions.

28.3. In accordance with Paragraph 28 of the Agreement, the exceptional circumstances are considered to be:

28.3.1. essential violations of the Agreement, as defined in Paragraphs 38.2 and 39.2 of the Agreement, which will not be removed within a specified time;

28.3.2. the environment, public health and the safety of people or property are exposed to a real threat, and in the fair view of the Awarding Authority, the Concessionaire is unable to prevent it;

28.3.3. Force Majeure circumstances, provided in Paragraph 41 of the Agreement, due to which the Concessionaire cannot fulfil his obligations, which lasts longer than *[state the time period, recommended period – 15 (fifteen) days]* and there is a reasonable basis to believe that the Concessionaire will not be able to continue to properly fulfil his obligations, but the Awarding Authority or third party can guarantee the fulfilment of the obligations;

28.3.4. the Essential amendment of legal acts.

28.4. In accordance with the Agreement, the entity to whom the fulfilment of the respective obligation is transferred is responsible for the fulfilment of the obligation, transferred on the basis of Paragraph 28.1 of the Agreement. This entity is provided with all the information, necessary for the fulfilment of the transferred obligation under the Agreement and it is not considered to be the violation of any of the Party's confidential information. *[If the Awarding Authority pays to the Concessionaire the fee for the period, when such an obligation is transferred to be fulfilled to another entity under the Agreement:*

28.4.1. *such amounts of payments are paid, which would cover the Concessionaire's obligations to funders and 50 (fifty) per cent of the income of the previous month, - if the exceptional circumstances occurred due to the fault of the Awarding Authority;*

28.4.2. *no payments are paid – if the exceptional circumstances occurred due to the Concessionaire's fault;*

28.4.3. *such amounts of payments are paid, which would cover the Concessionaire's obligations to funders and the Concessionaire's part of expenses of that period, but would not provide a profit, - if the exceptional circumstances occurred in the absence of either Party's fault or in the presence of equal fault.*

In the cases, specified in Paragraph 28.4 of the Agreement, the exact amount of payment is approved by the commission, provided in Paragraph 51 of the Agreement.]

- 28.5. At the end of the circumstances, due to which the respective Concessionaire's obligation was taken over or transferred, the temporarily transferred rights shall be immediately returned to him and the Agreement shall be implemented in the usual manner.
- 28.6. The temporary transfer of the fulfilment of the Concessionaire's obligations does not prevent the termination of the Agreement in accordance with the procedure, established in Chapter XVI of the Agreement.

29. Step-in possibility

- 29.1. The Funder has the right to use the accession law, established in the Direct Agreement, following the requirements and order, set out in the Agreement, as well as other Funder's rights, set out in the Direct Agreement. The Awarding Authority cannot take actions, contrary to the Direct Agreement.
- 29.2. If the Investor or the Concessionaire fails to fulfil or improperly fulfils the obligations under the Agreement and this is considered to be an essential violation of the Agreement, after the receipt of the Awarding Authority's prior written consent and in accordance with provisions, specified in Paragraph 31.2 of the Agreement and in accordance with the provisions of the Direct Agreement, the Funder has the right to assign another entity for the fulfilment of the Agreement instead of the Concessionaire and to fulfil the Concessionaire's obligations to the Funder.

XII. SECURING THE IMPLEMENTATION OF OBLIGATIONS TO THE AWARDING AUTHORITY AND THIRD PARTIES

30. Securing the implementation of obligations

- 30.1. The Concessionaire shall provide the fulfilment of obligations guarantee, which during the provision of the Services is [*specify the amount, it is recommended – 3 (three) per cent*] from the Concessionaire's annual income, calculated in accordance with the procedure, established in the Monitoring and Deduction Mechanism, provided in Annex 3 of the Agreement;
- 30.2. The fulfilment of obligations guarantee, provided by the Concessionaire may be valid for less than the fulfilment of Obligations guarantee term, specified in the Conditions of Tender, provided in Annex 1 of the Agreement, but not less than [*state the time period, recommended period - 3 (three) years*]. In this case, the Concessionaire shall provide to the Awarding Authority a new equivalent guarantee of the fulfilment of Obligations not later than [*state the time period, recommended period – 15 (fifteen) days*] before the expiry of the term of the provided guarantee. The Awarding Authority shall confirm whether the guarantee is adequate and equivalent within no more than [*state the time period, recommended period - 3 (three) Business days*] from the receipt of the guarantee (or the inquiry regarding its suitability).
- 30.3. After the termination of the Agreement or after the fulfilment of the guaranteed obligations, not later than within [*state the time period, recommended period – 7 (seven) days*], the Awarding Authority shall return the Agreement fulfilment guarantee, provided to it.

31. Securing the implementation of obligations to third parties

- 31.1. Guaranteeing the fulfilment of its obligations or in other cases, the Concessionaire has the right to pledge its future income, received under the Agreement and to transfer to the Funder the requirement rights, related to the Agreement. The Concessionaire can guarantee the fulfilment of its obligations by its other property, by other measures of the guarantee of the fulfilment of obligations, provided by the laws or to other persons only after the receipt of a prior written consent of the Awarding Authority.
- 31.2. With a prior notification to the Awarding Authority, the Concessionaire's shares or the rights which they provide can be pledged to the Funder by concluding a respective Agreement among the Funder, the Awarding Authority, the Investor, and the Concessionaire. This Agreement shall provide that the recovery from the Concessionaire's shares is possible only by means of transfer, together with the transfer of the Concessionaire's rights and obligations under the Agreement. In this case, the successor entities must comply with the pre-selection criteria, required for the participant, who won the Tender, in relation to the fulfilment of the rest of the Agreement. In the Agreement, the Funder shall also provide an unconditional and irrevocable obligation, that it will inform the Awarding Authority in writing about the intention to use the right of the recovery of the pledged shares of the Concessionaire. If the Funder uses the pledge, established in Paragraph 31.2 of the Agreement and if the situation, provided in Paragraph 38.1 is present, the term, provided in that Paragraph will be commenced to be counted again.
- 31.3. The Awarding Authority undertakes to cooperate and without a good reason, when it does not violate the Awarding Authority's interests and is not contrary to legal acts, not to refuse to issue permits or consents, which will be necessary to create the Concessionaire's guarantee measures of the fulfilment of obligations to the Funder. The Awarding Authority's refusal to issue a permit or a consent must be reasonable.

XIII. INSURANCE

32. Insurance and use of insurance pays

- 32.1. In accordance with the terms, specified in Annex 7 of the Agreement, the Concessionaire shall at its own expense and risk for its own benefit, not less than the amount, specified in Annex 7 of the Agreement and / or required by legal acts, to conclude the Insurance agreements, specified in Annex 7 of the Agreement and / or required by legal acts. If the specified insurance amount is larger than the insurance amount, required by legal acts, the amount, specified in Annex 7 of the Agreement, shall be applied. Insurance agreements must come into force by fulfilling the Preconditions of the validity of the Agreement. The Concessionaire shall have valid Insurance agreements, required in accordance with the requirements of legal acts for the full period of the validity of the Agreement in full scope.
- 32.2. When not less than *[state the time period, recommended period – 30 (thirty) days]* remains until the conclusion, renewal, amendment, termination or replacement of the Insurance agreements, the Concessionaire shall provide to the Awarding Authority a project of the Insurance agreement for confirmation. The Awarding Authority provides to the Concessionaire its consent or a reasonable refusal to agree with the insurer, selected by the Concessionaire or with the provisions of the Insurance agreements not later than within *[state the time period, recommended period – 15 (fifteen) days]* from the day of the receipt of the projects of the Insurance agreements. In that case, if the

Awarding Authority does not respond in time, it is considered that the Awarding Authority agrees with the provided projects of the Insurance agreements.

- 32.3. No later than within *[state the time period, recommended period – 3 (three) business days]* from the conclusion of the Insurance agreements, the Concessionaire shall provide to the Awarding Authority their copies or other documents, evidencing their conclusion and the documents, confirming the payment of insurance contributions. In that case, if insurance contributions are paid not at the same time, when Insurance agreements are concluded, the documents about the payments are provided to the Awarding Authority not later than within *[state the time period, recommended period – 3 (three) Business days]* after the payment of insurance contributions.
- 32.4. In that case, if the Concessionaire fails to fulfil its obligation to conclude the Insurance agreements, provided in Annex 7 of the Agreement on time, the Awarding Authority can conclude them at the Concessionaire's expense.
- 32.5. The Insurance agreements may not be concluded only if and only for the time period, when it is not possible to conclude the respective insurance agreement due to the situation in the insurance market, or the costs of such an insurance agreement would exceed *[specify the limit]*. The Party, relying on the provisions, specified in the Paragraph 32.5 of the Agreement, must prove their existence and must receive the other Party's consent for that.
- 32.6. The Parties shall take all the necessary actions or refrain from the performance of certain actions, if due to these actions and / or failure to act the insurer would obtain the right to terminate the concluded Insurance agreements, suspend their validity, also, in case of damage, to refuse to pay to the Concessionaire the insurance contributions or to pay much less of their part, because this damage was recognized as an uninsured event due to the Parties' actions performed and / or failure to act.
- 32.7. In case of the insured event, during which the Property was damaged or lost, the Concessionaire shall assign the funds, received as insurance compensation for the lost property, for its reconstruction / replacement by the equivalent Property.
- 32.8. If it is impossible to restore the Property / to replace by the equivalent Property or if it is not appropriate, the insurance benefit shall be used to pay for the damages. If the insurance benefit is not enough to compensate for the losses, the rest part will be covered by the Party, responsible for the insured event. If after covering the losses or restoring / replacing the Property by the equivalent property, the insurance benefit is not used, the balance shall be used in accordance with the procedure, established in the Monitoring and Deduction Mechanism, provided in Annex 3 of the Agreement.
- 32.9. The Concessionaire has the right to use the received insurance benefits not for the restoration of the Property only in that case, if different use of funds would provide greater economic and social benefit and the Awarding Authority's consent is received for such use of the funds.
- 32.10. When concluding agreements with Subcontractors, the Concessionaire shall ensure that Subcontractors would insure and have an insurance of at least *[specify the amount]* amount of euros of their civil liability for the damage, made to third parties and their property for the whole period of the fulfilment of the agreements;

32.11. Subcontractors may not have the required insurance coverage, if the Concessionaire's Insurance agreements coverage is valid also due to the damage, made by the Subcontractors' actions or failure to act.

32.12. The fulfilment or failure to fulfil of the obligations, provided in Paragraph 32 of the Agreement does not indemnify the Concessionaire from the fulfilment of the undertaken obligations and liability under the Agreement.

XIV. INTELLECTUAL PROPERTY

33. The obligation to comply with the requirements of the protection of Intellectual Property

33.1. The Parties shall comply with the requirements of the protection of the intellectual property

34. Licenses, awarded by the Concessionaire

34.1. After the termination of the Agreement, the Concessionaire provides to the Awarding Authority a transferable, royalty-free and non-exclusive license of indefinite duration (granting the right to grant sub-licenses), to use all and any intellectual property rights, which are granted to the Concessionaire and which are necessary for the provision of the Services and Property Management and Maintenance.

34.2. If after the termination of the Agreement, any intellectual property rights, necessary for the Provision of the Services or the Property Management and Maintenance belong to third parties, the Concessionaire shall take all the available reasonable measures at its own funds for the benefit of the Awarding Authority, to acquire the part of such an intellectual property, sufficient for the provision of the Services and the Property Managements and Maintenance.

34.3. The Concessionaire shall compensate the Awarding Authority all its losses having arised due to any intellectual property rights violations, related to the Provision of the Services and the Property Management and Maintenance.

35. Licenses, awarded by the Awarding Authority

35.1. During the validity time of the Agreement, by this Agreement, the Awarding Authority grants to the Concessionaire a non-transferable, non-exclusive, and royalty-free license (granting the right to grant sub- licenses) to use any intellectual property rights, owned by the Awarding Authority and necessary for the funding, the Provision of the Services or the Property Management and Maintenance, in order to implement the Agreement.

35.2. The Awarding Authority shall compensate the Concessionaire all its losses, arising from any violation of intellectual property rights, specified in Paragraph 35 of the Agreement.

XV. AMENDING THE AGREEMENT

36. Cases of amending the Agreement

36.1. The Parties may agree on the Agreement amendment, also including its annexes, only if such amendments are not in conflict with the public interest, do not change the essential obligations, undertaken under the Agreement (except for the cases, which are directly allowed by the Agreement), and the distribution of risk between the Parties.

36.2. The provisions of the Agreement may be changed in the following cases:

- 36.2.1. an Essential amendment of legal acts takes place;
- 36.2.2. if the value of the concrete amendment of the Agreement can be expressed in monetary terms, and the value of such an amendment does not exceed 10 % of the Agreement value and the EU statutory procurement value limits, provided that such an amendment of the Agreement does not change the general nature of the Agreement. If there is a consecutive number of such amendments, the value shall be calculated with respect to the total value of such amendments;
- 36.2.3. if all the following provisions are fulfilled:
 - 36.2.3.1. the necessity to make an amendment arose due to the circumstances, which could not be foreseen by the Awarding Authority, the Investor or the Concessionaire, who acted properly and diligently;
 - 36.2.3.2. the general nature of the Agreement is not changed by an amendment;
 - 36.2.3.3. the increase of the price for the Services does not exceed 50 % of the initial value of the Agreement. If several consecutive amendments are made, this limit applies to each value of an amendment.
- 36.3. Non-essential (technical) amendments of the Agreement may be performed in all cases, but they cannot object to the principles of equality, non-discrimination, mutual recognition, proportion and transparency and the purpose of rational use of funds.

37. Amending the Agreement as the result of essential changes of the applicable legal acts or due to the circumstances, stated in Paragraphs 36.2.2 and 36.2.3

- 37.1. The cases of the Agreement amendments, specified in Paragraph 36.2 of the Agreement shall not indemnify the Concessionaire from the obligation to fulfil its obligations under the Agreement, except for the case, when there is no possibility to fulfil the obligations due to the Dismissal Case or the Compensation Event (during these terms) and the cases, while fulfilling the obligations, the imperative requirements of legal acts would be violated.
- 37.2. Following the Essential amendment of legal acts or due to the circumstances, specified in Paragraphs 36.2.2 and 36.2.3 of the Agreement, which negatively affect the Concessionaire's fulfilment of rights and obligations under the Agreement, the Concessionaire shall take all the available measures in order to ensure that the damage incurred would be as minimal as possible. If the Essential amendment of legal acts or the circumstances, specified in Paragraphs 36.2.2 and 36.2.3 of the Agreement are favourable to the Concessionaire's fulfilment of the rights and obligations under the Agreement, it shall make all the efforts to exploit new opportunities to achieve the maximum economic and social benefit for the Awarding Authority and for the end-users of the Services.
- 37.3. Following the Essential amendment of legal acts or due to the circumstances, specified in Paragraphs 36.2.2 and 36.2.3 of the Agreement and in order to restore the balance of the Parties' rights and obligations, or economic balance, confirmed in the Agreement, each Party has the right to request the amendment of the provisions of the valid Agreement. When amending the provisions of the Agreement, the Parties must keep the same balance of the rights and obligations and / or the economic balance, especially – the return of Investments, which was before the Essential amendment of legal acts or before occurring of the circumstances, specified in Paragraphs 36.2.2 and 36.2.3 of the Agreement.

37.4. Following the Essential amendment of legal acts or due to the circumstances, specified in Paragraphs 36.2.2 and 36.2.3 of the Agreement:

37.4.1. any of the Parties may submit a notification to the other Party, in support of why the consequences of such an amendment cannot be eliminated or mitigated except by the amendment of the Agreement provisions;

37.4.2. within *[state the time period, recommended period – 30 (thirty) days]* from the receipt of the above mentioned notification, the Parties shall meet in order to agree on the Essential amendment of legal acts or due to the recognition of the circumstances, specified in Paragraphs 36.2.2 and 36.2.3 of the Agreement, their impact on the Parties' rights and obligations arising from the Agreement, and the necessary amendment of the Agreement provisions. If the Parties fail to agree on their impact or necessary amendments of the Agreement provisions within *[state the time period, recommended period – 60 (sixty) days]* from the day of the receipt of the first notification, any of the Parties can initiate the settlement of these disagreements on the basis of the dispute settlement procedure, specified in Paragraph 53 of the Agreement.

XVI. TERMINATION OF THE AGREEMENT

38. Basis for termination of the Agreement due to circumstances, depending on the Concessionaire or the Investor

38.1. The Awarding Authority has the right to unilaterally, without going to court or arbitration, to terminate the Agreement, when the Concessionaire or the Investor fails to fulfil or improperly fulfils the obligations under the Agreement and it is the essential violation of the Agreement, and the Awarding Authority had notified these Parties before of such non-performance or improper performance of the Agreement, but the defaulting Party or the Party, improperly performing the Agreement has not eliminated the essential violation of the Agreement in such a manner and in such a reasonable period, which were provided in such a notification, or it is impossible to eliminate such a violation or the elimination has no meaning any more. The period for the elimination of such violations cannot be set shorter than *[state the time period, recommended period – 90 (ninety) days]* in case of the violation, related to the Provision of the Services.

38.2. The Parties agree that only the following violations will be considered to be the essential violations in respect to Paragraph 38.1 of the Agreement:

38.2.1. the validity date of the Agreement, provided in Paragraph 3.1 of the Agreement, is delayed more than *[state the time period, recommended period- 60 (sixty) days]* or the validity term of the Agreement, in the case, specified in Paragraph 3.3 is not renewed. The Parties may not wait for the end of this term, if it is reasonable to decide that the Preconditions of the Agreement validity, specified in Paragraph 3 of the Agreement will not be fulfilled during this term. Paragraph 38.2.1 of the Agreement shall not apply, if the term is violated due to the fact that the Assigned Property is not transferred to the Concessionaire due to the circumstances, not depending on the Investor or the Concessionaire;

38.2.2. the Concessionaire has not begun to provide the Services at the full scope provided for more than *[state the time period, recommended period – 60 (sixty) days]* from the term, specified in Paragraph 4 of the Agreement, with respect to its renewals.

- 38.2.3. the Concessionaire shall not submit to the Awarding Authority a new guarantee of the fulfilment of Obligations at the term, specified in Paragraph 30.1 of the Agreement;
- 38.2.4. the Concessionaire delays to make the Investments, provided in the Financial Business Model for more than *[state the time period, recommended period – 60 (sixty) days]* and that hinders to ensure the Provision of the Services, specified in Paragraph 17.2 of the Agreement;
- 38.2.5. the Concessionaire violates the statements and guarantees, specified in Paragraph 7 of the Agreement;
- 38.2.6. the Concessionaire shall not interrupt the use of the Assigned Property for other aims, than the fulfilment of the Agreement, if the Awarding Authority requests so in accordance with the established procedure of Paragraph 9.5 of the Agreement;
- 38.2.7. if the deviations from the requirements, set in the Specifications of the Provisions of the Services, lasts longer than the terms, specified in Paragraph 17.4 of the Agreement;
- 38.2.8. the Concessionaire exceeds the maximum number of penalty points, imposed in accordance with the procedure, established in the Monitoring and Deduction Mechanism, specified in Annex 3 of the Agreement, allowed to be collected during a certain period in accordance to this procedure;
- 38.2.9. the Concessionaire or its managers, officials or employees are convicted by a court as guilty of making a criminal offence, related to inappropriate Provision of the Services (including such offences as a bribery and subornation). The Agreement termination on the basis of Paragraph 38.2.9 of the Agreement is impossible, if within *[state the time period, recommended period- 120 (one hundred and twenty) days]* from the enactment of the judgement of criminal conviction (regardless of the possibility to bring an appeal or a cassation appeal), such a manager, official or an employee shall be dismissed from work in the Concessionaire's and the Associated companies;
- 38.2.10. the Concessionaire violates the obligations, specified in Paragraph 27.2 of the Agreement in respect of the transfer of its rights and obligations;
- 38.2.11. the validity of the Insurance agreements, specified in Annex 7 of the Agreement is expired or terminated and / or the minimum amount of insurance benefit, specified in this annex, cannot be reached by the concluded Insurance agreements;
- 38.2.12. without the receipt of the Awarding Authority's prior consent, specified in Paragraph 31.1 of the Agreement, the Concessionaire had pledged or transferred its property rights or otherwise ensured the fulfilment of its obligations;
- 38.2.13. when fulfilling its obligations in accordance with Chapter X of the Agreement or other provisions of the Agreement, the Concessionaire provides to the Awarding Authority knowingly false or incomplete information, which is required in order to ensure the control of the fulfilment of the Agreement, carried out by the Awarding Authority.
- 38.3. In addition to the cases, provided in Paragraph 38.1 of the Agreement, the Awarding Authority has the right to (unilaterally) terminate the Agreement, without applying to the court or arbitration, if:
- 38.3.1. the liquidation, bankruptcy, insolvency, restructuring or analogous procedures are initiated to the Concessionaire, and the Awarding Authority has the reason to believe that the obligations under the Agreement will not be fulfilled in accordance with the requirements, established under the Agreement;

38.3.2. during the Tender or the concluding time of the Agreement, the Concessionaire submitted to the Awarding Authority false data, related to its financial condition and / or economic activity and / or any information, submitted to the Awarding Authority, and that was established after concluding the Agreement.

38.4. The Awarding Authority shall notify the other Party about the termination of the Agreement on the basis, specified in Paragraph 38.1 of the Agreement not later than *[state the time period, recommended period – 60 (sixty) days]*, and in the cases, provided in Paragraph 38.3 of the Agreement – not later than before *[state the time period, recommended period – 30 (thirty) days]*.

39. Basis for termination of the Agreement due to circumstances, depending on the Awarding Authority

39.1. The Concessionaire has the right to unilaterally, without going to the court or arbitration, to terminate the Agreement, when the Awarding Authority fails to fulfil or improperly fulfils the obligations under the Agreement, and this is the essential violation of the Agreement, and the Concessionaire had notified the Awarding Authority before about the failure to fulfil or the improper fulfilment of the Agreement, but the Awarding Authority failed to eliminate the essential violations of the Agreement in such a manner and during such a reasonable period, which had been provided in such a notification, or such a violation cannot be eliminated, or the elimination has no meaning. The period, established for the elimination of the Awarding Authority's violations cannot be shorter than *[state the time period, recommended period – 60 (sixty) days]*.

39.2. The Parties agree that only the following violations will be considered to be the essential violations of the Agreement:

39.2.1. the Awarding Authority is late for more than *[state the time period, recommended period – 60 (sixty) days]* to pay to the Concessionaire any required payment under the Agreement;

39.2.2. the Awarding Authority violates the statements and guarantees, provided in Paragraph 6 of the Agreement.

39.3. The Concessionaire shall notify the Awarding Authority about the Agreement termination on the basis of Paragraph 39.1 of the Agreement, not later than before *[state the time period, recommended period – 30 (thirty) days]*.

40. Termination of the Agreement without any default on behalf of the Parties

40.1. The Parties have the right to unilaterally, without going to the court or arbitration, to terminate the agreement, when the fulfilment of the Agreement becomes impossible due to the circumstances, which could not be controlled by the Party, unilaterally terminating the Agreement or to reasonably foresee during the conclusion of the agreement, and could not prevent from the occurrence of these circumstances or their consequences, as specified in Paragraph 41 of the Agreement. In this case, each of the Parties has the right to terminate the Agreement, if due to such circumstances, the essential obligations under the Agreement could not be fulfilled longer than *[state the time period, recommended period – 160 (one hundred sixty) days]* in a row.

40.2. The Party, unilaterally terminating the Agreement, shall notify another Party about the termination of the Agreement on the basis, specified in Paragraph 40.1 of the

Agreement not later than before *[state the time period, recommended period – 60 (sixty) days]*.

40.3. The Parties have the right to terminate the Agreement on the mutual agreement.

41. Force Majeure Circumstances

41.1. Force Majeure circumstances mean any event (for example, a war, rebellion, civil strike or unrest, embargo, fire, earthquake, hurricane, volcano eruption and other natural disasters), which cannot be reasonably controlled by the Party, that must fulfil a concrete obligation, and which could not be foreseen or avoided by this Party, and which makes it impossible to fully or partially to fulfil the above mentioned obligation of the Party. The lack of funds or the impossibility to fulfil financial obligations is not considered to be Force Majeure circumstances.

41.2. The Party's failure to fulfil obligations, provided in the Agreement, under the Force Majeure, is not considered to be the violation of the Agreement or default, and it is not subject to any sanctions, if the Party, which experienced the effect of Force Majeure circumstances, made all possible efforts to reduce the damage, caused by such circumstances or used all the necessary measures in order to fulfil its obligations under the Agreement. The Party which could not fulfil the obligations shall prove the circumstances, specified in Paragraph 41.2 of the Agreement.

41.3. In the event of Force Majeure, the party, which experienced its effect shall submit to other Parties a primary written notice about the occurrence of these circumstances and a brief description of their content not later than within *[state the time period, recommended period – 3 (three) Business days]* from the moment of occurrence of the circumstances.

41.4. Not later than within *[state the time period, recommended period – 5 (five) Business days]* after the submission of the primary notification, the Party, which experienced Force Majeure effect, shall submit a detailed written report to other Parties. It must contain all the information, related to disorders of the fulfilment of obligations under the Agreement, such as: Force Majeure effect on the Party's ability to fulfil its obligations under the Agreement, the dates of the emergence and the expected disappearance of Force Majeure and the period, necessary for the eliminating of the consequences, caused by these circumstances, etc.

41.5. At the end of Force Majeur, not later than within *[state the time period, recommended period - 3 (three) days]*, the Party, which experienced its effect, shall notify the other parties of the Agreement and shall indicate the date of the renewal of the fulfilment of its obligations.

41.6. The terms of the fulfilment of the respective obligations of the Party, which is unable to fulfil its obligations under the Agreement due to Force Majeure, shall be renewed as long as it is objectively necessary for the Force Majeure influence, but with regard to the maximum validity term of the Agreement, specified in Paragraph 5 of the Agreement.

42. Compensation in case of termination of the Agreement due to circumstances, depending on the Concessionaire or the Investor

42.1. If the Agreement is terminated on the basis, specified in Paragraph 38 of the Agreement due to the Concessionaire or the Investor's fault, the Awarding Authority

pays to the Concessionaire only the compensation, which is calculated by the following formula:

NK = TV – D – B – DIGN – VN, where:

NK – the Agreement termination compensation, which cannot be larger than the value of the Assigned Property, returned to the Awarding Authority on the day of its return:

TV – the property value;

D – compulsory insurance benefits, received by the Concessionaire for the termination of the Agreement under the Agreement;

B – penalties to be paid both under the Agreement, and under the Monitoring and Deduction Mechanism, provided in Annex 3 of the Agreement, not yet included / unclaimed from the Concessionaire;

DIGN - the part of the rate of return of Investments, exceeding the desired rate of return of Investments, indicated in the Proposal, which was received by the Investor and (or) the Concessionaire during the validity of the Agreement until the submission of the notification about the Agreement termination in accordance with the procedure, specified in Paragraph 38.4 of the Agreement, regardless of the form, in which DIGN is paid to the Concessionaire's shareholders.

VN – direct losses, incurred by the Awarding Authority due to the Agreement termination. The Parties declare that the Awarding Authority's direct losses contain the payment for legal, economics and other related fields experts, whom the Awarding Authority involved in the conclusion of the Agreement and will involve, when the basis for the Agreement termination is present. Only such amount of direct losses can be immediately deducted from the Agreement termination compensation, due to the amount of which, the Awarding Authority or the Concessionaire agree in writing within the corresponding term of warning concerning the Agreement termination, specified in Paragraph 38.4 of the Agreement, not later than *[state the time period, recommended period – 30 (thirty) days]* until the Agreement termination. If during this term it is impossible to agree concerning the amount of direct losses, not later than within *[state the time period, recommended period – 15 (fifteen) days]* by mutual agreement, the expert shall be appointed in order to assess the amount of direct losses. Only an impartial and interest-free person with competence to assess the Awarding Authority's amount of direct losses may be appointed as an expert. If the Awarding Authority and the Concessionaire agree with the amount of direct losses, assessed by the appointed expert, the Agreement termination compensation shall be reduced by this amount. If any Party disagrees with the amount of the direct losses, assessed by the appointed expert, within *[set a term it is recommended – 15 (fifteen) days]* from the notification about the assessed amount it has the right to apply to the Dispute Settlement Institution, specified in Paragraph 53 of the Agreement concerning the basic settlement of the dispute. In this case, the Agreement termination compensation is reduced by the amount of direct losses, assessed by the expert and disputed. Until the settlement of the dispute, this amount shall be transferred to the deposit account, for the amount of which, the deposit account holder pays interest. In that case, if an expert is not appointed within the established time, the Parties apply to the Dispute Settlement Institution, specified in Paragraph 53 of the Agreement. In this case, the amount of the Agreement termination compensation to be paid may be reduced only by such direct losses, the amount of which may be proved by documents during the calculation of the compensation. Until the settlement of the dispute, this part of disputable amount of direct

losses shall be transferred to the deposit account, for the amount of which the deposit account holder pays interests.

- 42.2. The Commission, specified in Paragraph 51 of the, shall calculate the exact amounts, specified in Paragraph 42 of the Agreement, on the basis of the Concessionaire's documents of financial accountability, the accounts of the property appraisers or audit reports, the results inspections, carried out by the authorized institutions or the independent experts' conclusions.
- 42.3. The amount of compensation includes the Concessionaire's and Investor's any losses or misses, related to the Agreement termination and the Investor and Concessionaire's any other and (or) bigger losses (if they would be present or would occur), shall not be compensated and the Investor and Concessionaire refuses them all by the Agreement.

43. Compensation in case of termination of the Agreement due to circumstances, depending on the Awarding Authority

- 43.1. If the Agreement is terminated on the basis, specified in Paragraph 39 of the Agreement, due to the Awarding Authority's fault, the compensation shall be paid to the Concessionaire, calculated according to the following formula:

NK = TV + FG + I – D - B, where:

NK – the Agreement termination compensation, which cannot be larger than the value of the Assigned Property, returned to the Awarding Authority on the day of its return:

TV – the property value;

FG – the Funder's granted financing returning costs (including, but not limiting to the related costs, interests and the costs of termination of financial agreements), not exceeding usual practice of relevant market;

I – the Concessionaire's paid shares, after subtracting the paid distribution profit, and the amount of the provided and not yet returned subordinated loans;

D – compulsory insurance benefits, received by the Concessionaire for the termination of the Agreement under the Agreement;

B – penalties to be paid both under the Agreement, and under the Monitoring and Deduction Mechanism, provided in Annex 3 of the Agreement, not yet included / unclaimed from the Concessionaire;

- 43.2. The commission, provided in Paragraph 51 of the Agreement, shall calculate the exact amounts, specified in Paragraph 43 of the Agreement, on the basis of the Concessionaire's documents of financial accountability, the accounts of property appraisers or audit reports, the results of inspections of authorized institutions or the conclusions of independent experts.
- 43.3. The amount of compensation also includes the Concessionaire's and Investor's any losses or misses, related to the Agreement termination and the Investor and Concessionaire's any other and (or) bigger losses (if they would be present or would occur), shall not be compensated and the Investor and Concessionaire refuses them all by the Agreement.

44. Compensation in case the Agreement is terminated without any fault on behalf of the Parties

44.1. In the case, if the Agreement is terminated on the basis, specified in Paragraph 40.1 of the Agreement, the Awarding Authority shall pay the compensation to the Concessionaire, which is calculated by the formula:

NK = 0,5*(TV+FG) – D – B, where:

NK – the Agreement termination compensation, which cannot be larger than the value of the Assigned Property, returned to the Awarding Authority on the day of its return:

TV – the property value

FG – returning costs of the financing, granted by the Funder (including, but not limiting to the related costs, interests and the costs of termination of financial agreements), not exceeding usual practice of relevant market;

D – compulsory insurance benefits, received by the Concessionaire for the termination of the Agreement under the Agreement;

B – penalties to be paid both under the Agreement, and under the Monitoring and Deduction Mechanism, provided in Annex 3 of the Agreement, not yet included / unclaimed from the Concessionaire.

44.2. The Commission, provided in Paragraph 51 of the Agreement, shall calculate the exact amount, on the basis of the Concessionaire's documents of financial accountability, the accounts of property appraisers or audit reports, the results of inspections of authorized institutions or the conclusions of independent experts.

44.3. The amount of compensation includes the Concessionaire's and Investor's any losses or misses, related to the Agreement termination and the Investor and Concessionaire's any other and (or) bigger losses (if they would be present or would occur), shall not be compensated and the Investor and Concessionaire refuses them all by the Agreement.

45. Payment of the Agreement termination compensation

45.1. Termination compensations, that must be paid by the Awarding Authority according to Paragraphs 42.1 and 44.1 of the Agreement, shall be paid not later than within *[state the time period, recommended period – 30 (thirty) days]* from the day of the Agreement termination or, by the choice of the Awarding Authority, they shall be paid in parts, which are not less than the Concessionaire needs to return according to the agreements concerning the financing, provided by the Funder and by the terms, established in such agreements. In this case, all the amount of the compensation shall be paid to the Concessionaire within the term, which is not longer than the remaining validity term of the Agreement, if it would not be terminated. Annual interest, equal to the Concessionaire's annual interest, paid to the Funder, shall be paid for the compensation, paid in parts.

45.2. The compensation that shall be paid by the Awarding Authority in accordance with Paragraph 43.1 of the Agreement, must be paid in a lump sum not later than within *[state the time period, recommended period – 90 (ninety) days]* from the moment of signing the Property restitution act.

45.3. The termination compensation, provided in Paragraphs 42, 43 and 44 of the Agreement is the only compensation or the Parties' other form of payment for one another for the

Agreement termination. Any other payments for the Agreement termination shall not be carried out.

XVII. THE PARTIES' LIABILITY

46. The Parties' mutual liability

- 46.1. In the case, if the Party misses the fulfilment terms of obligations, established under the Agreement or in the case, if the Party fails to remedy the situation within *[state the time period, recommended period – 30 (thirty) days]* (or other reasonable term, indicated by another Party) in the indicated manner, after another Party informs about any violation of the Agreement, made by the first Party, the Party, in respect to which these obligations must be fulfilled, can require to pay to it *[set the amount of fine]* due to every violation, for every delayed day. The fines, provided in Paragraph 46.1 of the Agreement shall be imposed only if the Agreement does not provide any other sanctions for such a violation.
- 46.2. If the Concessionaire fails to make the Investments until the day, specified in the Financial Business Model and in the Specifications, for every delayed day until the day of the removal of the violation, the Concessionaire shall pay *[set an amount, it is recommended – 0.02 (two hundredths) per cent]* amount interest for late payment from the Investments amount, which were delayed to be transacted. The amount of such payable penalty for one violation cannot exceed more than *[set an amount, it is recommended – 5 (five) per cent]* from the Investment amount, delayed to be transacted.
- 46.3. If during the Concessionaire's assessment of the compliance of the activity with the requirements for the Provision of the Services, specified in the Specifications, an inadequacy for these requirements is established, the measures and liability, specified in the Monitoring and Deduction Mechanism, provided in Annex 3 of the Agreement shall be applied to the Concessionaire.
- 46.4. The application of the liability, provided in Paragraph 46 of the Agreement, shall not indemnify the Parties from the responsibility to fulfil obligations under the Agreement, shall not amend the payment obligations, specified in Chapter IX of the Agreement and shall not withdraw the right to terminate the Agreement on the basis, provided in Chapter XVI of the Agreement.
- 46.5. If the Concessionaire fails to fulfil its obligations, which are guaranteed by the Obligations fulfilment guarantee, or in the case, specified in Paragraph 38 of the Agreement, the Awarding Authority has the right to use the Obligations fulfilment guarantee, provided to it. In this case, the Obligations fulfilment guarantee shall be used to cover (i) losses, resulting from the Concessionaire's fault, (ii) the amounts, payable by the Concessionaire according to the Paragraph 46 of the Agreement and (iii) the Concessionaire's other financial obligations to the Awarding Authority under the Agreement. After such a use, the remaining guarantee amount shall be returned to the Concessionaire within *[state the time period, recommended period – 30 (thirty) days]*.
- 46.6. In accordance with Paragraph 46 of the Agreement, the applicable amount of liability for any Party for one violation cannot exceed *[set an amount, it is recommended – 3 (three) per cent]* of the Concessionaire's annual income of the preceding year.

- 46.7. The Parties shall compensate only direct damages for one another. As far as this is not in conflict with the existing laws, the liability, provided in Paragraph 46 of the Agreement is considered to be the Parties' minimum losses, discussed in advance and the only allowed measure of their compensation.
- 46.8. Before making payments in accordance with Paragraph 46 of the Agreement, the Parties have the right to make the offset of mutual payments or their part, as far as they are not in conflict with imperative provisions of legal acts of the Republic of Lithuania.
- 46.9. Paragraph 46 of the Agreement provides penalties and interest, which must be paid within *[state the time period, recommended period – 30 (thirty) days]* from the coming of the day of their payment basis.
- 46.10. The compensation for losses and the forfeit payment under the Agreement do not release the Party from the liability to fulfil a respective obligation.

47. The Concessionaire's obligation to cover losses

- 47.1. The Concessionaire protects from and if necessary, - compensates the Awarding Authority, its employees or representatives' all losses, that may arise from any personal injury or death, property damage or loss or other reasons, related to the Concessionaire's fulfilment or failure to fulfil the obligations, undertaken under the Agreement, including the Property Management, Use, and Maintenance.
- 47.2. The Concessionaire's obligation, specified in Paragraph 47.1 of the Agreement, to protect from loss or to compensate it shall not arise only in that case, if such a loss arises due to the Awarding Authority's actions or failure to act, violating the provisions of the Agreement.
- 47.3. If the Awarding Authority receives any notice, demand, claim or other document that suggest that the Awarding Authority has or may have to compensate the loss, specified in Paragraph 47.1 of the Agreement, it is necessary to immediately notify the Concessionaire about it, together submitting the received documents. The Concessionaire shall not be liable for any loss that arises from unreasonable delay of the submission of such a notification.
- 47.4. The Concessionaire is required to resolve an issue on the validity of the request to compensate for the loss and, if necessary, to compensate such a loss. If the Concessionaire thinks that the request to compensate for the loss is unreasonable, it has the right to use all the legal protection measures, which could be used by the Awarding Authority, if the liability would not be transferred to the Concessionaire. In this case, the Awarding Authority must provide the Concessionaire with all the respective powers. If the Awarding Authority fails to provide them, the Concessionaire shall be exempted from the liability in accordance with Paragraph 47 of the Agreement.

XVIII. OTHER PROVISIONS

48. Confidentiality

- 48.1. During the validity time of the Agreement and 2 (two) years after the Agreement termination, the Parties must keep confidential the content of the Agreement, discussions and negotiations due to the conclusion of the Agreement, also any other verbal, written or other information, directly or indirectly related to the Agreement or documents, received from another Party, its employees or advisors, as far as it is not in

conflict with the requirements of the Law on Concessions (hereinafter referred to as – Confidential Information).

48.2. This information shall not be considered to be confidential:

48.2.1. The object of the Agreement – the consist and scope of the Services, covered by the Agreement;

48.2.2. The Agreement validity duration, including its conclusion date;

48.2.3. The Parties of the Agreement;

48.2.4. The Agreement value;

48.2.5. The Investments value;

48.2.6. The Monitoring and Deduction Mechanism;

48.2.7. The Agreement amendments;

48.2.8. The Concessionaire's audit findings of financial accountability;

48.2.9. The payments, forfeit and compensations, paid by the Parties;

48.2.10. The Concessionaire's annual financial account.

48.3. Neither Party has the right to disclose to third parties any part of Confidential information without a prior written consent of another Party, except for the following cases, when the disclosure of Confidential information will not be considered to be a violation of the Agreement:

48.3.1. if the Parties agree in writing to report to the media or to a third party;

48.3.2. Confidential information must be disclosed in order to properly fulfil the Parties' obligations, undertaken under the Agreement (but in the latter case, information may be disclosed only to the extent which is necessary for the fulfilment of the above mentioned obligations);

48.3.3. Confidential information is disclosed to the Associated companies;

48.3.4. The disclosure of confidential information is required by applicable legal acts;

48.3.5. The Parties reveal confidential information to its employees, lawyers, auditors, advisors and / or other consultants, selected by the Party (in the latter case, the Party is liable to the other Party, if its employees, advisors or consultants violate confidentiality obligation, provided in Paragraph 48.1 of the Agreement).

49. Notifications

49.1. In order to be deemed properly delivered and cause the provided consequences, the notifications, related to the Agreement, must be made in writing, in the [*indicate a language or languages*] language (or to translate into it, to certify the translation by the translator's signature and seal) and:

49.1.1. delivered against signature, or

49.1.2. sent by prepaid registered mail, or

49.1.3. sent by the courier service, or

49.1.4. sent by fax (later submitting this notification also in another manner, provided in Paragraph 49.1 of the Agreement).

49.2. All notifications related to this Agreement, must be sent to the Parties by the following addresses:

The Party	Contacts
[To the Awarding Authority]	To: <i>[responsible person’s name, surname]</i> Address: <i>[address]</i> Fax No.: <i>[fax number]</i>
[if any to the Transferor]	To <i>[responsible person’s name, surname]</i> Address: <i>[address]</i> Fax No.: <i>[fax number]</i>
[to the Concessionaire]	To: <i>[responsible person’s name, surname]</i> Address: <i>[address]</i> Fax No.: <i>[fax number]</i>
[to the Investor]	To: <i>[responsible person’s name, surname]</i> Address: <i>[address]</i> Fax No.: <i>[fax number]</i>

49.3. The Parties shall inform one another and other interested persons about the change of their or persons’ contacts immediately, but not later than within *[state the time period, recommended period – 5 (five) days]*. Before such a notification, the submitted notifications are deemed to be received by the indicated contacts, and the indicated persons are deemed as having the right to represent that Party.

50. Amendments

50.1. Any amendments, additions or annexes to the Agreement are valid only in that case, if they are formalized in one or several written documents, signed by all the Parties of the Agreement, to whose rights and obligations the amendments, additions or annexes are related with.

51. Resolution of disputes, arising when performing the Agreement

51.1. In cases, where in the Agreement, the reference is made to Paragraph 51 of the Agreement, the decisions are taken by the Commission, made up of the representatives of the Concessionaire on the one hand, and of the Awarding Authority, on the other hand. The Commission’s decisions are compulsory to the Parties.

51.2. The Commission consists of 6 (six) representatives, in equal numbers from the Concessionaire and the Awarding Authority’s side. The Concessionaire and the Awarding Authority shall appoint 3 representatives – legal, financial and technical field specialists. The Commission’s representatives must be appointed by each Party within *[state the time period, recommended period – 5 (five) Business days]* from the day of

signing the Agreement, informing another Party about the designated representatives. If any of the Commission's members resigns or is not able to perform his duties, the Party which appointed such a member undertakes to replace the resigned or unable to perform his duties member by a new member within *[state the time period, recommended period – 3 (three) Business days]* from the disclosure of the circumstances.

- 51.3. The Commission shall take decisions by open vote. The Commission's meeting may take place and decisions may be taken, when not less than 4 members of the Commission participate in the meeting. The Commission's decisions shall be taken in the Commission's meeting by majority vote of the participating Commission's members, provided that the representatives, appointed to the Commission by not only one Party, voted for the decision. The Commission's meetings and voting must be recorded and signed by all the Commission's representatives, participating in the meeting. If the equal number of votes is collected, the Commission's chairman has a deciding vote. The Commission's meetings and voting must be recorded and signed by all the representatives of the Commission.
- 51.4. The Commission's work organization procedure is established by the Commission itself, and the Commission's chairman – the Awarding Authority's representative, responsible for the Commission's meetings organization and performing, is elected in its first meeting that will take place on *[date]*, at *[time]*, at: *[address]*. The Commission's chairman, responsible for the Commission's meetings organizations and performing, is elected by the Commission in its first meeting.
- 51.5. In the event, if the Commission is not formed in accordance with the procedure, provided in Paragraph 51.2 of the Agreement, it cannot take decisions for the lack of quorum for taking decisions in two consecutive meetings of the Commission, or if the issue, provided for the Commission, cannot be resolved within *[state the time period, recommended period – 30 (thirty) days]* from the date of the issue submission (unless a different term is provided in the Agreement), such an issue shall be referred to the Parties' authorized representatives. If the Parties' authorized representatives fail to reach an agreement on the indicated issue within additional term of *[state the time period, recommended period – 15 (fifteen) days]*, the disputable issue shall be transferred to be resolved in accordance with the procedure, provided in Paragraph 53 of the Agreement.

52. Applicable Law

- 52.1. Legal acts of the Republic of Lithuania shall be applied for the Agreement, the Parties relationship, arising from it, and their interpretation.
- 52.2. The Agreement and transactions, made on the basis of it, are commercial, not public and not national acts. Neither Party shall have, and if it has, it shall refuse the immunity in relation to the Agreement from legal proceedings or the court (arbitration) decision enforcement in relation to its own or its monetary funds, and the Concessionaire – in relation to its property.

53. Resolution of disputes

- 53.1. Any dispute or conflict, arising from the Agreement, the Parties shall try to settle in the following order:

- 53.1.1. by mutual negotiations and comprehensive cooperation. Negotiations must begin within *[state the time period, recommended period - 5 (five) days]* from the notification date to another Party about the dispute, conflict or claim;
- 53.1.2. if within *[state the time period, recommended period – 30 (thirty) days]* from the date of the notification to another Party about the dispute, conflict or claim, the Parties fail to reach a common agreement or mutual negotiations are not begun, any dispute, conflict or claim arising from the Agreement, also the issues on the violation, termination or invalidity of the Agreement shall be finally decided in the courts of the Republic of Lithuania.

54. Severance of individual provisions of the Agreement

- 54.1. If any provision of the Agreement is contrary to legal acts of the Republic of Lithuania or due to some reason becomes partially or completely invalid, it shall under no circumstances make void the remaining provisions of the Agreement. In this case, the Parties shall agree to change the invalid provision by another legally effective provision, which would have as close as possible legal and / or economic result to the changed provision.

55. Counterparts of the Agreement

- 55.1. The Agreement is concluded in *[number]* original copies in the *[indicate a language or languages]* language, one copy for each Party.

56. Jointly drafted Agreement

- 56.1. The Agreement is made with the consent and agreement of the Parties on all the provisions and text of the Agreement. Each Party acknowledges that it has acted honestly during the time of negotiations on the Agreement.

XIX. ANNEXES TO THE AGREEMENT

- 1 Tender Conditions**
- 2 The Offer**
- 3 The Monitoring and Deduction Mechanism**
- 4 The Matrix Distribution of Risk among the Parties**
- 5 The Pre-conditions of Entry into Force of the Agreement**
- 6 Lease Agreements**
- 7 The List of Compulsory Insurance Agreements Conclusions**
- 8 The List of Associated Companies**
- 9 The Requirements for the Property Restitution**
- 10 The Direct Agreement**

Signatures of the Parties' representatives:

on behalf of: *[Position, name, surname]*

[The Awarding Authority]

signature

[If any on behalf of [Transferor] *[Position, name, surname]*

signature]

on behalf of: *[the* *[Position, name, surname]*
Concessionaire]

signature

on behalf of *[the Investor]* *[Position, name, surname]*

signature

Annex 1 to the Agreement

TENDER CONDITIONS

[Attach Tender Conditions]

Annex 2 to the Agreement

THE OFFER

[Attach the Offer, submitted by the Concessionaire]

Annex 3 to the Agreement

THE MONITORING AND DEDUCTION MECHANISM

[Attach the Monitoring and Deduction Mechanism]

Annex 4 to the Agreement

THE MATRIX OF RISK DISTRIBUTION AMONG THE PARTIES

[Attach the matrix of risk distribution among the Parties]

Annex 5 to the Agreement

PRECONDITIONS OF ENTRY INTO FORCE OF THE AGREEMENT

The Parties shall take all the necessary measures to ensure the smooth transfer of the Assigned Property, guarantee of obligations fulfilment according to the Agreement and the receipt of the necessary permits and licenses, including:

1. *[if applicable the conclusion and entry into force in their full scope of the agreements on the equipment procurement and the provision of services with the Subcontractors, indicated in the Proposal;]*
2. *[if applicable The receipt of the permit for concentration from the Competition Council;]*
3. The receipt of consents of third parties on the conclusion of Lease Agreements related to them;
4. The conclusion of agreements with Funders;
5. The receipt and / or renewal of the necessary permits, licenses and certificates on behalf of the Concessionaire;
6. The conclusion of Insurance agreements, provided in Paragraph 0 of the Agreement;
7. The conclusion of lease agreements;
8. *[if applicable The conclusion of land lease agreement;]*
9. [...].

Annex 6 to the Agreement

LEASE AGREEMENTS

The Assigned Property shall be transferred to the Concessionaire by the following agreements:

1. *[Indicate the names of the agreements, by which the Awarding Authority or the Transferor's property is transferred to the Concessionaire];*
2. [...].

[If together with the Assigned Property, the rights and obligations are transferred according to the related agreements to that property Together with these agreements, the rights and obligations are transferred to the Concessionaire according to the following agreements:

1. *[Indicate the names of the agreements, according to which the rights and obligations, related to the Assigned Property, are transferred to the Concessionaire];*
2. [...].

Agreements are attached to this annex.

[Attach Lease Agreements.]

Annex 7 to the Agreement

THE LIST OF COMPULSORY INSURANCE AGREEMENTS

The Concessionaire must conclude and have during all the validity time the following valid insurance agreements:

1. Not later than before *[state the time period, recommended period – 5 (five) Business days]* until the commencement of the Provision of the Services – to insure its **civil liability for all risks**, which can arise due to any activity, which is performed by the Concessionaire according to this Agreement, for not less than *[indicate the amount]* euros for one insured event for the insured amount. This insurance must continuously be valid until the termination of the Agreement validity and also to cover these damages, which can arise due to the provision of the services of the Subcontractors or other third parties, providing the services;
2. Not later than before *[state the time period, recommended period – 5 (five) Business days]* until the commencement of the Provision of the Services – to insure the Property and all the long-term material property that it contains, **by maximum insurance of property restitution value** from all possible risk events, in any case, not less than *[specify the amount]* value insurance amount. This insurance must be valid until the Agreement validity termination.

Annex 8 to the Agreement

THE LIST OF ASSOCIATED COMPANIES

Associated companies:	Associated relationships:
1.	
2.	
3.	
4.	
5.	

(Position of authorized person)

(Signature)

(Name and surname)

Annex 9 to the Agreement

REQUIREMENTS FOR THE PROPERTY RESTITUTION

[Attach requirements for the property restitution]

Annex 10 to the Agreement