



**NOTICE OF AUCTION No. 01/2018**  
**CONCESSION TO EXPAND, MAINTAIN AND OPERATE THE AIRPORTS BELONGING TO THE NORTHEAST,  
MIDWEST AND SOUTHEAST BLOCKS**

**AUCTION No. 01/2018**

**ATTACHMENT12**

**MODEL FOR THE CONFIDENTIALITY AGREEMENT BETWEEN THE  
BIDDER AND FINANCIAL INSTITUTION**

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**CONCESSION TO EXPAND, MAINTAIN AND OPERATE THE AIRPORTS BELONGING TO THE NORTHEAST,  
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**Model – Confidentiality Agreement between the Bidder and the Financial Institution**

[City], [•][•],20\_\_

The National Civil Aviation Agency - ANAC  
Setor Comercial Sul, Quadra 09, Lote C Ed.  
Parque da Cidade Corporate - Torre A CEP  
70308-200 - Brasília/DF – Brazil

**1. Definitions**

- 1.1. The written terms will have, for the purposes of interpreting this Confidentiality Agreement, the same definitions contained in the Notice.
- 1.2. The terms below shall have the following definitions for purposes of interpretation of this Confidentiality Agreement:
  - 1.2.1. Institution: is the *[name and qualification of the financial institution]*;
  - 1.2.2. Representative(s): are the (i) administrators and employees of the Institution or its subsidiaries or affiliates; and (ii) any other persons who, through the Institution, have access to the Information solely for the purpose of assessing the economic feasibility and workability of the Bidder's business plan;
  - 1.2.3. Information: is the information provided by the Bidder to the Institution for the issuance of a letter attesting to the economic feasibility and workability of the Bidder's Business Plan according to item 4.28 of the Notice. The term 'information' does not include public information, thus considering those that:
    - a) Were public domain at the time of its disclosure to the Institution;
    - b) Have become public domain after their disclosure to the Institution, provided that such disclosure has not been made by the Institution, its Representative(s) or by another participant who has had access to the Information;
    - c) Already belonged to the Institution's archives, on a non-confidential basis, or that were independently developed by the Institution, as the case may be, prior to its being made available by the Bidder to the Institution or its Representative(s); or
    - d) Have become available to the Institution on non-confidential basis by sources other than the Bidder, provided that such sources are not prohibited from transmitting the Information to the Institution.

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**2. Obligations of the Institution**

**2.1. Confidentiality**

2.1.1. The Institution and its Representative(s) undertake to keep the Information confidential, not transmitting or disclosing it to third parties that are not its Representative(s).

2.1.2. The obligation to maintain confidentiality includes:

- a) Not using the Information for any purpose other than those related to the Bidder's participation in the bid;
- b) Not discussing the Information with third parties, other than the Representative(s);
- c) Not using, disclosing, revealing in any way, or otherwise disposing the Information, other than to evaluate the Bidder's participation in the bid, and also taking appropriate care and precautions to prevent misuse by any Representative(s); and
- d) Safeguard and keep confidential all copies, reproductions, summaries, analyses or releases concerning or based on the Information, and must return them to the Bidder within 15 (fifteen) days of their request.

2.1.3. Any Information that may be withheld by the Institution shall remain subject to the provisions of this Confidentiality Agreement.

2.1.4. The Institution shall inform the Bidder promptly and prior to any disclosure of any administrative or judicial determination, arising from an autarchy or other regulatory agency, that requires the disclosure of the Information, albeit partially.

**2.2. Other Obligations Related to the Information**

2.2.1. The Institution and any of its Representative(s), as of the date of receipt of this Confidentiality Agreement by the Proponent, and until the date of delivery of the Economic Proposal, are obliged to:

- a) Not issue in favor of another Bidder(s) the letter attesting to the economic viability and workability of the Bidder's Business Plan, according to item 4.28 of the Notice; and
- b) Refrain from the practice of any other act that may result, directly or indirectly, in the improper use of the Information.

**2.3. Liability**

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2.3.1. The Institution that, by itself or its Representative(s), has violated the obligations set forth in this Confidentiality Agreement, undertakes to indemnify and reimburse the Granting Authority and the Bidder for the losses, damages and costs incurred, arising from said breach, without any limitation.

**3. General Provisions**

- 3.1. The Institution and any of its Representative(s) are exempt from any legal obligation or responsibility regarding the bid, except for the obligations assumed in this Confidentiality Agreement.
- 3.2. The non-exercise of the rights ensured herein will not result in its waiver, being considered as mere tolerance for all legal effects.
- 3.3. This Confidentiality Agreement is governed by Brazilian law.
- 3.4. Except for the obligations set forth in clause 2.2, the obligations provided in this Confidentiality Agreement shall be in force for a period of two (2) years, counted from the date of its signature.
- 3.5. *[In case the INSTITUTION is a legal entity with headquarters abroad, it shall appoint and constitute as its power of attorney [name and full qualification], with specific powers to receive citations and subpoenas, pursuant to article 238 et seq. of the Brazilian Civil Procedural Code].*
- 3.6. The District Court of the Federal District is hereby elected as the sole authority to resolve any matters related to the terms of this Agreement, and the Institution, its Representative(s) and the Bidder hereby renounce any other, no matter how privileged.
- 3.7. This Confidentiality Agreement translates the Institution's understanding regarding the confidentiality of the Information and no amendments to this Confidentiality Agreement or waiver of the terms and conditions agreed herein, shall oblige the Institution or the Bidder, unless such amendments and waivers are approved, in writing, by each of the parties and by the Granting Authority.

\_\_\_\_\_  
BIDDER

[Legal Representative(s)]

\_\_\_\_\_  
[INSTITUTION]

[Legal Representative(s)]

Witnesses:

\_\_\_\_\_  
Name:

ID No.:

\_\_\_\_\_  
Name:

ID No.: