

**Award of a works concession on the object
"Civil Airport for public use Sofia" – public state property**

DATA ROOM RULES

1. GENERAL

- 1.1** This document sets out the rules (the "**Data Room Rules**") controlling the use of the (i) physical data room (the "**PDR**") and of the (ii) electronic (virtual) data room (the "**VDR**") (together the "**Data Room**") in the context of the open tender procedure (the "**Tender**") with respect to the grant of a works concession on the object "Civil Airport for public use Sofia" – public state property ("**Sofia Airport**") (the "**Project**"). The Project aims at granting the proposed concession (the "**Concession**"). Unless defined herein, the capitalised terms used in these Rules shall have the meaning given to them in the Tender Documents. The Tender Documents shall prevail over the Data Room Rules in case of doubt.
- 1.2** The Data Room Rules are made available to the Users (as defined below) on the Project Website (www.conssesion-sof.bg) as well as in the physical section. In offering access to the Data Room during the Tender the Minister of Transport, Information Technology and Communications ("**MTITC**"), through the Commission appointed by him to conduct the Tender, is making available (i) a physical venue as well as (ii) a facility which allows access, via the Project Website, to certain non-public and sensitive information relating to the Project (the "**Information**") to Economic Operators who are interested in participating in the Tender, the Bidders, their representatives and/or advisors. In consideration of the use of the Data Room, the Bidders, their Affiliated Persons (as defined below in Clause 1.9), advisors and the natural persons accessing the Data Room on their respective behalf (each such legal entity or natural person, a "**User**") agree to be bound by the Data Room Rules and the Confidentiality Undertaking to be signed by the User in advance ("**Confidentiality Undertaking**"). The Data Room Rules apply to each and every occasion on which a respective section of the Data Room is accessed by a User.
- 1.3** All Information contained in the Data Room is confidential and subject to these Data Room Rules. The "PDR" contains paper copies of information and documentation provided by the Commission, which the Grantor considers to be sensitive information and for which no electronic copies will be available to the Economic Operators in the "VDR". Lists of the documents and information included in each of the two sections of the Data Room shall be provided on the Project Website.
- 1.4** Users may not access the Data Room without having executed these Data Room Rules in electronic copy or by hard copy.
- 1.5** **If you have not executed the Data Room Rules or the Confidentiality Undertaking or you have obtained access to any section of the Data Room in error, you are not permitted to access any Information contained in the Data Room. If for whatever reason, you have unauthorised access to the Data Room, you must immediately notify the Data Room Coordinators (as defined below in Clause 2.3).**

- 1.6 No Information made available via the Data Room shall constitute an offer to grant, or an invitation to offer or tender, any concession or contracts or form the basis of any contract.
- 1.7 Unless otherwise agreed, any concession agreement relating to Sofia Airport shall provide that the Information shall be deemed to be disclosed against any warranties contained in such concession agreement.
- 1.8 The Information is confidential and proprietary and constitutes Confidential Information (as defined in the Confidentiality Undertaking) and will be made available to any User subject to the terms and conditions of these Data Room Rules and the Confidentiality Undertaking and must be used solely for the purpose of the Project. Do not enter the Data Room if you do not wish to receive such Information. By executing a copy of these Data Room Rules, you accept and agree to be bound by the terms and conditions set out herein. If you do not agree to the Data Room Rules, you may not access or use a Data Room.
- 1.9 "**Affiliated Person(s)**" means, with respect to an Economic Operator or a Bidder, such Economic Operator's or Bidder's Permitted Disclosee(s) (as defined in the Confidentiality Undertaking), and with respect to MTITC or its advisors or agents, any of their respective directors, officers or employees, or any member of their respective group, as applicable.

2. VDR ORGANISATION AND MAINTENANCE

- 2.1 The Bidder must complete *Schedule 1* providing the requested details for each User, who shall be granted access exclusively to a Data Room on the Bidder's behalf.
- 2.2 The Data Room is managed and supported by MTITC. MTITC, in its sole and absolute discretion, will make the Data Room available to registered Users and for a period of time as specified in the Tender Documents, and reserves the right, at any moment, to change, and/or include new information into the Data Room. By executing these Data Room Rules each User agrees to be bound by the Data Room Rules, as they may be amended from time to time, and shall procure the compliance with the Data Room Rules of any individual person for whom access to a Data Room is being requested on its behalf.
- 2.3 All questions and requests in connection with the Data Room Rules should be directed to the Data Room coordinators (the "**Data Room Coordinators**") at the following e-mail address: *questions@concession-sof.bg*.

3. PROTECTED INFORMATION AND CONFIDENTIALITY

- 3.1 Protected Information subject to data protection legislation: Each User acknowledges that the Data Room contains Information relating to the relationship between MTITC, Sofia Airport EAD and its respective debtors, business partners, employees and other relevant parties or the Sofia Airport ("**Protected Information**") and that such Information is subject to Bulgarian data protection laws (as applicable). Such laws, rules and regulations restrict the disclosure of the Protected Information and any violation may give rise to civil law and/or criminal law claims against the User thereof.

- 3.2** MTITC reserves the right to blacken, remove, change or otherwise limit the possibility to review any of the files at its sole discretion.
- 3.3** The User undertakes to conduct its review and evaluation in compliance with the relevant applicable laws and regulations.

4. NO REPRESENTATION OR LIABILITY

- 4.1** Neither MTITC nor any of the MTITC's Affiliated Persons or advisors (including but not limited to third parties that have provided external valuation reports) or agents or their Affiliated Persons (i) make any representation or warranty, express or implied, or assume any responsibility, in relation to the adequacy, accuracy, correctness, completeness or reliability of any of the Information in the Data Room, in particular (external) valuation reports, or the assumptions on which it is based (save as may be expressly agreed in an executed concession agreement entered into between the MTITC and a Bidder relating to the Project); (ii) shall be under any obligation to update or correct any inaccuracy in the Information contained in the Data Room; or (iii) shall be otherwise liable to a User in respect of the Information contained in the Data Room.
- 4.2** In particular and without prejudice to the foregoing, neither the MTITC nor any of the MTITC's Affiliated Persons or advisors or agents or their Affiliated Persons make any representation that the Information is (i) indicative of future outcomes or successful attainment of projections, and Bidders should carefully assess the uncertainty associated with any proposed investment with all usual commercial due diligence as would be expected in any risk assessment carried out in the ordinary course of business, or (ii) appropriate or available for use in other locations or that access to it through such locations is not illegal or prohibited. Users who choose to access the VDR from other locations do so on their own initiative and are responsible for establishing the legality, usability and correctness of any Information under any or all jurisdictions and the compliance of the Information with local laws, if and to the extent local laws are applicable. The Information is not intended for distribution to, or use by, any person or entity in any jurisdiction or country where such distribution or use would be contrary to law or regulation or which would subject the MTITC to any registration or other requirement within such jurisdiction or country.
- 4.3** Neither the MTITC nor any of the MTITC's Affiliated Persons or advisors or agents or their Affiliated Persons shall be liable for any damage as a result of loss or interruption to any User's access to the Data Room or of a temporary unavailability of the Data Room, or shall have any liability to any User for any loss, damage, costs, expenses or other claims for compensation arising from any incomplete, incorrect, inaccurate, illegible instructions, support or training supplied by them or any party acting on their behalf in the instruction, support or training of use of the Data Room.
- 4.4** In the event a document contained in the Data Room is translated, neither the MTITC nor any of the MTITC's Affiliated Persons or advisors or agents or their Affiliated Persons accept responsibility or liability for inaccuracies or misrepresentations arising out of the translation of such document(s). In the event of any ambiguity, the User is advised to commission an appropriate translation if the original language version of the document is contained in the Data Room.

- 4.5** Where Information is displayed in the Data Room as of a particular date (in each case, a "**Cut Off Date**") material changes to Sofia Airport may have occurred since the respective Cut Off Date. In accordance with paragraph 4.1 (iii), neither the MTITC nor any of the MTITC's Affiliated Persons or advisors or agents or their Affiliated Persons have a duty to update, revise or amend Information available in the Data Room in any way.
- 4.6** Neither the MTITC nor any of the MTITC's Affiliated Persons or advisors or agents or their Affiliated Persons shall be liable for any false, inaccurate, inappropriate or incomplete Information presented in or relating to the Data Room, and any decisions based on the Information contained therein are the sole responsibility of the User.
- 4.7** Bidders should with the assistance of their advisors conduct their own independent investigation, verification, analysis and appraisal of the Sofia Airport and the Information. When evaluating the Sofia Airport and formulating possible offers, Bidders must rely exclusively on their own and their respective advisors' judgment and evaluation of the Information as well as their independent review and findings.
- 4.8** Neither the MTITC nor any of the MTITC's Affiliated Persons or advisors or agents or their Affiliated Persons, shall have any responsibility whatsoever for the contents or the accuracy or completeness of the Data Room and the Information and shall not be held liable, in contract, in tort or otherwise, for any claims, including, but not limited to, claims of negligence, by any User to which a Data Room has been made available. Neither the MTITC nor any of the MTITC's Affiliated Persons or advisors or agents or their Affiliated Persons shall be liable for any direct, indirect or consequential loss or damage suffered by any person as a result of relying on any statement in, or omission from, the Data Room or on any communications relating to the Data Room.
- 4.9** The Information does not constitute an opinion (legal or otherwise) or a due diligence report (except as explicitly noted in the relevant case and in any event without reliance on the part of the Bidders and their respective advisors), nor legal, technical or financial advice. The Information disclosed in the Data Room relating to the Sofia Airport has not been verified, checked against and/or compared with all or most recent data contained in relevant public registers, including (but not limited to) the land book register, the company and commercial register. There may exist additional legal, financial or other documentation and/or Information pertaining to the Sofia Airport which has not been included in the VDR.

5. USING THE DATA ROOM

5.1 When using the VDR, each User shall:

5.1.1 Comply with the following rules,

- 5.1.1.1 not share his/her username and or password with others;

- 5.1.1.2 not leave his/her computer or other communication devices through which he/she accesses the service unattended;
 - 5.1.1.3 not access the VDR via an insecure access point, such as internet cafés or other public access points;
 - 5.1.1.4 ensure that he/she logs out of the VDR when he/she has finished using it; and
 - 5.1.1.5 not attempt to disable the protection software associated with the VDR
- 5.1.2 not share the Information with any other person except in accordance with these Data Room Rules or as expressly permitted by the MTITC;
- 5.1.3 take all reasonable steps to ensure that none of the Information is visible to, or may be viewed by, other persons, except if expressly permitted by the MTITC; and
- 5.1.4 not take any photos, screenshots or copies from the Data Room unless it is permitted in accordance with paragraph 5.4 of these Rules;
- 5.2** With respect to the PDR the following rules shall be followed:
- 5.2.1. The documents available in the PDR may be reviewed each Business Day between 10.00 and 12.00 and between 14.00 and 17.00 in the main building of the Ministry, room 1006B;
 - 5.2.2. In order to be allowed to review the documents, the person shall present a personal identification document and a document evidencing which interested person he/she represents and in what capacity;
 - 5.2.3. The person shall sign a Confidentiality Undertaking, which shall be provided to him/her on the spot;
 - 5.2.4. A Ministry's officer nominated by the Commission shall record the data of the person (excluding personal data) in a special registry. The time during which the person has reviewed the documents will also be recorded in such registry. The data recorded in the registry will be verified by the signatures of the person reviewing the documents and by the Ministry's officer.
 - 5.2.5. Each interested person may send more than one representative to review the documents, as many times as it deems necessary.
- 5.3** Access to individual workspaces and folders within the Data Room and especially within the VDR will be provided to registered Users only as reflected in the relevant table of the User's List (attached hereto as *Schedule 1*).
- 5.4** In the event that a User gains access (howsoever such access is gained) to areas of the Data Room or Information contained in the Data Room to which he/she knows or suspects that he/she should not have access, he/she must immediately exit such area, close any such document containing any such Information and erase it and all notes relating thereto, and inform the Data Room Coordinators accordingly. In addition, the

User shall not disclose the fact of the disclosure nor the Information gained therein to any other person save where required to do so by order of a court or other competent tribunal.

- 5.5** The possibility of downloading, printing or copying of documents depends on the security level with which the respective document is classified and may be disabled entirely. Security levels will be defined by the MTITC.
- 5.6** Users shall not post any Information or material to the Data Room or create links from the Data Room, especially the VDR, to any Information or material that does or may infringe any third party's intellectual property rights.
- 5.7** A decision to install plug-ins, upgrades or any other software is taken entirely at the User's own risk. No liability for any consequential events will attach to the MTITC nor any of the MTITC's Affiliated Persons or advisors or agents or their Affiliated Persons.
- 5.8** In any dispute as to whether the User has accessed or viewed the Data Room, especially the VDR, or downloaded, printed, uploaded Information in the VDR, as the case may be, or performed any other action or function as to or within the Data Room, especially the VDR, the logs maintained by or on behalf of the MTITC as to such action or function shall be deemed conclusive evidence of such action or function.

6. UPDATING THE DATA ROOM

Information may be added to or deleted from the Data Room and existing Information in the Data Room may be updated at any time. It is the responsibility of each User to check the Data Room for updates.

7. QUESTIONS AND FURTHER INFORMATION REQUESTS

- 7.1** Questions during the Tender on the contents of the Data Room or requests for further Information will be accepted within the time limits provided in Clause 5 of the Tender Documents. Questions can be asked in English and Bulgarian and to the extent applicable including the index of the relevant document in the Data Room to which the question is addressed.
- 7.2** All notices and other queries under or in connection with these Data Room Rules or the Information shall be directed to the following email address: questions@concession-sof.bg.

8. USER INDEMNIFICATION

Each User shall be liable to the MTITC for, and agrees to indemnify, defend and hold harmless the MTITC and its Affiliated Persons, advisors, agents, licensors and third party service providers and their Affiliated Persons from and against, any and all suits, losses, claims, demands, liabilities, damages, costs and expenses (including reasonable attorneys' fees) that arise from or relate to: (i) use of the Data Room by the User or, in case of a User being a legal entity, by such User's Affiliated Persons and all natural persons accessing the Data Room on such User's behalf; (ii) breach of these Data Room Rules or any representation, warranty or covenant made herein by the User and, in case of a User being a legal entity, by such User's Affiliated Persons and all natural persons acting on such User's behalf; (iii) any violation of any applicable law, statute, ordinance,

regulation or of any third party's rights by the User and, in case of a User being a legal entity, by such User's Affiliated Persons and all natural persons acting on such User's behalf; or (iv) claims asserted by third parties which, if proven, would place the User or, in case of a User being a legal entity, any of such User's Affiliated Persons or natural persons acting on such User's behalf, in breach of representations, warranties, covenants or other provisions contained in these Data Room Rules.

9. MISCELLANEOUS

- 9.1** Each of the Bidder, its advisors and its Affiliated Persons undertake to submit these Data Room Rules to each User prior to the first use or login to the Data Room and shall ensure that all such Users: (i) are aware of the content of these Data Room Rules and (ii) have agreed to be bound by such terms.
- 9.2** No omission to exercise, or delay in exercising, of any right, power or remedy provided by law or under these Data Room Rules shall constitute a waiver or impairment of such right, power or remedy. No single or partial exercise of any right, power or remedy shall preclude or impair any other or further exercise thereof or the exercise of any other right, power or remedy provided by law or by these Data Room Rules.
- 9.3** Each User confirms that any and all obligations imposed on the User by such means as, without limitation, law, statute, regulation, stock exchange or regulatory body shall remain the sole responsibility of the User.
- 9.4** If, at any time, any provision of these Data Room Rules is or becomes invalid, illegal or unenforceable in any respect under any law of any jurisdiction, neither the validity, legality or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired. The same applies to potential omissions in these Data Room Rules.
- 9.5** Save for the Confidentiality Undertaking, these Data Room Rules constitute the entire understanding, and supersede all other understandings, between the User and the MTITC concerning the Data Room. In cases of inconsistencies between these Data Room Rules and the Confidentiality Undertaking, the provisions of the Data Room Rules shall prevail (except where the Confidentiality Undertaking sets forth stricter rules than the Data Room Rules, in which case such stricter rules in the Confidentiality Undertaking shall apply).
- 9.6** These Data Room Rules are governed by and construed under the laws of Bulgaria without regard to its choice of law rules. Any action brought hereunder shall be brought exclusively in the courts in Bulgaria and it is agreed that such courts shall have jurisdiction over the parties to these Data Room Rules and any dispute arising hereunder.
- 9.7** The MTITC may assign any of its obligations under these Data Room Rules, in whole or in part, at any time without any User's consent. No User may assign or delegate its obligations under these Data Room Rules. Any purported assignment by a User of these Data Room Rules or the obligations created hereby in violation of its terms is void.

9.8 The MTITC has the right but not the obligation to monitor and record activity on the Project Website and specifically in VDR, and to respond as it deems appropriate.

10. ELECTRONIC DELIVERY

10.1 The MTITC may electronically deliver Information. Electronic communication by the MTITC includes e-mail delivery as well as electronically making available Information via the VDR. Any Information delivered by or on behalf of the MTITC in response to a request in accordance with clause **Error! Reference source not found.**, regardless whether it is made available in the Data Room, especially the VDR or provided via e-mail, shall constitute Information and be subject to these Data Room Rules.

10.2 Information and other materials delivered electronically may be formatted in Adobe Acrobat's portable document format ("**PDF**"), hypertext mark-up language ("**HTML**") or other file formats the MTITC deems appropriate. Each User is responsible for having any necessary hardware, software or other technology to access the electronic communications and any Information sent electronically.

10.3 The User should note that no additional charge for electronic delivery will be assessed, but the User may incur charges from its internet service provider or other internet access provider. In addition, there are risks, such as systems outages, that are associated with electronic delivery.

11. SIGNATURE

11.1 Each User should read these Data Room Rules carefully and understand them before agreeing to them.

11.2 By executing these Data Room Rules below the User agrees to be legally bound by, and act in accordance with, these Data Room Rules and shall procure the compliance with the Data Room Rules of any individual person for whom access to a Data Room is being requested on its behalf.

11.3 Each User is required to execute this document either by signing a hard copy in the physical section of the Data Room or by completing a registration on the VDR, and deliver one signed copy to the MTITC, accompanied by a duly completed list mentioning each individual person for whom they are requesting access to the Data Room, before their respective users will be granted access to the Data Room.

ACCEPTANCE

We have read and agree to be bound by the Data Room Rules and agree to procure that each User whom we have requested be given access to the Data Room shall also have read and agreed to be bound by these Data Room Rules.

Signed:.....

By: [●]

For and on behalf of [●]

[Date]

SCHEDULE 1

Users' List

Date: [●]

Firm	Name	Position	E-mail	Investor / Advisor