

**Project Development Agreement for
Integrated Development of No Frill Airstrip & Provision of Airline Connectivity at
[Chikkamagaluru/Shimoga], Karnataka on Design, Finance, Build, Operate and
Transfer (DFBOT) Framework**

Between

Governor of Karnataka

And

[Name of the Developer]

February 2019

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PROJECT DEVELOPMENT AGREEMENT

THIS AGREEMENT is made in Bengaluru on [Date] BETWEEN:

GOVERNOR OF KARNATAKA, acting through _____, Deputy Commissioner, Chikkamagaluru/Shimoga (hereinafter referred to as "**Authority**") which expression shall, unless it be repugnant to the context or meaning thereof, include its successors-in-interest and assigns) of **One Part**; and

AND

[NAME OF THE SPV], a company incorporated with limited liability under the Indian Companies Act, 2013, having its registered office at _____ through its _____ (hereinafter referred to as "**[NAME OF THE SPV]**") which expression shall include its successors-in-interest and permitted assigns) of the **Other Part**.

(Each of the parties of the FIRST and SECOND Parts are hereinafter, as the context may admit or require, individually referred to as a "**Party**" and collectively as the "**Parties**").

WHEREAS:

- A. Government of Karnataka ("**GoK**"), in order to bridge gap between the potential growth centers and urban centers and to boost the economy and overall development of the State, has taken up many initiatives. One amongst them being development of airstrips at various districts within the State. By improving the air-connectivity within the State, the GoK intends to promote balanced regional growth across the state and thereby provide fillip to the economic development. Considering this, GoK has identified and mandated KSIIDC as a nodal agency to undertake, co-ordinate and implement airstrips development in Karnataka. In this regard, KSIIDC has decided to set up no-frill Airstrip in Chikkamagaluru/Shimoga district through Public Private Participation ("**PPP**") model on Design, Finance, Build, Operate and Transfer ("**DFBOT**") basis (**the "Project"**).
- B. KSIIDC had accordingly invited proposals by its Request for Proposal No. *** dated *** (**the "Request for Proposal" or "RFP"**) for selection of bidder for implementation of the Project.
- C. After evaluation of the bids received, KSIIDC had accepted the bid of {the selected bidder/ consortium comprising _____, _____ and _____ (collectively the "**Consortium**") with as its lead member (the "**Lead Member**")} and issued its Letter of Award No.dated.....(the "**LOA**") to the {**selected bidder/ Consortium** requiring, inter alia, the execution of this Project Development Agreement within 45 (forty five) days of the date of issue thereof.
- D. {The selected bidder/ Consortium has since promoted and incorporated [NAME OF THE SPV] as a limited liability company under the Companies Act 2013, and has requested the

Authority/KSIIDC to accept [NAME OF THE SPV] as the entity which shall undertake and perform the obligations and exercise the rights of the selected bidder/ Consortium under the LOA, including the obligation to enter into this Project Development Agreement pursuant to the LOA for executing the Project.

- E. By its letter dated _____ [NAME OF THE SPV] has also joined in the said request of the {selected bidder/ Consortium} to the Authority to accept it as the entity which shall undertake and perform the obligations and exercise the rights of the selected bidder/ Consortium including the obligation to enter into this Project Development Agreement pursuant to the LOA. The [Name of SPV] has further represented to the effect that it has been promoted by the selected bidder/ Consortium for the purposes hereof.
- F. The Government has agreed to the said request of the {selected bidder/ Consortium and} [NAME OF THE SPV], and has accordingly agreed to enter into this Project Development Agreement with [NAME OF THE SPV] for execution of the Project on DFBOT basis, subject to and on the terms and conditions set forth hereinafter.
- G. The Authority acknowledges that, as on this day, the Successful Bidder has submitted an irrevocable bank guarantee for a value of Rs _____/- (Rs.) as Performance Security.
- H. In the context of a Project being undertaken through a PPP framework, it is critical that the terms and conditions upon which the Project will be implemented are set out and therefore the Parties are entering into this Project Development Agreement to reflect the terms and conditions.

NOW IT IS HERE BY AGREED as follows:

Part I:
Definitions and Interpretation

ARTICLE 1

1 Definitions and Interpretation

1.1 Definitions

In this Agreement, except to the extent that the context otherwise requires:

“AAI” means the Airports Authority of India.

“AAI Act” means the Airports Authority of India Act 1994.

“Accounting Year” means the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year;

“Aero Activities” means the provision, at or in relation to the Airstrip, of the activities set out at Schedule 3 Part I, provided that any activities that are not materially similar to those contemplated in Schedule 3 Part I, shall require the mutual agreement of the Parties.

“Affected Party” shall have the meaning set forth in Article 17.1.

“Agreement “or “Project Development Agreement” means this Agreement, its recitals, the schedules, attachments hereto and any amendment thereto made in accordance with the provisions contained in this Agreement;

“Airstrip” means the green-field Airstrip comprising the Initial Phase, to be constructed and operated by [NAME OF THE SPV] at Chikkamagaluru district in the State of Karnataka and includes all its buildings, equipment, facilities and systems and including, where the circumstances so require, any Expansion thereof, as per the Master Plan to be annexed hereto as Attachment-1.

“Applicable Permits” means all clearances, licenses, permits, authorisations, no objection certificates, consents, approvals and exemptions required to be obtained or maintained under the Applicable laws in connection with the development, operation and maintenance of the Project during the subsistence of this Agreement;

“Appointed Date” means the date of signing of this Agreement;

“Airstrip Opening” means the commencement of the commercial operation of the Initial Phase.

“Airstrip Opening Date” means a date upon which Airstrip Opening occurs.

“Airstrip Opening Target Date” means the date falling twelve (12) months immediately after the Effective Date.

“Applicable Laws” means all laws, brought in to force and effect by GoI, State Government including rules, regulations and notifications made thereunder and judgements, decrees, injunctions, writs and orders of any court of record, applicable to this Agreement and the exercise, performance and discharge of the respective rights and obligation of the Parties hereunder, as may be in force and effect during the subsistence of this Agreement.

“Associate” means in relation to either Party, a company who controls, is controlled by or is under the common control with such Party (as used in this definition). The expression “control” means with respect to a company, the ownership, directly or indirectly, of more than 50% (fifty percent) of the voting shares of such company.

“Approvals” means all authorisations, consents, approvals, notifications and permissions and any license, permit, ruling, exemption or other authorization of whatsoever nature which is required to be granted by, or any registration or filing with, any authority under Applicable Law for or in respect of this Agreement including for performance of any obligation or exercise of any right by a Party herein but excluding a Clearance.

“BCAS” means the Bureau of Civil Aviation Security.

“Bid” means the documents in their entirety comprised in the bid submitted by the {Selected Bidder/Consortium} in response to the Request for Proposals and in accordance with the provisions thereof;

“Bid Security” means the security provided by {Selected Bidder/Consortium} to KSIIDC along with a Bid in a sum of Rs. _____/- (Rupees) in accordance with the Request of Proposal which remains in force until substituted by the Performance Security.

“Consortium” shall have the meaning set forth in Recital (C);

“Consortium Member” means a company specified in Recital (C) as a member of the Consortium;

“Chicago Convention” means the Chicago Convention 1944, as amended and/or supplemented from time to time; and references to an **“Annex”** to the Chicago Convention shall mean such Annex as amended and/or supplemented from time to time.

“Clearance” means the written consent, licence, approval, permit, ruling, exemption, no objection certificate or other authorisation or permission of whatsoever nature which is required to be obtained from and/or granted by GoI/ GoK required from time to time in connection with the Project, including those set out in Schedule 1 attached hereto.

“Cure Period” means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Party responsible for such breach or default and shall:

1. commence from the date on which the notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice;
2. not relieve any Party from liability to pay damages or compensation under the provisions of this Agreement; and
3. not in any way be extended by any period of suspension under this Agreement;

provided that if the cure of any breach by [NAME OF THE SPV] requires any reasonable actions by [NAME OF THE SPV] that must be approved by Relevant Authority.

"DGCA" means the Director General of Civil Aviation, Government of India.

"Dispute Resolution Procedure" means the procedure set out in Article 20.

"Domestic Airport" means an airport serving any commercially operated aircraft flying to the relevant airport from a point of origin, or flying from the relevant airport to a point of destination, both inside India.

"Effective Date" has the meaning set out in Article 4.5.

"Encumbrance" means, in relation to the Project, any encumbrance such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations, and shall include any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project, where applicable herein.

"Equity" means the sum expressed in Indian Rupees representing the paid up equity share capital of [NAME OF THE SPV] for meeting the equity component of the Project Cost, and for the purposes of this Agreement shall include convertible instruments or other similar forms of capital, which shall compulsorily convert into equity share capital of the Company, and any interest-free funds advanced by any shareholder of the Company for meeting such equity component;

"Expansion" means the expansion of the facilities at the Airstrip from time to time as per the Master Plan to be annexed hereto as Attachment-1.

"Fee" means the charge levied on and payable by a User for use of the Airstrip or a part thereof in accordance with this Agreement.

"Financial Close" means the fulfilment of all conditions precedent to the initial availability of funds under the Financing Agreements;

"Financing Agreements" means the Agreements executed by [NAME OF THE SPV] in respect of financial assistance to be provided by the Lenders by way of loans, guarantees, subscription to nonconvertible debentures and other debt instruments, security agreements and other documents relating to the financing (including refinancing) of the Project Cost.

"Financial Model" means the financial model adopted by Lenders, setting forth the capital and operating costs of the Project and revenues therefrom on the basis of which financial viability of the Project has been determined by the Lenders, and includes a description of the assumptions and parameters used for making calculations and projections therein;

"Financial Package" means the financing package indicating the total capital cost of the Project and the means of financing thereof, as set forth in the Financial Model and approved by the Lenders, and includes Equity, all financial assistance specified in the Financing Agreements and subordinated debt.

"Force Majeure" has the meaning set out in **Schedule 4**.

"GoI" means the Government of India or any of its duly authorized agency, authority, department, inspectorate, ministry or person (whether autonomous or not) under the direct control and direction of the Ministry of Civil Aviation.

"GoK" means the Government of the State of Karnataka or any of its duly authorized agency, authority, department, inspectorate, minister, ministry or person (whether autonomous or not) under the direct control and direction of GoK.

"Good Industry Practice" means the exercise of that degree of skill, diligence and prudence which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking and (in the case of [NAME OF THE SPV]) applying the standards generally adopted by Airstrip operators in the construction of the Airstrip adhering to the practices generally followed by such utilities (except as regards terms and conditions of employment of operating personnel) in the operation and maintenance of the Airstrip.

"Government Instrumentality" means any department, division or sub-division of the Government and includes any commission, board, authority, agency or municipal and other local authority or statutory body including panchayat under the control of GoI or GoK, as the case may be, and having jurisdiction over all or any part of the Project or the performance of all or any of the services or obligations of [NAME OF THE SPV] under or pursuant to this Agreement.

"Grant" shall have the meaning ascribed thereto in Clause 3.3;

"Independent Engineer" means the independent engineer appointed by the Lenders under the terms of the Financing Agreements.

"Independent Regulatory Authority" or **"IRA"** means the Airports Economic Regulatory Authority or any other regulatory authority set up or would be set up to regulate any aspect of Aero Activities set up (i) by way of an executive order provided the functioning of the IRA is not within the control of GoK, or (ii) by an Act of Parliament or an ordinance or any rules made there under.

"Initial Phase" means the design, financing, construction, completion and commissioning of the facilities described in **Schedule 2**.

“Leave and Licence Agreement” means the document and/or instrument to be entered into and registered pursuant to which GoK will grant to [NAME OF THE SPV] Right of way and licence in the Site. The draft Leave and License Agreement annexed hereto as Attachment 2.

“Lead Member” shall have the meaning set forth in Recital (C).

“Lenders” means the banks, financial institutions, multilateral lending agencies, trusts, funds and agents or trustees of debenture holders, including their successors and assignees, who have agreed to guarantee or provide finance to [NAME OF THE SPV] under any of the Financing Agreements for meeting all or any part of the Project Cost and who hold pari passu charge on the assets, rights, title and interests of [NAME OF THE SPV].

“Master Plan” means the master plan for the Airstrip prepared by [NAME OF THE SPV] and approved by the Relevant Authority.

“Material Adverse Effect” means a material adverse effect of any act or event on the ability of either Party to perform any of its obligations under and in accordance with the provisions of this Agreement and which act or event causes a material financial burden or loss to either Party.

“[NAME OF THE SPV] Default Event” shall have the meaning given to it in 17.3.1.

“Non-Aero Activities” means the provision, at or in relation to the Airstrip, of the services permitted under Schedule 3 Part 2.

“Party” means either the Authority or [NAME OF THE SPV] (as the context may require) and its successor and permitted assigns in terms of this Agreement and **“Parties”** shall be construed accordingly.

“Performance Security” shall have the meaning set forth in Article 9.1

“Person” includes (and as the context requires) any natural and/or juridical entity (including Gol/ /GoK/the Authority).

“Premium” shall have the meaning ascribed thereto in Clause 3.2;

“Project” or “Airstrip Project” means the design, financing, construction, completion, commissioning, maintenance, operation, management and development of the Airstrip including Non-Aero activities.

“Project Agreements” means collectively this Agreement, contracts for engineering, procurement, construction, operation, maintenance and any other agreements or contracts (other than Financing Agreements) entered into or may hereafter be entered into by [NAME OF THE SPV] in connection with matters relating to, arising out of or incidental the Project.

“Project Assets” means all physical and other assets relating to and forming part of the Site including:

- (a) rights over the Site in the form of license, right of way or otherwise;

- (b) tangible assets such as civil works and equipment including foundations embankments, pavements, interchanges, bridges, drainage works, electrical systems, communication systems, fee collection systems, rest areas, relief centres, maintenance depots and administrative offices;
- (c) project facilities situated on the Site;
- (d) building and immovable fixtures or structures forming part of Non Aero Activities;
- (e) all rights of [NAME OF THE SPV] under the Project Agreements;
- (f) financial assets, such as receivables, Security deposits etc.;
- (g) insurance proceeds; and
- (h) applicable Permits and authorisation relating to or in respect of the Project;

"Project Completion Schedule" means the progressive Project Milestones set forth in Schedule 10 for completion of the Airstrip on or before the Airstrip Opening Target Date.

"Project Cost" means the lowest of:

- a) the capital cost of the Project (excluding the cost incurred towards the Non-Aero Activities), less Grant as set forth in the Financial Package;
- b) the actual capital cost of the Project (excluding the cost incurred towards the Non-Aero Activities) upon completion of the Project less Grant; and
- c) a sum of Rs. 28.5 crore (Rupees Twenty Eight Crore and Fifty Lakhs Only) in case of Chikkamagaluru Airstrip or Rs. 31.17 crore (Rupees Thirty One Crore Seventeen Lakhs only) in case of Shivamogga Airstrip, less Grant

"Project Milestones" means the project milestones set forth in Schedule 10.

"Proposal Due Date" shall mean [Date].

"Relevant Authority" includes the GoI, GoK, the Authority, KSIIDC, AAI, DGCA, BCAS, Department of Immigration of the Ministry of Home Affairs, Department of Customs of the Ministry of Finance or any other subdivision or instrumentality thereof or any other authority empowered by the Applicable Laws.

"Right of Way" means the constructive possession of the Site, together with all way leaves, easements, unrestricted access and other rights of way, howsoever described, necessary for construction, operation and maintenance of the Airstrip and Non-Airport in accordance with this Agreement and Leave and License Agreement.

"Safety Requirement" shall have the meaning set forth in Article 13.

"Security" includes any mortgage, pledge, lien, security interest or other charge or encumbrance and any other agreement or arrangement having substantially the same economic effect.

“Service Provider Right” means any privilege, right, franchise, license or other right or sub-right granted by [NAME OF THE SPV] or by any Service Provider Right Holder pursuant to Article 3.1.

“Service Provider Right Holder” means any Person holding from time to time any Service Provider Right.

“Site” means the land measuring approximately [119 (one hundred nineteen) in case of Chikkamagaluru and 135 (one hundred thirty five) in case of Shivamogaa] acres in area more fully described in Attachment IA of this Agreement, on, under and over which the Airstrip is to be constructed.

“Specifications” means the specifications for the construction of the Airstrip as set forth in **Schedule 2**.

“Standards” means the performance standards for the operation and maintenance of the Airstrip as set out in **Schedule 7**.

“Successful Bidder” means [NAME OF THE SPV] Limited.

“Tax” or **“Taxes”** shall mean any and all taxes, levies, imposts, duties, charges, deductions or withholdings that are, or that are to be, imposed, levied, collected, withheld or assessed, together with any and all interest, penalties, claims or other liabilities arising under or relating thereto.

“Termination” means the expiry or Termination of this Agreement

“User” means a person who uses or intends to use the Airstrip or any part thereof on payment of Fee and includes an airline or a passenger using the Airstrip.

“Transfer Date” shall be the date on which [NAME OF THE SPV] transfers legal and beneficial ownership and hands over possession of the Airstrip to the Authority or its nominees in accordance with Article 17.5

“Works” means the works required for, or to be carried out or executed in or in relation to or in connection with, the design, construction, completion, commissioning and/or development of the Initial Phase and/or any Expansion.

1.2 Interpretation

In this Agreement, except to the extent that the context requires otherwise:

- 1.2.1 Any reference to an Act of Parliament or any Section of, or Schedule to, or other provision of, an Act of Parliament shall be construed, at the particular time, as including a reference to any modification, extension or re-enactment thereof then in force and to all rules, orders or regulations then in force and made under or deriving validity from the relevant Act or provision;

- 1.2.2 Reference to a “judgment” includes any order, injunction, determination, decree or other judicial or arbitral tribunal measure in the Indian jurisdiction which is final and binding;
- 1.2.3 A reference to a “law” includes common law, the Constitution of India and any decree, judgment, legislation, direction, order, ordinance, regulation, by-law, statute, Act, notification, circular, guideline, rule, statutory instrument or other legislative measure, with which [NAME OF THE SPV] is required to comply by law (and “lawful” and “unlawful” shall be construed accordingly);
- 1.2.4 References in the singular shall include references in the plural and vice versa;
- 1.2.5 A reference to a “day” means a calendar day;
- 1.2.6 References to any date, period or Project Milestone shall mean and include such date, period or Project Milestone as may be extended pursuant to this Agreement;
- 1.2.7 References to a particular Article, paragraph, sub-paragraph, Schedule or Attachment shall, except where the context otherwise requires, be a reference to that Article, paragraph, sub-paragraph, Schedule or Attachment in or to this Agreement;
- 1.2.8 The headings are inserted for convenience and are to be ignored for the purposes of construction;
- 1.2.9 Terms defined in the Schedules and Attachments hereto shall have the meanings ascribed thereto in the Schedules when used elsewhere in this Agreement;
- 1.2.10 The Schedules to this Agreement form part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;
- 1.2.11 Any reference to any agreement, deed, instrument, licence code or other document of any description shall be construed, at the particular time, as a reference to that agreement, deed, instrument, licence code or other document as the same may then have been amended, varied, supplemented, modified, suspended or novated;
- 1.2.12 The words “written” and “in writing” includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form with confirmation of the transmission;
- 1.2.13 The words “include” and “including” are to be construed without limitation; and shall be deemed to be followed “without limitation” or “but not limited to” whether or not they are followed by such phrases;

- 1.2.14 Reference to “ construction” include, unless the context otherwise requires, investigation, design, developing, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction, and “construct” shall be construed accordingly;
- 1.2.15 Reference to “development” include, unless the context otherwise requires, construction, renovation, refurbishment, augmentation, upgradation and other activities incidental thereto, and “develop” shall be construed accordingly;
- 1.2.16 In case of any ambiguity or discrepancy between the Articles and the Schedules, the Articles shall prevail.

Part II
Recognition of Rights

ARTICLE 2

2 Scope of the Project

2.1 Scope of the Project

The scope of the Project (the “**Scope of the Project**”) shall mean and include:

- a. The development and construction of the Airstrip on the Site in accordance with the provisions of this Agreement;
- b. The operation, maintenance and management of the Airstrip and performance of the Aero Activities and Non-Aero Activities in accordance with the provisions of this Agreement; and
- c. The performance and fulfilment of all other obligations of [NAME OF THE SPV] in accordance with the provisions of this Agreement and matters incidental thereto or necessary for the performance of any or all obligations of [NAME OF THE SPV] under this Agreement.

ARTICLE 3

3 Rights of Parties

3.1 Recognition of Rights

Subject to Applicable Laws and in accordance with the provisions of this Agreement, the Authority recognises that [NAME OF THE SPV] shall be entitled to carry out:

- a. Any activity or business related or ancillary to the activities, which [NAME OF THE SPV] considers desirable or appropriate to be carried on or engaged in connection for developing, maintaining, and operating the Airstrip (including any infrastructure service considered by [NAME OF THE SPV] to be reasonably necessary for such activities);
- b. Any activity or business in connection with or related to the arrival, departure and/or handling of aircraft, passengers, baggage, cargo and/or mail at the Airstrip; and
- c. Any activity or business in connection with or related to the development of the Site or operation of the Airstrip to generate revenues including the development of commercial ventures such as those mentioned in **Part 2 of Schedule 3**.

For the purpose of exercising its rights pursuant to this Article, [NAME OF THE SPV] may, subject to and in accordance with the terms of this Agreement, at any time, grant Service Provider Rights (including the right of the Service Provider Right Holders to grant sub-rights) to any Person, on such terms and conditions as [NAME OF THE SPV] may determine are reasonably appropriate. For avoidance of doubt, [NAME OF THE SPV] shall have the right to grant licences to Service Provider Right Holders for carrying out the activities under

this Agreement. The rights so granted to the Service Provider Right Holders shall be co terminus with this Agreement, shall be subject to the same being within the framework of this Agreement and not being contrary to the terms and conditions of this Agreement. Provided that, if and to the extent required by any Applicable Law related to security clearance in the interest of national security, such Service Provider Right Holders shall have obtained the necessary and requisite security clearance.

The grant by [NAME OF THE SPV] of a Service Provider Right shall not relieve [NAME OF THE SPV] of any of its responsibilities, duties and obligations under this Agreement.

3.2 Payment of Premium

The Parties agree that, [NAME OF THE SPV] shall, in consideration of recognition of rights pursuant to Article 3.1 pay Premium to the Authority of an amount of Rs _____¹/- (Rupees _____ only) per annum payable effective from the second anniversary of the Effective Date and the same shall be increased by one Percent (1%) every year during the remaining Term of this Agreement. The first payment in this regard shall be made on commencement of third anniversary of the Effective Date and the subsequent payment shall be made on annual basis thereafter during the term of this Agreement within the first week of the succeeding years. Any delay in the payment of Premium by [NAME OF THE SPV] shall attract the interest as set out in Clause 22.15.

3.3 Payment of Grant

The Authority agrees to provide to [Name of SPV], a project support by way of an outright grant equal to the sum set forth in the Financial Bid, namely, Rs. _____ (Rupees _____)² ["Grant"]. Grant shall be disbursed by the Authority during the Construction Period to meet the Project Cost.

The Grant shall be equal to the sum specified in the Bid and as accepted by the Authority.

Grant shall be due and payable to [Name of SPV] after it has expended the Equity, and shall be disbursed proportionately along with the loan funds to be disbursed by the Lenders under the Financing Agreements. The Authority shall disburse each tranche of the Grant as and when due, but not later than 15 (fifteen) days of receiving a request from the [Name of SPV] along with necessary particulars.

In the event of occurrence of a [Name of SPV] Event of Default, disbursement of Grant shall be suspended till such [Name of SPV] Event of Default has been cured by the [Name of SPV].

1 As quoted in the financial bid of the {selected bidder/Consortium}

2 As quoted in the financial bid of the {selected bidder/Consortium}

ARTICLE 4

4 Conditions Precedent

4.1 Conditions Precedent to Project

The provisions of this Agreement (other than those contained in Articles 1, 4, 18, 20 and 22 inclusive which are, accordingly, binding on the Parties as from the date of this Agreement) shall take effect and become binding on the Parties from the date upon which the conditions precedent (the "**Conditions Precedent**") set out in this Article are satisfied in full by the respective Parties:

- (a) Conditions Precedent required to be satisfied by the Authority shall be deemed to have been fulfilled when the Authority, subject to Clause 4.4.2, within 6 (six) months from the date of this Agreement shall have procured for [NAME OF THE SPV] the Right of Way to the Site and shall have procured execution of Leave and License Agreement with respect to the Site in accordance with the provisions of Clause 6.3 to 6.5;
- (b) Conditions Precedent required to be satisfied by [NAME OF THE SPV] shall be deemed to have been fulfilled when [NAME OF THE SPV], subject to Clause 4.4.2, within 3 (three) months from the date of this Agreement shall have prepared the Development Plan in the manner provided in Clause 4.2 and within six (6) months from the date of this Agreement shall have:
 - (i) received the requisite clearances from MoCA and/or DGCA and/or AAI and/or MoEF and/or MoD etc. for the Project;
 - (ii) delivered to the Authority from [the selected bidder/Consortium Members], a confirmation, in original, of the correctness of their representations and warranties set forth in Sub-Articles (k), (l) and (m) of Article 7.1.1 of this Agreement;
 - (iii) delivered to the Authority a legal opinion from the legal counsel of [NAME OF THE SPV] with respect to the authority of [NAME OF THE SPV] to enter into this Agreement and the enforceability of the provisions thereof;
 - (iv) prepared Master Plan and got approval for the same from the Relevant Authority;
 - (v) delivered to the Authority 3 (three) true copies of the Financial Package and the Financial Model, duly attested by a Director of [NAME OF THE SPV], along with 3 (three) soft copies of the Financial Model in MS Excel version or any substitute thereof, which is acceptable to the Lenders; and
 - (vi) Achieving of Financial Closure and having executed the Financing Agreements and delivered to the Authority, 3 (three) true copies thereof, duly attested by a Director of [NAME OF THE SPV].

- (c) Any of the Conditions Precedent may be waived by agreement in writing between the Authority and [NAME OF THE SPV].

4.2 Preparation of Development Plan

[Name of SPV] shall, within 3 (three) months from the date of this Agreement, prepare and submit to the Authority, a detailed plan, including standards and specifications, for development of Airstrip (“**Development Plan**”) in conformity with the Applicable Laws. The Development Plan shall set out in detail schedule for construction, intermediate construction milestone, details of activities both related to Aero Activities and Non Aero Activities to be undertaken in the Site. The Development Plan so submitted shall be revised from time to time to comply with the approved Master Plan. The Development Plan so prepared shall be in compliance with the Project Completion Schedule provided in Schedule10;

4.3 Obligations to Satisfy Conditions Precedent

4.3.1 [NAME OF THE SPV] shall use all reasonable endeavours to procure the satisfaction in full of the Conditions Precedent set out in Clause 4.1(b) above.

4.3.2 The Authority shall use all reasonable endeavours to procure the satisfaction in full of the Condition Precedent set out in Clause 4.1(a) above.

4.4 Non-fulfilment of Conditions Precedent

4.4.1 Damages for Non-fulfilment of Condition Precedent

In the event that (i) any Party does not procure fulfilment of any or all of the Conditions Precedent set forth in Clause 4.1 within the period specified in respect thereof, and (ii) the delay has not occurred as a result of breach of this Agreement by the other Party or due to Force Majeure, the Party in default shall pay to the other Party Damages in an amount calculated at the rate of 0.1% (zero point one per cent) of the Performance Security for each day's delay until the fulfilment of such Conditions Precedent, subject to a maximum of 20% (twenty per cent) of the Performance Security.

4.4.2 Termination on Non-fulfilment

If the conditions precedent set out in Clause 4.1 have not been satisfied in full or not been waived within the specified time and with the extended period as stipulated in Clause 4.4.1, [NAME OF THE SPV] or the Authority shall, subject to Clause 4.4.3, have the right to terminate this Agreement by giving twenty-one (21) days' notice in writing to the Party

which has failed to fulfil the conditions precedent and upon expiry of such notice this Agreement shall stand terminated.

4.4.3 Waiver of Condition Precedent

Upon request in writing by [Name of SPV], the Authority may, in its discretion, waive any of the Conditions Precedent set forth in Clause 4.1(b). For the avoidance of doubt, the Authority may, in its sole discretion, grant any waiver hereunder with such conditions as it may deem fit.

4.5 Effective Date

This Agreement shall be effective on the date on which the Conditions Precedent are met by the Parties or when the Conditions Precedent are waived by the Parties.

4.6 Payment for Termination due to Non-fulfilment of Conditions Precedent

Upon termination of this Agreement due to non-fulfilment of Conditions Precedent relating to preparation of Development Plan or the Conditions Precedent set out in Clause 4.1(b) (ii) to (vi) by [NAME OF THE SPV], the Authority shall be entitled to forfeit and appropriate the Performance Security and where the termination is due to non-fulfilment of Conditions Precedent set out in Clause 4.1(b)(i), the Authority shall be entitled to forfeit and appropriate 20% of the Performance Security.

Upon termination of this Agreement due to non-fulfilment of Conditions Precedent by the Authority, the Authority shall return the Performance Security to [NAME OF THE SPV].

ARTICLE 5

5 OBLIGATIONS OF [NAME OF THE SPV]

5.1 Obligations of [NAME OF THE SPV]

5.1.1 Subject to and on the terms and conditions of this Agreement, [NAME OF THE SPV] shall at its cost and expense, procure, finance, for, and design, engineer, construct, operate and maintain the Project and observe, fulfil, comply with and perform all its obligation set out in this Agreement or arising hereunder.

5.1.2 [NAME OF THE SPV] shall comply with all Applicable Laws and Applicable Permits (including renewals as required) in the performance of its obligations under this Agreement. [NAME OF THE SPV] shall be liable to renew and transfer in its own name all Applicable Permits already issued to the Authority in respect of the Project, as and when required.

- 5.1.3 [NAME OF THE SPV] shall discharge its obligations in accordance with Good Industry Practice and as a reasonable and prudent person.
- 5.1.4 [NAME OF THE SPV] shall, at its own cost and expense, in addition to and not in derogation of its obligations elsewhere set out in this Agreement:
- a) make, or cause to be made, necessary applications to the relevant Government Instrumentalities with such particulars and details, as may be required for obtaining all Applicable Permits and obtain and keep in force and effect such Applicable Permits in conformity with the Applicable Laws;
 - b) deliver to the Authority a copy of all the documents/applications/plans etc. including Master Plan submitted to the Relevant Authority within 15 days of such submission;
 - c) procure, as required, the appropriate proprietary rights, licences, agreements and permissions for materials, methods, processes and systems used or incorporated into the Airstrip Project;
 - d) perform and fulfil its obligations under the Financing Agreements;
 - e) make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it or its contractors in connection with the performance of its obligations under this Agreement;
 - f) ensure and procure that its contractors comply with all Applicable Permits and Applicable Laws in the performance by them of any of [NAME OF THE SPV] obligations under this Agreement;
 - g) not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement;
 - h) support, cooperate with and facilitate the Authority in the implementation and operation of the Project in accordance with the provisions of this Agreement;
 - i) deliver to the Authority a copy of all the documents/reports/plans/drawings etc. including detailed project report, topographical survey plans, soil investigation reports, layout plan, construction drawings etc. which are prepared in connection with the Project within 15 days of its finalisation; and
 - j) transfer the Project to the Authority or its representative, as the case may be, upon Termination of this Agreement, in accordance with the provisions hereof.
- 5.1.5 [NAME OF THE SPV] shall construct the Airstrip in accordance with the Project Completion Schedule set forth in Schedule 10. In the event that [NAME OF THE SPV] fails to achieve any Project Milestone except the achievement of Airstrip Opening Date for which Clause 10.5 is applicable, within a period of 30 (thirty) days from the date set forth for such milestone in Schedule 10, unless such failure has occurred due to Force Majeure or for reasons solely attributable to the Authority, it shall pay Damages to the Authority of a sum calculated at the rate of 0.025% (zero point zero two five per cent) of the amount of Performance

Security for each day of delay until such milestone is achieved; Provided that if any or all Project Milestones or the Airstrip Opening Date are extended in accordance with the provisions of this Agreement, the dates set forth in Schedule 10 shall be deemed to be modified accordingly and the provisions of this Agreement shall apply as if Schedule 10 has been amended as above; Provided further that in the event Airstrip Opening Date is achieved on or before the Airstrip Opening Target Date, the Damages paid under this Clause 5.1.5 shall be refunded by the Authority to [NAME OF THE SPV], but without any interest thereon. For the avoidance of doubt, it is agreed that recovery of Damages under this Clause 5.1.5 shall be without prejudice to the other rights of the Authority under this Agreement, including the right of Termination thereof.

5.2 Obligations relating to Project Agreements

5.2.1 It is expressly agreed that [NAME OF THE SPV] shall, at all times, be responsible and liable for all its obligations under this Agreement notwithstanding anything contained in the Project Agreements or any other agreement, and no default under any Project Agreement or Agreement shall excuse [NAME OF THE SPV] from its obligations or liability hereunder.

5.2.2 [NAME OF THE SPV] shall submit to the Authority the drafts of all Project Agreements and Financing Agreement or any amendments or replacements thereto for its information and observations, and the Authority shall have the right but not the obligation to provide its observations, if any, to [NAME OF THE SPV] within 30 (thirty) days of the receipt of such drafts. Within 7 (seven) days of execution of any Project Agreement or amendment thereto, [NAME OF THE SPV] shall submit to the Authority a true copy thereof, duly attested by a Director of the [NAME OF THE SPV], for its record. For the avoidance of doubt, it is agreed that the observations hereunder shall be limited to ensuring compliance with the terms of Project Development Agreement. It is further agreed that any failure or omission of the Authority to provide any observations hereunder shall not be construed or deemed as acceptance of any such agreement or document by the Authority. No observation of the Authority and/ or its failure to convey its observations on any document shall relieve [NAME OF THE SPV] of its obligations and liabilities under Project Development Agreement in any manner nor shall the Authority be liable for the same in any manner whatsoever.

5.2.3 [NAME OF THE SPV] agrees that the Financing Agreement shall inter-alia provide provisions with respect to following conditions:

- a) Prior to seeking first disbursement of loan from the Lenders, [NAME OF THE SPV] shall have invested 100% of Equity in the Project; and
- b) Each instalment of loan under the Financing Agreement shall be released by the Lenders only upon receipt of certificate or letter from Authority stating that [NAME OF THE SPV] has expended its Equity or the loan sanctioned earlier by the Lenders, as the case may be, for the purpose of Project.

5.3 Change in Ownership

5.3.1 [NAME OF THE SPV] shall not undertake or permit any change in ownership, except as provided in this Agreement and with the prior written approval of the Authority.

5.3.2 Notwithstanding anything to the contrary contained in this Agreement, [NAME OF THE SPV] agrees and acknowledges that:

- (i) all acquisitions of equity by an acquirer, either by himself or with any person acting in concert, directly or indirectly, including by transfer of the direct or indirect legal or beneficial ownership or control of any equity, in aggregate of not less than 25% (twenty five per cent) of the total equity of [NAME OF THE SPV];
- (ii) acquisition of any control directly or indirectly of the board of directors of [NAME OF THE SPV] by any person either by himself or together with any person or persons acting in concert with him shall be subject to prior approval of the Authority from national security and public interest perspective, the decision of the Authority in this behalf being final, conclusive and binding on [NAME OF THE SPV], and [NAME OF THE SPV] undertakes that it shall not give effect to any such acquisition of equity or control of the board of directors of [NAME OF THE SPV] without such prior approval of the Authority. For the avoidance of doubt, it is expressly agreed that approval of the Authority hereunder shall be limited to national security and public interest perspective, and the Authority shall endeavour to convey its decision thereon expeditiously. It is also agreed that the Authority shall not be liable in any manner on account of grant or otherwise of such approval and that such approval or denial thereof shall not in any manner absolve [NAME OF THE SPV] from any liability or obligation under this Agreement;

For the purposes of this Clause 5.3.2:

- a) the expression "acquirer", "control" and "person acting in concert" shall have the meaning ascribed thereto in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeover) Regulations, 2011 or any statutory re-enactment thereof as applicable on the date of acquisition of equity, or the control of the board of directors, as the case may be, of [NAME OF THE SPV];
- b) the indirect transfer or control of legal or beneficial ownership of equity shall mean transfer of the direct or indirect beneficial ownership or control of any company or companies whether in India or abroad which results in the acquirer acquiring control over the shares or voting rights of shares of [NAME OF THE SPV]; and
- c) power to appoint, whether by contract or by virtue of control or acquisition of shares of any company holding directly or through one or more companies (whether situate in India or abroad) the equity of [NAME OF THE SPV], not less than

half of the directors on the board of directors of [NAME OF THE SPV] or of any company, directly or indirectly whether situate in India or abroad, having ultimate control of not less than 25% (twenty five per cent) of the equity of [NAME OF THE SPV] shall constitute acquisition of control, directly or indirectly, of the board of directors of [NAME OF THE SPV].

5.4 Employment of foreign nationals

[NAME OF THE SPV] acknowledges, agrees and undertakes that employment of foreign personnel by [NAME OF THE SPV] and/or its contractors and their subcontractors shall be subject to grant of requisite regulatory permits and approvals including employment/residential visas and work permits, if any required, and the obligation to apply for and obtain the same shall and will always be of [NAME OF THE SPV] and, notwithstanding anything to the contrary contained in this Agreement, refusal of or inability to obtain any such permits and approvals by [NAME OF THE SPV] or any of its contractors or sub-contractors shall not constitute Force Majeure Event, and shall not in any manner excuse [NAME OF THE SPV] from the performance and discharge of its obligations and liabilities under this Agreement.

5.5 Employment of trained personnel

[NAME OF THE SPV] shall ensure that the personnel engaged by it in the performance of its obligations under this Agreement are at all times be properly trained for their respective functions. Further, [NAME OF THE SPV] shall ensure that preference for employment is as per the State Government employment policies.

5.6 Security Clearance

Notwithstanding anything to the contrary contained herein, the employees, staff and personnel of [NAME OF THE SPV] or any of its contractors and subcontractors shall always be subject to security clearance required under Applicable Law and only such persons that have a valid security clearance shall be permitted on the Site. For the avoidance of doubt, it is agreed that refusal of or inability to obtain any such permits and approvals by [NAME OF THE SPV] or any of its contractors or subcontractors shall not constitute Force Majeure Event, and shall not in any manner excuse [NAME OF THE SPV] from the performance and discharge of its obligations and liabilities under this Agreement.

5.7 Facilities for differently abled and elderly persons

[NAME OF THE SPV] shall in conformity with the guidelines issued from time to time by the Ministry of Social Justice and Empowerment, or a substitute thereof procure a barrier free environment for the differently abled and elderly persons using the Airstrip.

5.8 Representation of Local Culture

[NAME OF THE SPV] shall, in the implementation of the Project and particularly in finalising the design for terminal building, to the extent possible, depict the local culture prevailing in the area.

5.9 Branding of Airstrip

The Airstrip or any part thereof shall not be branded in any manner to advertise, display or reflect the name or identity of [NAME OF THE SPV] or its shareholders save and except as may be necessary in the normal course of business. For avoidance of doubt, it is agreed that [NAME OF THE SPV] may display its own name at a spot where other public notices are displayed for the users. The Airstrip shall be known, promoted, displayed and advertised by the name, to be decided by GoK.

5.10 Public Consultation

[NAME OF THE SPV] shall finalise their Development Plan for the Airstrip in consultation with local public from the area adjoining the Site. A public meeting shall be arranged by [NAME OF THE SPV] after causing a sufficient notice for the same to the local public. The meeting shall be chaired by the Deputy Commissioner of the district or any other senior officer nominated by Government and shall comprise of citizen's representatives, local NGO's and media. During the public meeting [NAME OF THE SPV] shall present the proposed design and construction plan of the Project and obtain the feedback on the same. The proceeding of the public meeting shall be recorded in detail by [NAME OF THE SPV] and the feedback given by the public may be appropriately incorporated by [NAME OF THE SPV] in the Development Plan. However, the final decision in this regard shall rest with GoK.

ARTICLE 6

6 Obligations and Support of the Authority

6.1 Obligations of the Authority

6.1.1 The Authority shall, at its own cost and expense undertake, comply with and perform all its obligations set out in this Agreement and shall not instruct any statutory body under the direct control and direction of the Authority to take any action that would constitute a breach of this Agreement.

6.1.2 Upon application made there for by [NAME OF THE SPV] or its shareholders or their respective contractors, servants or agents and subject to full compliance and sustenance by such parties with Applicable Law, the Authority shall endeavour that all Clearances to be granted by it or that are within its direct control and as are required for or in connection with the Project, are granted by it within a period ending on the later of (i) the end of the relevant statutory period (if any), and (ii) forty-five (45) days after the relevant application duly completed having been submitted. Subject to [Name of SPV] complying with necessary requirements under the Applicable Law, the Authority shall assist [NAME OF THE SPV] in obtaining any Clearances required for the Project from Gol or GoK.

6.1.3 The Authority shall facilitate and assist [NAME OF THE SPV] in obtaining the Applicable Permits necessary for implementation of the Project.

6.1.4 Subject to exemption if any by GoK, during the Term of this Agreement, [NAME OF THE SPV] shall pay the Property Tax to the local bodies.

6.1.5 The Authority shall assist and coordinate with the respective agencies/ departments (such as PWD, MESCOM, KUWS&DB etc.) in provision of road connectivity, power supply, water supply upto the site boundary of the Site.

6.1.6 The Authority shall appoint suitable entity for undertaking valuation of the Project Asset created by [NAME OF THE SPV] for the purpose of issuing certificate or letter to the Lenders for release of loan amount as envisaged under Clause 5.2.3.

6.2 Support

6.2.1 The Authority acknowledges and supports the implementation of the Project;

6.2.2 The Authority will not revoke this Agreement other than as permitted under this Agreement or in accordance with the Applicable Law.

6.2.3 In recognition of the investment to be made by the shareholders, from time to time, of [NAME OF THE SPV] and the Lenders and subject to material compliance by such shareholders and the Lenders with all Applicable Law, the Authority will not take any steps or action in contradiction of this Agreement which results in or would result in such shareholders or the Lenders being deprived or substantially deprived of their investment or economic interest in the Project except in accordance with the Applicable Law.

6.3 The Site

6.3.1 The Site of the Project shall comprise the area described in Attachment-IA and in respect of which the Right of Way shall be provided and granted to [NAME OF THE SPV] as a licence in accordance with this Agreement and the Leave and License Agreement executed between the [Name of SPV] and Deputy Commissioner, Chikkamagaluru/Shimoga (**the "Site"**). For the avoidance of doubt, it is hereby acknowledged and agreed that references to the Site shall be construed as references to the area required for the Airstrip and Non-Aero activities.

6.4 Access and Right of Way

6.4.1 [NAME OF THE SPV] may access to the Site for carrying out any surveys, investigations and soil tests that [NAME OF THE SPV] may deem necessary during the period prior to Effective Date, it being expressly agreed and understood that the Authority shall have no liability whatsoever in respect of survey, investigations and tests carried out or work undertaken by [NAME OF THE SPV] on or about the Site pursuant hereto in the event of Termination or otherwise.

6.4.2 The licence, access and right of way granted under this Agreement and through Leave and License Agreement to [Name of SPV] shall always be subject to existing Right of Way and [Name of SPV] shall perform its obligations in a manner that the Airstrip is open to Users at all times during the term of the Agreement, save and except during the hours for which closure thereof shall have been permitted by the Authority/Relevant Authority.

6.4.3 It is expressly agreed that the licence granted under Leave and License Agreement shall terminate automatically and forthwith without the need for any action to be taken by the Authority to terminate the licence upon the Termination of this Agreement for any reason whatsoever.

6.4.4 [NAME OF THE SPV] hereby irrevocably appoints Authority(or its nominee) to be its true and lawful attorney, to execute and sign in the name of [NAME OF THE SPV] a transfer or surrender of the Licence granted under the Leave and License Agreement at any time after the Term has expired or has been terminated earlier in terms hereof, a sufficient proof of which will be the declaration of any duly authorized officer of the Authority, and [NAME OF THE SPV] consents to it being registered for this purpose.

6.4.5 It is expressly agreed that trees on the Site are property of GoK except that [NAME OF THE SPV] shall be entitled to exercise usufructory rights thereon during the Term of this Agreement.

6.5 Procurement of the Site

6.5.1 [NAME OF THE SPV] may, upon providing the Performance Security to the Authority in accordance with Article 9, by notice require the Authority to satisfy its Conditions Precedent within the time specified in Clause 4.1(a). On receipt of this notice, the Authority Representative and [NAME OF THE SPV] shall, on a mutually agreed date and time, inspect the Site and prepare a memorandum containing an inventory of the Site including the vacant and unencumbered land, buildings, structures, road works, trees and any other immovable property on or attached to the Site. Such memorandum shall have appended thereto an appendix (the "Appendix") specifying in reasonable detail those parts of the Site to which vacant access and Right of Way has not been granted to [NAME OF THE SPV]. Signing of the memorandum, in two counterparts (each of which shall constitute an original), by the authorized representatives of the Parties shall be deemed to constitute a valid Right of Way to [NAME OF THE SPV] and a Leave and Licence Agreement for the Site procured shall be executed by the Parties for free and unrestricted use and development of the vacant and unencumbered Site during the Term of this Agreement and for no other purpose whatsoever. For the avoidance of doubt, it is agreed that valid Licence and Right of Way with respect to the parts of the Site as set forth in the Appendix shall be deemed to have been granted to [NAME OF THE SPV] upon vacant access thereto being provided by Authority to [NAME OF THE SPV] pursuant to Leave and Licence Agreement in respect thereof.

6.5.2 Without the prejudice to the provisions of clause 6.5.1, the Parties hereto agree that on or prior to the Effective Date, the Authority shall have granted vacant access and Right of Way such that the Appendix shall not include more than 20% (twenty per cent) of the total area of the Site required and necessary for the Airstrip.

6.5.3 On and after signing the memorandum referred to in Clause 6.5.1, and until the Transfer Date, [NAME OF THE SPV] shall maintain a round-the-clock vigil over the Site and shall ensure and procure that no encroachment thereon takes place, and in the event of any encroachment or occupation on any part thereof, [NAME OF THE SPV] shall report such encroachment or occupation forthwith to the Authority and undertake its removal at its cost and expenses.

6.5.4 The Authority shall make best efforts to procure and grant, no later than 90 (ninety) days from the Effective Date, the Right of Way to [Name of the SPV] in respect of all land included in the Appendix. Upon receiving Right of Way and Licence rights in respect of any

land included in the Appendix, [NAME OF THE SPV] shall complete the Construction Works thereon in accordance with terms of this Agreement. Where Right of Way in respect of any land included in the Appendix is not granted, the parties may mutually agree to waive this obligation, provided where such land is critical for completion of the Project, failure to grant Right of Way in respect of such land within 180 (one hundred and eighty) days from the Effective Date shall result in termination of this Agreement.

6.6 Site to be free from Encumbrances

6.6.1 Subject to the provisions of Clause 6.5, the Site shall be made available to [NAME OF THE SPV] pursuant hereto free from all Encumbrances and occupations and without [NAME OF THE SPV] being required to make any payment on account of any costs, compensation, expenses and charges for the acquisition and use of such Site for the duration of Term of this Agreement, except insofar as otherwise expressly provided in this Agreement and Leave and Licence Agreement. For the avoidance of doubt, it is agreed that existing rights of way, easements, privileges, liberties and appurtenances the Site shall not be deemed to be Encumbrances.

6.7 Protection of Site from encroachments

6.7.1 During the Term of this Agreement, [NAME OF THE SPV] shall protect the Site from any and all occupations, encroachments or Encumbrances, and shall not place or create nor permit any contractor or other person claiming through or under [NAME OF THE SPV] to place or create any Encumbrance or security interest over all or any part of the Site or the Project Assets, or on any rights of [NAME OF THE SPV] therein or under this Agreement, save and except as otherwise expressly set forth in this Agreement.

6.8 Special/temporary right of way

6.8.1 [NAME OF THE SPV] shall bear all costs and charges for any special or temporary right of way required by it in connection with access to the Site. [NAME OF THE SPV] shall obtain at its cost such facilities on or outside the Site as may be required by it for the purposes of the Project and the performance of its obligations under this Agreement.

6.9 Access to the Authority and its representatives

6.9.1 The right of way and right to the Site granted to [NAME OF THE SPV] hereunder shall always be subject to the right of access of the Authority and its representatives and their employees and agents for inspection, viewing and exercise of their rights and performance of their obligations under this Agreement.

6.10 Geological and Archaeological Finds

6.10.1 It is expressly agreed that mining, geological or archaeological rights do not form part of the licence granted to [NAME OF THE SPV] and [NAME OF THE SPV] hereby acknowledges that it shall not have any mining rights or interest in the underlying minerals, fossils, antiquities, structures or other remnants of things either of particular geological or archaeological interest and that such rights, interest and property on or under the Site shall vest in and belong to GoK or the concerned Government Instrumentality. [NAME OF THE SPV] shall take all reasonable precautions to prevent its workmen or any other person from removing or damaging such interest or property and shall inform GoK/the Authority forthwith of the discovery thereof and comply with such instructions as the concerned Government Instrumentality may reasonably give for the removal of such property. For the avoidance of doubt, it is agreed that any reasonable expenses incurred by [NAME OF THE SPV] hereunder shall be reimbursed by GoK/the Authority. It is also agreed that GoK/the Authority shall procure that the instructions hereunder are issued by the concerned Government Instrumentality within a reasonable period.

ARTICLE 7

7 Representations and Warranties

7.1 Representations and Warranties of [NAME OF THE SPV]

7.1.1 [NAME OF THE SPV] represents and warrants to the Authority that:

- (a) it is duly organized and validly existing under the laws of India, and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- (b) it has taken all necessary corporate and other actions under Applicable Laws to authorise the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
- (c) it has the financial standing and capacity to undertake the Project in accordance with the terms of this Agreement;
- (d) this Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof and the obligations of [NAME OF THE SPV] under this Agreement will be legally valid, binding enforceable obligations against [NAME OF THE SPV] in accordance with the terms hereof;
- (e) it is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising thereunder including any obligations, liability or responsibility hereunder;

- (f) the information furnished in the Bid and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement;
- (g) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of [NAME OF THE SPV]'s Memorandum and Articles of Association or any;
- (h) there are no actions, suits, proceedings, or investigations pending or, to [NAME OF THE SPV]'s knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;
- (i) It has no knowledge of any violation or default with respect to any writ, injunction or decree of any court or any legally binding order of any Government Instrumentality which may result in any Material Adverse Effect on [NAME OF THE SPV]'s ability to perform its obligations under this Agreement and no fact or circumstances exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;
- (j) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a Material Adverse Effect on its ability to perform its obligations under this Agreement;
- (k) [The selected bidder/Consortium Member] and its Associates have the financial standing and resources to fund the required capital and to raise the debt necessary to undertake and implement the Project in accordance with this Agreement;
- (l) it shall at no time undertake or permit any change in ownership except in accordance with the provisions of Clause 5.3 and that the {selected bidder/Consortium Members}, together with {its/their} Associates, hold not less than 51% (fifty one percent) of its issued and paid up Equity until the second anniversary of the Airstrip Opening Date of the Project; and that no Consortium Member whose technical and financial capacity was evaluated for the purposes of qualification and short-listing in response to the Request for Proposal shall not hold less than 26% (twenty six per cent) of Equity and 5% (five percent) of the Total Project Cost at all times until the second anniversary of the Airstrip Opening Date.

- (m) {Selected bidder/each of Consortium Member} is duly organized and validly existing under the laws of the jurisdiction of its incorporation, and has requested the Authority to enter into this Agreement with [NAME OF THE SPV] pursuant to the Letter of Award, and has agreed to and unconditionally accepted the terms and conditions set forth in this Agreement;
- (n) rights and interests of [NAME OF THE SPV] in the Project shall pass to and vest in the Authority on the Transfer Date free and clear of all liens, claims and Encumbrances, without any further act or deed on the part of [NAME OF THE SPV] or the Authority, and that none of the Project Assets shall be acquired by [NAME OF THE SPV] subject to any agreement under which a security interest or other lien or Encumbrance is retained by any person save and except as expressly provided in this Agreement;
- (o) no representation or warranty by [NAME OF THE SPV] contained herein or in any other document furnished by it to the Authority or to any Government Instrumentality in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;
- (p) no sums, in cash or kind, have been paid or will be paid, by or on behalf of [NAME OF THE SPV], to any person by way of fees, commission or otherwise for securing the rights hereunder or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Authority in connection therewith; and
- (q) all undertakings and obligations arising from the Request for Proposal or otherwise shall be binding on the [NAME OF THE SPV] as if they form part of this Agreement.

7.1.2 In addition [NAME OF THE SPV] represents and warrants to the Authority that as at the date of this Agreement:

- i. It is a private limited company incorporated under the laws of India and has been properly constituted and is in continuous existence since incorporation;
- ii. It is not engaged in any business other than the business of operating and managing airports/airstrips and other ancillary activities and Non-Aero Activities provided in Part 2 of Schedule 3.

7.2 Approvals

[NAME OF THE SPV] shall at all times obtain and maintain all Clearances and Approvals, including registrations, licenses and permits (including immigration, temporary residence,

work and exit permits), which are required by Applicable Law for the performance of the Project.

7.3 Disclaimer

7.3.1 [NAME OF THE SPV] acknowledges that prior to the execution of this Agreement, it has, after a complete and careful examination, made an independent evaluation of the Scope of the Project including but not limited to a techno-commercial feasibility study of the Project and has determined the nature and extent of the difficulties, risks and hazards including but not limited to financial, technical and regulatory risks etc., specifications and standards, Project Site, existing structures, local conditions, physical qualities of ground, subsoil and geology, traffic, access to the Project Site, applicable regulations, and all information provided by the Authority or obtained procured or gathered otherwise, conducted a legal due diligence and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards that are likely to arise or may be faced by it in the course of the performance of its obligations in this Agreement. the Authority makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of any assessment, assumption, statement or information provided by it and [NAME OF THE SPV] confirms that it shall have no claim whatsoever against the Authority in this regard.

7.3.2 [NAME OF THE SPV] acknowledges and hereby accepts the difficulties, risks and hazards (including any inadequacies, mistakes or errors in or relating to any of the matters set forth in Clause 7.3.1 above) associated with the Scope of the Project and hereby agrees that the Authority shall not be liable for the same in any manner whatsoever to [NAME OF THE SPV] including the Lead Member/ Consortium Member and their Associates. For the avoidance of doubt the difficulties, risks and hazards accepted by [NAME OF THE SPV] pursuant to this Clause 7.3 shall exclude any obligations for which the Authority is responsible pursuant to the terms of this Agreement.

7.3.3 The Parties agree that any mistake or error in or relating to any of the matters set forth in Clause 7.3.1 above shall not vitiate this Agreement, or render it voidable.

7.3.4 Except as otherwise provided in this Agreement, all risks relating to the Project shall be borne by [NAME OF THE SPV] and the Authority shall not be liable in any manner for such risks or the consequences thereof.

ARTICLE 8

8 Representations and Warranties of the Authority

8.1 Representations and Warranties

The Authority represents and warrants to [NAME OF THE SPV] that:

- a) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement;
- b) it has taken all necessary actions under the Applicable Laws to authorise the execution, delivery and performance of this Agreement;
- c) this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- d) there are no actions, suits or proceedings pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the default or breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform its obligations under this Agreement;
- e) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any Material Adverse Effect on the Government's ability to perform its obligations under this Agreement;
- f) it has complied with Applicable Laws in all material respects;
- g) all information provided by it in the tender notice and invitation to bid in connection with the Project is, to the best of its knowledge and belief, true and accurate in all material respects;
- h) upon [NAME OF THE SPV] paying the Premium and performing the covenants herein and Leave and Licence Agreement, it shall not at any time during the term hereof, interfere with peaceful exercise of the rights and discharge of the obligations by [NAME OF THE SPV], in accordance with this Agreement.

Part- III

Development and Operations

ARTICLE 9

9 PERFORMANCE SECURITY

9.1 Performance Security

For due and punctual performance of obligation under this Agreement, relating to the Project, [NAME OF THE SPV] has delivered to the Authority simultaneously with execution of this Agreement, an irrevocable and unconditional bank guarantee in the form set out in Schedule 5, for a sum equal to Rs. 1,42,50,000/- (Rs One Crore Forty Two Lakh Fifty Thousand Only) for Chikkamagaluru and Rs. 1,55,85,000/- (Rs. One Crore Fifty Five Lakh Eighty Five Thousand only) [the "Performance Security"]. Until the time the Performance Security was provided by [NAME OF THE SPV] and the same came into effect, the Bid Security was in force and effect. Upon the provision and coming into effect of the Performance Security, the Authority shall release the Bid Security to the Selected Bidder/ Lead Member.

9.2 Appropriation of Performance Security

Upon occurrence of a [NAME OF THE SPV] Default or default of Conditions Precedent by [NAME OF THE SPV], the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the relevant amounts from the Performance Security as Damages for such [NAME OF THE SPV] Default. Upon such encashment and appropriation from the Performance Security, [NAME OF THE SPV] shall, within 15 (fifteen) days thereof, replenish, in case of partial appropriation, to its original level the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, and [NAME OF THE SPV] shall, within the time so granted, replenish or furnish fresh Performance Security as aforesaid failing which the Authority shall be entitled to terminate this Agreement in accordance with Clause 17.4. Upon replenishment or furnishing of a fresh Performance Security, as the case may be, as aforesaid, [NAME OF THE SPV] shall be entitled to an additional Cure Period of 60 (sixty) days for remedying [NAME OF THE SPV] Default, and in the event of [NAME OF THE SPV] not curing its default within such Cure Period, the Authority shall be entitled to encash and appropriate such Performance Security as Damages, and to terminate this Agreement in accordance with Clause 17.4.

9.3 Release of Performance Security

The Performance Security shall remain in force and effect for a period of 3 years after the Airstrip Opening Date.

9.4 Operations Performance Security

The Parties expressly agree that at least 30 (thirty) days prior to the third anniversary of the Airstrip Opening Date, a Operations Performance Security for an amount equivalent to Rs. _____/- (Rs) shall be created under this Clause 9.4, for and in respect of the entire

Term of this Agreement (the “**Operations Performance Security**”). The Operations Performance Security shall be unconditional and irrevocable.

9.5 Appropriation of Operations Performance Security

Upon occurrence of a [NAME OF THE SPV] Default, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to appropriate the relevant amounts from the Operations Performance Security as Damages for [NAME OF THE SPV] Default. For the avoidance of doubt, the Parties expressly agree that upon the Operations Performance Security being appropriated, in whole or in part, it shall be deemed to be replenished to the extent of such appropriations.

9.6 Release of Operations Performance Security

The Operations Performance Security shall remain in force and effect for the entire term of this Agreement.

9.7 Reference to Performance Security

References to Performance Security occurring in this Agreement for and in respect of any period subsequent to the expiry or release of the Performance Security, shall be construed solely for the purposes of calculating the amount of Damages payable by [NAME OF THE SPV], and the amount so determined shall be appropriated from the Operations Performance Security.

Article 10

10 Construction of the Airstrip

10.1 Master Plan

[NAME OF THE SPV] shall review the Master Plan at least once in every five (5) years. If, on such review, [NAME OF THE SPV] considers it necessary to revise the Master Plan to reflect changed circumstances at the Airstrip, [NAME OF THE SPV] shall in consultation with the Authority revise the Master Plan and provide the Authority with a copy of such revised Master Plan.

10.2 Construction and Expansion

[NAME OF THE SPV] shall design, procure, construct, complete, test and commission the Initial Phase, and remedy any defects in respect thereof, in accordance with the Master Plan, Good Industry Practice and Applicable Law. [NAME OF THE SPV] shall ensure that the Works shall conform with the Specifications and Good Industry Practice.

[NAME OF THE SPV] shall, taking into account and subject to increased demand, the availability of funding, the economic and profitable operation of the Airstrip at that time

and the reasonable requirements of users of the Airstrip, develop and implement detailed proposals for the Expansion of the Airstrip with the approval of the Authority and as per the terms and conditions as may be agreed between the Parties.

10.3 Independent Engineer

[NAME OF THE SPV] shall procure any reports and certificates prepared by the Independent Engineer and submitted to the Lenders pursuant to the terms of the Financing Agreements and any report from any independent engineer appointed pursuant to any future financing shall also be forwarded to the Authority to enable the Authority to monitor progress of construction and commissioning of the Airstrip.

[NAME OF THE SPV] shall also procure that the Independent Engineer furnishes to the Authority a "Completion Certificate" in form and substance as per Schedule 8 hereto prior to the Airstrip Opening Date. In the absence of which, the Authority may in its discretion, engage any consultant to discharge the function of Independent Engineer.

10.4 Site and Materials

10.4.1 Organisation of Site

[NAME OF THE SPV] will organise the Site during the period of construction with regard to safety precautions, fire protection, security, transportation, delivery of goods, materials, plant and equipment, control of pollution, maintenance of competent personnel and labour and industrial relations and general site services including, without limitation, access to and on the Site, allocation of space for contractors' and sub-contractors' offices and compounds and the restriction of access to the Site to authorised Persons only.

10.4.2 Materials

[NAME OF THE SPV] will ensure that the Works will comprise only materials and goods which are of sound and merchantable quality and which are manufactured and prepared in accordance with Applicable Law and that all workmanship shall be in accordance with Applicable Law and with Good Industry Practice applicable at the time of construction and/or installation.

10.4.3 Prior to commencement of construction, [NAME OF THE SPV] shall undertake to do and perform all such acts, deeds and things as may be necessary or required before commencement of construction under and in accordance with this Agreement, Project Completion Schedule, the Applicable Laws and Applicable Permits.

10.4.4 Project Monitoring Committee

During the construction of Airstrip, in order to overview the progress of the Project, a committee shall be formed by [NAME OF THE SPV] and nominate two of its representatives as members of the committee. The Authority shall nominate two of its officers as members on this committee. [NAME OF THE SPV] shall make all arrangements for conducting meeting of the committee at Bengaluru once in every three months commencing with the first month following the execution of this Agreement. [NAME OF THE SPV] shall no later than 15 (fifteen) days after every such meeting, furnish to the Authority a quarterly report on progress of the Works.

10.4.5 Delays during Construction

Without prejudice to the provisions of Clause 5.1.5, If [NAME OF THE SPV] does not achieve any of the Project milestone set forth in the Project Completion Schedule and in accordance with construction schedule provided under the Development Plan, and the Authority has reasonably determined that the rate of progress of construction is such that they are not likely to be completed within the time specified in the Project Completion Schedule or in the Development Plan, it shall notify [NAME OF THE SPV] to this effect, and [NAME OF THE SPV] shall, with in 15 (fifteen) days of such notice, by a communication inform the Authority in reasonable detail about the steps it proposes to take expedite progress and the period within which it shall achieve completion.

10.4.6 Non Aero Activities

Non Aero Activities are listed out in Schedule 3 Part B.

(a) Development of Non Aero Activities

[NAME OF THE SPV] may undertake the development of Non Aero Activities as provided in Schedule 3 Part B as per the Applicable Law. The development and maintenance of infrastructure such as roads, electric supply, water supply, sewerage and drains in construction of Non Aero activities shall be undertaken or cause to be undertaken by [NAME OF THE SPV] at its cost, in accordance with the provisions of this Agreement, Applicable Laws and Good Industry Practice.

(b) Taxes and revenues

- I. All cost and expenses, Taxes, cess, fees and charges relating to Non Aero Activities, shall be borne by [NAME OF THE SPV].
- II. All revenues accruing from Non Aero Activities shall be appropriated by [NAME OF THE SPV] in accordance with the provisions of this Agreement and Applicable laws.

(c) Compliance with Applicable Law

[NAME OF THE SPV] agrees and undertakes that it shall, in respect of Non Aero Activities, at all times conform to the central, State, local or municipal laws and regulations relating to building , structures, road works, open spaces, electric supply, water supply, sewerage and other like purposes.

(d) Commercial advertisement or display

Subject to Clause 5.9, [NAME OF THE SPV] may undertake or cause to be undertaken commercial advertising or display as part of Non Aero Activities in compliance with the Applicable Laws and after obtaining Applicable Permits, if any, without causing hindrance to the Aero Activities.

10.5 Airstrip Opening

[NAME OF THE SPV] will ensure that the Airstrip Opening Date shall occur by the date falling 12 (Twelve) months from the Effective Date, provided that such date shall be adjusted by reference to any delays arising due to or as a result of:

- a) An event of Force Majeure; and/or
- b) A failure or any delay by the Authority in the performance of its obligations under this Agreement; and/or
- d) A failure or any delay by the Authority in the performance of its obligations under the Leave and License Agreement; and/or
- e) A failure or any delay by any Relevant Authority in the performance of its services.

In the event of [NAME OF THE SPV] failing to achieve Airstrip Opening Date by the date falling 12 (Twelve) months from the Effective Date for any reason other than the conditions stated above, then [NAME OF THE SPV] shall pay to the Authority, as agreed, liquidated damages of an amount as specified in Clause 5.1.5 for the period commencing on the date occurring 12 (Twelve) months from the Effective Date and ending on the earlier of the Airstrip Opening Date or the date occurring 18 (Eighteen) months from the Effective Date.

10.6 Non-aviation Uses of Land

The Parties recognize that as per the Master Plan, a certain extent of land available at the Site may be used for developing Non-Aero Activities. The Parties further recognize that these Non-Aero Activities are secondary to the development of the Airstrip. Therefore [NAME OF THE SPV] shall not commence operations of Non-Aero Activities till Airstrip

Opening Date is achieved and a permission of the Authority in writing for commencing operation of Non-Aero Activities is obtained.

ARTICLE 11

11 Operation and Maintenance

11.1 Airstrip Operation and Maintenance

11.4.1. NAME OF THE SPV] shall ensure operation of at least three flights a week from the Airstrip to any other operational airport in the country and shall make necessary arrangement with the airline operators.

11.4.2. [NAME OF THE SPV] shall at all times comply with Applicable Law in the operation and maintenance of the Airstrip including Non Aero Activities and will operate, maintain, keep in good operating repair and condition in accordance with Good Industry Practice and, in accordance with the Standards and renew, replace and upgrade to the extent reasonably necessary. All maintenance, repair and other works shall be carried out in such a way as to minimise inconvenience to users of the Airstrip.

11.2 Security

11.4.3. All aviation security at the Airstrip shall be invariably provided by [Name of SPV] according to Applicable Law and Good Industrial Practice in this regard.

11.4.4. Without prejudice to the other provisions of this Agreement, [NAME OF THE SPV] shall comply with such rules and regulations established by BCAS in connection with the security of the Airstrip, provided that [NAME OF THE SPV] shall not be so obliged if such rules and regulations are not generally and consistently applied to Airstrip having the same or similar sensitivity classification.

11.4.5. [NAME OF THE SPV] shall be responsible for providing and maintaining all such security equipment as are required under the relevant rules and regulations in this regard and is applicable to the airstrips having the same or similar sensitivity classification.

11.4.6. [NAME OF THE SPV] shall be obliged to comply with all the procedures and directions issued by BCAS from time to time with regard security of the Airstrip building, passengers, persons working at the Airstrip and other visitors to the Airstrip, and aircraft, freight and other property applicable to airstrips having the same or similar sensitivity classification.

11.4.7. [NAME OF THE SPV] shall provide the designated security agency with such access and facilities at the Airstrip as may be required to enable the designated security agency to perform its functions under this Agreement on terms and conditions that are generally consistent with the terms and conditions applicable to airstrips having the same or similar sensitivity classification.

11.3 Meteorological Services

11.5.1. Meteorological services at the Airstrip shall be in accordance with the practices established or recommended from time to time pursuant to the Chicago Convention and as per any other rules and regulations framed by MoCA, AAI, or DGCA and applicable to the airstrips having the same or similar sensitivity classification.

11.4 Management of the Airstrip Business

[NAME OF THE SPV] shall, in accordance with Good Industry Practice and Applicable Law and as contemplated by the terms of this Agreement:

- a) Manage and operate the Airstrip in a competitive, efficient and economic manner as a commercial undertaking;
- b) Without limiting any other obligation or right of [NAME OF THE SPV] under this Agreement, provide or secure the provision at the Airstrip of the Aero Activities; and
- c) Take proper account of the reasonable requirements of users of the Airstrip.

11.5 General obligations

11.5.1 [NAME OF THE SPV] shall, subject to Applicable Law:

- a. Keep the Airstrip open at all times for the take-off and landing of aircraft;
- b. Be responsible for, and promptly pay, all expenses incurred by it in respect of the operation of the Airstrip including, without limitation, in respect of Tax, insurance and the provision of all services or utilities to or at the Airstrip such as electricity, water, gas, refuse collection, sewerage, foul water, drainage and telephone;
- c. [NAME OF THE SPV] shall, subject to Applicable Laws and with assistance of the Authority, undertake shifting of utility including electric lines, water pipes and telephone cables, to an appropriate location or alignment within or outside the Site if and only such utility causes or will cause a Material adverse Effect on the development, operation or maintenance of the Project. The cost of such shifting shall be borne by the entity owning such utility and in the event of any delay in shifting thereof, [NAME OF THE SPV] shall be excused for failure to perform any of its obligations hereunder if such failure is a direct consequences of any delay on the part of the entity owning such electric lines, water pipes or telephone cables, as the case may be; and
- d. The Authority shall assist [NAME OF THE SPV] in obtaining the Applicable Permits for felling of trees to be identified by [NAME OF THE SPV] for this purpose if and only if

such trees cause Material Adverse Effect on the development, operation or maintenance of the Project. The cost of such felling shall be borne by [NAME OF THE SPV], and in the event of any delay in felling thereof for reasons beyond the control of [NAME OF THE SPV], it shall be excused for failure to perform any of its obligations hereunder if such failure is a direct consequence of delay in the felling of trees. For the avoidance of doubt, the Parties hereto agree that the felled trees shall be deemed to be owned by GoK and shall be disposed in such manner and subject to such conditions as GoK may in its sole discretion deem appropriate.

11.6 Slots

[NAME OF THE SPV] shall have the final right to allocate slots at the Airstrip, subject to the same being allocated fairly and not arbitrarily.

11.7 Non-discrimination

The Authority shall use its good offices to put forward [NAME OF THE SPV]'s case that subject to any law or international treaty obligations as in force from time to time, GoI/GoK shall follow a policy of non-discrimination with regard to the classes or descriptions of air traffic that are permitted to use the Airstrip and subject to reasonable regulations, shall not impose unfair limitations on aircraft movements at the Airstrip or otherwise restrict the capacity at the Airstrip.

11.8 Interruption of Operation

If following the Airstrip Opening Date, [NAME OF THE SPV] ceases or substantially ceases the operation of the Airstrip for more than forty-eight (48) hours, other than in accordance with its rights under this Agreement, without the written consent of GoK/the Authority, at the request of either Party, the Authority will meet with [NAME OF THE SPV] to discuss and agree a plan and the appointment of a joint operation and management committee (and the terms and conditions upon which such committee is to be appointed), to procure that operation of the Airstrip recommences as soon as practicable. If the Authority and [NAME OF THE SPV] are unable to agree a plan and appoint a joint operation and management committee within six (6) hours of the expiry of the period referred to above, the Authority shall without prejudice to its rights under this Agreement, including the right of Termination under clause 17.3.1, shall be entitled to operate the Airstrip until such time as [NAME OF THE SPV] is able to resume operation of the Airstrip. In such eventuality, [Name of SPV] shall provide the Authority with necessary assistance and shall be liable to reimburse the expenses incurred by the Authority in operation of the Airstrip within the period not exceeding 1 year from the date of resumption of operation of the Airstrip by them.

11.9 Daytime and Night time Operation

Subject to installing appropriate facilities and compliance with all Applicable Law and standards including environmental laws and provided that substantially similar restrictions, if applicable, are placed on all other Domestic Airports, [NAME OF THE SPV] shall be entitled to operate the Airstrip and to permit the take-off and landing of aircraft at any time during both day and night hours.

11.10 Access for Officials

11.10.1 Access

Subject to the provisions of Article 11.10.2 and subject to the Applicable Law, [NAME OF THE SPV] shall have the right to grant access to all parts of the Site and/or the Airstrip to such Persons as it shall determine.

11.10.2 Minimum Disruption

To the extent that such access has been granted to GoK and/or the Authority, such access and facilities shall be used and exercised by the relevant Persons in such manner so as not to cause any disruption to the construction, commissioning, completion, development, maintenance and operation of the Airstrip.

ARTICLE 12

12 Monitoring of Operation and Maintenance

12.1 Performance Standards

The Parties wish to ensure satisfaction on the part of passengers with the overall experience of travelling through the Airstrip and acknowledge that this experience is a result of a number of bodies interacting in order to provide various services and facilities. [NAME OF THE SPV] is primarily responsible for the provision of services at the Airstrip and shall work to improve the facilities, standards and services at the Airstrip.

12.2 Monitoring of Performance Standards

12.2.1 Throughout the term of this Agreement the Airstrip's performance shall be monitored by passenger surveys in accordance with this Article 12. The criteria used to measure the Airstrip's performance shall be as may be mutually agreed upon from time to time, between the Parties (the "**Standards**").

12.2.2 [NAME OF THE SPV] should establish a system of self-evaluation and take appropriate actions for any improvement required.

- 12.2.3 [NAME OF THE SPV] shall, at its cost, conduct surveys for the Airstrip through an independent agency. The first such survey shall be conducted within three months of the commencement of commercial operation of the Initial Phase and subsequent surveys shall be on an annual basis.
- 12.2.4 If any such survey shows that the Airstrip is rated lower in respect of the service standards under [NAME OF THE SPV]'s direct control, than as envisaged under Article 12.2.1, [NAME OF THE SPV] will produce an action plan in order to improve the Airstrip's performance which must be implemented within one (1) year.
- 12.2.5 Should [NAME OF THE SPV] fail to produce such an action plan or if the Airstrip continues to be rated in respect of the service standards under [NAME OF THE SPV]'s direct control, as lower than as envisaged under Article 12.2.1 for one further year, the Authority shall have the right to impose liquidated damages and/or to give directives to Relevant Authorities to assist [NAME OF THE SPV] in improving the rating. The quantum of liquidated damages will, taking into account factors leading to the drop in ratings, be discussed and agreed between the Parties.
- 12.2.6 Any liquidated damages pursuant to Clause 12.2.5 above shall be kept in a separate fund. Monies from this fund shall be utilised to fund improvements at the Airstrip at the direction of the Authority.
- 12.2.7 From the date the IRA has power to review, monitor and set standards and penalties and regulate any such related activities at the Airstrip, [NAME OF THE SPV] shall be required, instead of the provisions of this Clause 12.2, to comply with all such regulations framed by IRA.

12.3 Records

Subject to compliance with all Applicable Law, [NAME OF THE SPV] shall keep full records in respect of the design, construction, completion, commissioning, maintenance, operation, management and development of the Airstrip including a maintenance manual and "as built" drawings of all aspects of the Airstrip and shall make them available for inspection on reasonable notice and during normal business hours to the Authority for the purpose of verification by the Authority of [NAME OF THE SPV]'s compliance with the terms and conditions hereof and shall furnish copies thereof to the Authority if called for.

12.4 Land Audit

At all times during the term of this Agreement, [NAME OF THE SPV] shall, no later than 90 (ninety) days after the completion of each Accounting Year, furnish to the Authority, an annual land utilization audit report frp, an accredited land audit agency, in a form acceptable to the Authority, stating in reasonable detail the use of the land by [NAME OF THE SPV] for every year of operation.

ARTICLE 13

13 Safety Requirement

13.1 Safety Requirements

13.1.1 [NAME OF THE SPV] shall comply with the provisions of this Agreement, Applicable Laws and Applicable Permits and conform to Good Industry Practice for securing the safety of the users. In particular, [NAME OF THE SPV] shall develop, implement and administer a surveillance and safety programme for providing a safe environment on or about the Airstrip, and shall comply with the safety requirement set forth in Schedule – 6 (the “**Safety Requirement**”).

13.1.2 All costs and expenses arising out of or relating to safety requirements shall be borne by [NAME OF THE SPV].

13.2 First Aid

For providing emergency medical aid, [NAME OF THE SPV] shall set up and operate a first aid room (the “First Aid Room”) at the Airstrip. The First Aid Room shall be equipped with such medical equipment and drugs as may be required attend to minor injuries and medical conditions. [NAME OF THE SPV] shall also arrange for round–the clock ambulance services for victim of accidents on the Project and for users suffering from acute medical conditions. [NAME OF THE SPV] shall, at its cost, maintain the First Aid room in accordance with Good Industry Practices.

13.3 Contingency Plans

[NAME OF THE SPV] shall formulate and periodically rehearse its contingency plans for dealing with emergencies that may arise out of accidents, fire, terrorism or natural calamities. Such plans shall include evacuation of the Airstrip, operations of enquiry counters and coordination with the Authority and other civil authorities.

Part IV:
Financial Provisions

ARTICLE 14

14 Charges

14.1 Parties having right to impose charges

[NAME OF THE SPV] or the Service Provider Right Holder, subject to Applicable Law, may impose Fee (a) in respect of the provision at the Airstrip of any facilities and/or services which are included within Aero Activities and (b) in respect of the movement of passenger, or vehicular traffic on the Airstrip or the Site. The Fee so charged by [Name of the SPV] shall not be higher than the charges imposed by Airport Authority of India to airstrips/airports having the same or similar sensitivity classification.

14.2 Payment of Taxes

All Taxes as may be due and payable by [NAME OF THE SPV] pursuant to Applicable Law, shall be paid on a priority basis prior to any disbursements by [NAME OF THE SPV] to any party including Lenders.

14.3 Display of Fee

14.3.1 [NAME OF THE SPV] shall, at all entry points of the Airstrip and near the Fee counters at the Airstrip, prominently display the applicable rates of Fee for information of the Users.

14.3.2 [NAME OF THE SPV] shall, from time to time, inform the Authority of the applicable Fee and the detailed calculation thereof.

14.4 Exemption of charges

14.4.1 [NAME OF THE SPV] shall not impose any Fee in respect of provision at the Airstrip of any facilities and/or services which are included within Aero Activities with regard to the flights operated by the GoI/ GoK.

ARTICLE 15

15 Maintenance of Insurance

15.1 Insurance during Agreement Period

[NAME OF THE SPV] shall effect and maintain at its own cost, at all times the insurances set out in Schedule 9, the insurances required under the Financing Agreements and such additional insurances as [NAME OF THE SPV] may reasonably considered necessary or

prudent in accordance with Good Industry Practice. [NAME OF THE SPV] shall procure that in each insurance policy, the Authority shall be a co-insured.

15.2 Insurance Cover

Without prejudice to the provisions contained in Clause 15.1, [NAME OF THE SPV] shall, during the term of this Agreement, procure and maintain Insurance Cover including but not limited to the following:

- i. Loss, damage or destruction of the Airstrip, including assets handed over by the Authority to [NAME OF THE SPV], at replacement value;
- ii. comprehensive third party liability insurance including injury to or death of personnel of the Authority or others who may enter the Site;
- iii. [NAME OF THE SPV]'s general liability arising out of the Licence;
- iv. liability to third parties for goods or property damage;
- v. workmen's compensation insurance; and
- vi. any other insurance that may be necessary to protect [NAME OF THE SPV] and its employees, including all Force Majeure Events that are insurable and not otherwise covered in items (i) to (v) above:

15.3 Policies

[NAME OF THE SPV] shall furnish to the Authority copies of policy certificates & insurance policies in respect of insurances required to be obtained & maintained under Clause 15.1 and Clause 15.2 and evidence that the insurance premium have been paid in respect of such insurance immediately upon procuring the same. No insurance shall be cancelled, modified or allowed to expire or lapse without the approval of the Authority and until the expiration of at least forty-five (45) day's notice of such cancellation, modification or non-renewal has been provided by [NAME OF THE SPV] to the Authority.

15.4 Remedy for failure to insure

If [NAME OF THE SPV] shall fail to effect and keep in force all insurance for which it is responsible pursuant hereto, the Authority shall have the option to either keep in force any such insurances, pay such premium and recover the costs thereof from [NAME OF THE SPV].

15.5 Waiver of subrogation

All insurance policies in respect of the insurance obtained by [NAME OF THE SPV] pursuant to this Article 15 shall include a waiver of any and all rights subrogation or recovery of the insurers there under against, inter alia, the Authority, and its assigns successors, undertakings and their subsidiaries, affiliates, employees, insurers and underwriters and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policies of insurance.

15.6 [NAME OF THE SPV]'s waiver

[NAME OF THE SPV] hereby further releases, assigns and waives any and all rights of subrogation or recovery against, inter alia, the Authority and its assigns, undertakings and their subsidiaries affiliates, employees, successors, insurers and underwriters, which [NAME OF THE SPV] may otherwise have or acquire in or from or in any way connected with any loss, liability or obligation covered by policies of insurance maintained or required to be maintained by [NAME OF THE SPV] pursuant to this Agreement (other than third party liability insurance policies) or because of deductible Articles in or inadequacy of limits of any such policies of insurance.

15.7 Application of Insurance Proceeds

Subject to any agreement with the Lenders, all insurance claims paid to [NAME OF THE SPV] shall be applied for reconstruction of the Airstrip except for insurance proceeds unrelated to physical damage.

ARTICLE 16

16 Accounts and Audit

16.1.1 [NAME OF THE SPV] shall maintain books of accounts recording all its receipts, income, expenditure, payments, assets and liabilities, in accordance with Applicable Laws. The [NAME OF THE SPV] shall provide 2 (two) audited copies of its Balance Sheet, Cash Flow Statement and Profit and Loss Account, along with a report thereon by its Statutory Auditors, within 90 (ninety) days of the close of the Accounting Year to which they pertain.

16.1.2 The Authority or its representative shall have the right to inspect the records of [NAME OF THE SPV] and require copies of relevant extracts of books of accounts, duly certified by the Statutory Auditors, to be provided to the Authority for verification of basis of payments, and in the event of any discrepancy or error being found, the same shall be rectified.

16.1.3 [NAME OF THE SPV] shall, within 30 (thirty) days of the close of each quarter of an Accounting Year, furnish to the Authority its unaudited financial results in respect of the

preceding quarter, in the manner and form prescribed by the Securities and Exchange Board of India for publication of quarterly results by the companies listed on a stock exchange.

- 16.1.4 On or before the thirty-first day of May each year, [NAME OF THE SPV] shall provide to the Authority for the preceding Accounting Year, a statement duly audited by its Statutory Auditors giving summarised information on revenues (aeronautical and non-aeronautical), and such other information as the Authority may reasonably require.

Part V
Force Majeure and Termination

ARTICLE 17

17 Force Majeure and Termination

17.1 Force Majeure

Article 17 shall apply if the performance by any Party (the “**Affected Party**”) of its obligations under this Agreement is prevented, hindered or delayed in whole or in part by reason of Force Majeure.

17.2 Consequences of Force Majeure

17.2.1 Performance Obligation

Subject to compliance with Clause 17.2.2, neither Party shall be liable for any failure to comply, or delay in complying, with any obligation under or pursuant to this Agreement. The Parties under this Agreement shall not be required to perform their obligations to the extent that the performance of obligation by either Party is prevented, hindered, impeded or delayed in whole or in part by reason of Force Majeure and in particular, but without limitation, the time allowed for the performance of any such obligations (including, without limitation, achieving the Airstrip Opening Date as required by Clause 10.5) shall be extended accordingly.

17.2.2 Notification

As soon as reasonably practicable, but not more than 72 hours, following the date of commencement of any event of Force Majeure, if either Party desires to invoke such event of Force Majeure as a cause for delay or failure in the performance of any obligation hereunder, it shall notify the other Party in writing of such date and the nature and expected duration of such event of Force Majeure. Within a seven (7) days following the date of such notice of such event of Force Majeure, the Party having invoked such event of Force Majeure as a cause for such delay shall submit to the other Party sufficient proof of the nature of such delay or failure and its anticipated effect upon the time for performance.

17.2.3 Mitigation

The Affected Party shall take all reasonable steps to prevent, reduce to a minimum and mitigate the effect of the event of Force Majeure.

17.3 Default

17.3.1 [NAME OF THE SPV] Default Events

Each of the following events shall constitute a “[NAME OF THE SPV] Default Event”:

- a. Except as otherwise provided in this Clause 17.3.1, if [NAME OF THE SPV] is in material breach of the terms of this Agreement and such breach has not, if capable of remedy, been remedied within sixty (60) consecutive days from the date upon which [NAME OF THE SPV] receives a notice from the Authority specifying that such breach has occurred. The Parties expressly agree that any transfer of shares in breach of a representation and warranty set out in Clause 7.1.1(l) shall constitute a [NAME OF THE SPV] Default Event;
- b. [NAME OF THE SPV] abandons or manifests intention to abandon the construction or operation of the Airstrip without the prior written consent of the Authority;
- c. [NAME OF THE SPV] has failed to pay Premium or make any payment to the Authority within the period specified in this Agreement;
- d. If Airstrip Opening Date has not occurred by the date falling 12 (twelve) months after the Airstrip Opening Target Date;
- e. If, following Airstrip Opening [NAME OF THE SPV] ceases to operate (whether by act or omission) for more than fourteen (14) consecutive days or for an aggregate of more than thirty (30) days in any calendar year without the written consent of the Authority;
- f. If, following Airstrip Opening [NAME OF THE SPV] fails to operate at least 3 (three) flights in a week for a continuous period of more than 1(one) month or for an aggregate of more than 8 weeks in any calendar year without the written consent of the Authority.
- g. If the Performance Security has been encashed and appropriated in accordance with Clause 9.2 and/ or the Operations Performance Security has been encashed and appropriated in accordance with Clause 9.5 and [NAME OF THE SPV] fails to replenish or provide fresh Performance Security and/ or the Operations Performance Security within a period of 15 (fifteen) days;
- h. Subsequent to the replenishment or furnishing of fresh Performance Security in accordance with Clause 9.2, [NAME OF THE SPV] fails to cure, within a Cure Period of 60 (sixty) days, [NAME OF THE SPV] Default for which whole or part of the Performance Security was appropriated;
- i. An order being made or a resolution being passed for the liquidation, bankruptcy or dissolution of [NAME OF THE SPV] which is not, if capable of being so, discharged or, as the case may be, revoked within ninety (90) days thereafter;
- j. If any material representation or warranty given by [NAME OF THE SPV] under this Agreement is incorrect;
- k. A breach of any of the Project Agreements by [NAME OF THE SPV] has caused a Material Adverse Effect;

- l. [NAME OF THE SPV] creates any Encumbrance in breach of this Agreement;
- m. [NAME OF THE SPV] repudiates this Agreement or otherwise takes any action or evidences or conveys an intention not to be bound by the Agreement;
- n. A Change in Ownership has occurred in breach of the provision of Clause 5.3;
- o. There is transfer, pursuant to law either of (i) the rights and /or obligations of [NAME OF THE SPV] under any of the Project Agreement, or of (ii) all or part of the assets or undertaking of [NAME OF THE SPV], and such transfer causes a Material Adverse Effect;
- p. An execution levied on any of the assets of [NAME OF THE SPV] has caused a Material Adverse Effect;
- q. A resolution for winding up of [NAME OF THE SPV] is passed, or any petition for winding up of [NAME OF THE SPV] is admitted by a court of competent jurisdiction and a provisional liquidator or receiver is appointed and such order has not been set aside within 90 (ninety) days of the date thereof or [NAME OF THE SPV] is ordered to be wound up by court except for the purpose of amalgamation or reconstruction, the entire property, assets and undertaking of [NAME OF THE SPV] are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligation of [NAME OF THE SPV] under this Agreement and the Project Agreement and provided that:
 - i. the amalgamated or reconstructed entity has the capability and operating experience necessary for the performance of its obligations under this Agreement and the Project Agreements;
 - ii. the amalgamated or reconstructed entity has the financial standing to perform its obligation under this Agreement and the Project Agreements and has a credit worthiness at as good as that of [NAME OF THE SPV] as at the Effective Date; and
 - iii. each of the Project Agreement is in full force and effect;
- r. [NAME OF THE SPV] has failed to fulfil any obligation, for which failure Termination has been specified in this Agreement ;
- s. [NAME OF THE SPV] commits a material default in complying with any other provision of this Agreement.

Provided that the events outlined in sub-article (a), (d) and (e) above shall not constitute a [NAME OF THE SPV] Default Event if they are the result and/or consequence of any of the events specified in the proviso to Clause 10.5.

17.4 Consequences of Default

In the event of a [NAME OF THE SPV] Default Event occurring, The Authority shall have the right to notify [NAME OF THE SPV] that such an event has occurred and (if it is capable of remedy) requiring the remedy of the same within a reasonable period not less than thirty (30) days. If, following the end of such period, the breach has not been remedied, then the Authority or any entity designated by it shall have the right, but shall not be required, to issue a notice to [NAME OF THE SPV] terminating this Agreement, and cancelling the Licence under the terms of the Leave and Licence Agreement.

The Authority shall acquire all of [NAME OF THE SPV]'s rights, title and interests in and to the Airstrip in the manner set out in Clause 17.5 below.

17.5 Transfer of Airstrip

17.5.1 On exercise of a right of termination by the Authority under Clause 17.4 of this Agreement or on expiry of this Agreement by efflux of time in accordance with this Agreement, all assets of [NAME OF THE SPV] shall be transferred to the Authority or its nominee on the Transfer Date in accordance with this Clause 17.5 and clear of any Security and without any encumbrances and liabilities as provided in Clause 17.5.3 below. For the avoidance of doubt this shall include but not be limited to:

- i. All immovable, movable and intangible property (including intellectual property, plans, designs and drawings), stocks, materials, vehicles and spares of [NAME OF THE SPV];
- ii. The rights and obligations under or pursuant to all contracts and other arrangements entered into in accordance with the provisions of this Agreement between [NAME OF THE SPV] and any Service Provider Right Holder (in consideration of the Authority's assumption of the obligations under or pursuant to the contracts and other arrangements); and
- iii. The rights and obligations under or pursuant to all other contracts entered into by [NAME OF THE SPV] (including for the avoidance of doubt insurance contracts, guarantees and warranties) (in consideration of the Authority's assumption of the obligations under or pursuant to such contracts).

17.5.2 Notwithstanding anything contained in Clause 17.5.1, prior to any transfer of the Airstrip, the Authority shall have the right to conduct a due diligence of the contracts and agreements pertaining to Non-Aero Activities, the rights and obligations of which it is assuming and shall not be bound to assume the rights and obligations of contracts that, in the sole opinion of the Authority are unreasonably onerous, and would be considered onerous at the time that the contracts were entered into. The Authority shall conduct the due diligence and identify the contracts and agreements that it is prepared to assume within 45 days of the opening of a data room by [NAME OF THE SPV] for these purposes following the exercise of a right of termination by the Authority under Clause 17.4.

17.5.3 Notwithstanding anything contained in this Clause 17.5, no liability (accrued or contingent) of [NAME OF THE SPV] or relating to the Airstrip arising on account of actions or inactions prior to the Transfer Date shall be assumed or transferred to the Authority or its nominees. The Authority or its nominees shall only be liable for liabilities in relation to the Airstrip arising subsequent to the Transfer Date.

17.5.4 [NAME OF THE SPV] shall, in accordance with Good Industry Practice, ensure that all property, assets, rights and other items referred to in Clause 17.5.1, which are vested in or transferred to the Authority shall be in good working order and in a good state of repair and that the Airstrip is transferred to the Authority as a going concern in good operating order, but this provision shall be deemed to be satisfied if [NAME OF THE SPV] is for the time being complying with its maintenance obligations.

17.6 Pre-termination Obligations

Expiry or termination of this Agreement shall be without prejudice to all rights and obligations then having accrued to the Authority and/or [NAME OF THE SPV] (or which may thereafter accrue in respect of any act or omission prior to such expiry or termination) and without prejudice to those provisions which expressly provide for continuing obligations or which are required to give effect to such expiry or termination or the consequences of such expiry or termination.

17.7 Term

17.7.1 Unless terminated earlier in accordance with Clause 4.4.2, Clause 17.4, or by mutual agreement between the Parties in writing, this Agreement shall continue in full force and effect from its commencement in accordance with Article 4 until the thirtieth (30th) anniversary of the Airstrip Opening Target Date. Provided also that at any time no earlier than 5 (five) years prior to the completion of the Term as aforesaid above, Authority may, at its discretion extend the Term of the Agreement for such further period as they may determine, but not exceeding 15 (fifteen) years in the Term.

17.8 Other Rights of Termination

The Parties' rights to terminate this Agreement shall be limited to those expressly set out in this Agreement.

17.9 Survival

Clauses 17.4 and 17.5 shall continue to bind the Parties notwithstanding the termination of this Agreement.

17.10 Suspension

Subject to giving prior written notice to the Authority, [NAME OF THE SPV] shall be entitled to suspend the construction and/or operation and maintenance of the Airstrip upon the occurrence of any of the events specified in the Clause 10.5.

**Part VI:
Other Provisions**

ARTICLE 18

18 Assignment and Security

18.1 Assignment and Security

18.1.1 Notwithstanding any change in the law (change in law does not include change in regulatory laws) of India after the Proposal Due Date which might otherwise permit the assignment of this Agreement, [Name of SPV] shall not (save as permitted pursuant to Clause 18.2) create nor permit to subsist any Encumbrance, or otherwise transfer or dispose of all or any of its rights and benefits under this Agreement or any Project Agreement to which the [Name of SPV] is a party except with prior consent in writing of the GoK, which consent the Authority shall be entitled to decline without assigning any reason.

18.2 Permitted assignment and charges

The restraints set forth in Clause 18.1.1 shall not apply to:

- a) mortgages/pledges/hypothecation of goods/assets other than Project Assets, and their related documents of title, arising or created in the ordinary course of business of the Project, and as security only for indebtedness to the Lenders under the Financing Agreements and/or for working capital arrangements for the Project;
- b) liens or encumbrances required by any Applicable Law.

ARTICLE 19

19 Liability and Indemnity

19.1 [NAME OF THE SPV] Liability

Subject to Article 17.3, as between [NAME OF THE SPV] and the Authority (and their respective employees, servants and agents), [NAME OF THE SPV] alone will bear any responsibility there may be for any cost, expense, loss, liability or damage suffered or incurred by any user(s) at the Airstrip or any other Person(s) or otherwise and arising out of or in connection with the feasibility, finance, design, construction, maintenance and operation of the Airstrip and Non-Aero Activities without recourse to the Authority (or any of its respective employees, agents and/or servants) to the extent that such cost, expense, loss, liability or damage arises as a result of the negligence of [NAME OF THE SPV] (and its employees, servants and agents).

19.2 Exchange of information regarding legal proceedings

The Authority and [NAME OF THE SPV] will be obliged to give information to the other Party, if any legal proceeding is initiated in any court or tribunal against them relating to this Project or Project Development Agreement.

19.3 Information

The Authority and [NAME OF THE SPV] shall promptly, as soon as reasonably practicable after it becomes aware of the same, inform each other of any demand, claim, action or proceeding or anticipated demand, claim, action or proceeding against it, in respect of which it is entitled to be indemnified under Clause 19.1. They shall give reasonable assistance to one another in the defence of any such demand, claim, action or proceeding.

19.4 Liability

The Parties intend that the rights, obligations and liabilities contained in this Agreement shall be an exhaustive description of the rights, obligations and liabilities of the Parties arising out of or in connection with this Agreement. Accordingly, the remedies expressly stated in this Agreement and any document entered into pursuant to it shall be the sole and exclusive remedies of the Parties for liabilities to one another arising out of or in connection with this Agreement, including any representation, warranty or undertaking given in connection with it, notwithstanding any remedy otherwise available at law or in equity.

19.5 Mitigation

[NAME OF THE SPV] shall, in accordance with Applicable Law, take all reasonable steps including, to the extent feasible, an increase in the charge to be levied on users of Airstrip to mitigate the adverse effect of a change in law. Provided that change in regulatory law shall not be considered as change in law for the purpose of this Article.

ARTICLE 20

20 Dispute Resolution

20.1 Negotiation and Conciliation

The Parties shall use their respective reasonable endeavours to settle any dispute, difference claim, question or controversy between the Parties arising out of, in connection with or in relation to this Agreement (“**Dispute**”) amicably between them through negotiation.

20.2 Reference to Arbitrator

Any Dispute which the Parties are unable to resolve pursuant to 20.1 within sixty (60) days (or such longer period as the Parties may agree) of the written notification by one Party to the other of the existence of a Dispute shall be referred to Arbitration Centre – Karnataka (Domestic and International) Bengaluru.

20.3 Miscellaneous

The venue of arbitration shall be Bengaluru, Karnataka. Each Party shall pay the expenses of the arbitration in accordance with Arbitration Centre – Karnataka (Domestic and International) Rules 2012 and the eventual liability for the costs shall be in terms of the arbitral award. No arbitrator shall be the present or former employee or agent of, or consultant or counsel to either Party or in any way related or closely connected with the Parties. The language of the arbitration shall be English.

20.4 Decision/Award

Any decision or award of an arbitral tribunal appointed pursuant to this Article 20 shall be final and binding upon the Parties. The Parties agree that any arbitration award made may be enforced by the Parties against assets (excluding those in respect of the Authority referred to in the exclusion to Article 22.14) of the relevant Party, wherever those assets are located or may be found, and judgement upon any arbitration award (wherever necessary) may be entered by any court of competent jurisdiction thereof. The Parties expressly submit to the jurisdiction of any such court for the purposes of enforcement of any arbitration award.

ARTICLE 21

21 Redressal of Public Grievances

21.1 Complaints Register

21.1.1 [NAME OF THE SPV] shall maintain a public relations office at the Airstrip where it shall keep a register (the “**Complaint Register**”) with access at all times for recording of complaints by any person (the “**Complainant**”). Immediately after a complaint is registered, [NAME OF THE SPV] shall give a receipt to the Complainant stating the date and complaint number.

21.1.2 The Complaint Register shall be securely bound and each page thereof shall be duly numbered. It shall have appropriate columns including the complaint number, date, name and address of the Complainant, substance of the complaint and the action taken by [NAME OF THE SPV]. Information relating to the availability of and access to the Complaint Register shall be prominently displayed by [NAME OF THE SPV] at the Airstrip.

21.2 Redressal of Complaints

[NAME OF THE SPV] shall inspect the Complaint Register every day and take prompt and reasonable action for redressal of each complaint. The action taken shall be briefly noted in the Complaint Register and a reply stating the particulars thereof shall be sent by [NAME OF THE SPV] to the Complainant under a certificate of posting.

ARTICLE 22

22 Miscellaneous

22.1 Change in Law

22.1.1 If as a result of Change in Law, [Name of SPV] suffers an increase in cost or reduction in net after-tax return or other financial burden, [Name of SPV] may so notify the Authority and propose amendments to this Agreement so as to place the [Name of SPV] in the same financial position as it would have enjoyed had there been no such Change in Law resulting in the cost increase, reduction in return or other financial burden as aforesaid. Upon notice by the [Name of SPV] the Parties shall meet, as soon as reasonably practicable, but not later than 30 (thirty) days from the date of notice, and either agree on amendments to this Agreement or on any other mutually agreed arrangement:

Provided that if no agreement is reached within 90 (ninety) days of the aforesaid notice, the [Name of SPV] may by notice require the Authority to pay an amount that would place the [Name of SPV] in the same financial position that it would have enjoyed had there been no

such Change in Law, and within 15 (fifteen) days of receipt of such notice, along with particulars thereof, the Authority shall pay the amount specified therein; provided that if the Authority shall dispute such claim of the [Name of SPV], the same shall be settled in accordance with the Dispute Resolution Procedure. For the avoidance of doubt, it is agreed that this Clause 22.1 shall be restricted to changes in law directly affecting the [Name of SPV]'s costs of performing its obligations under this Agreement.

22.1.2 Pursuant to the provisions of Clauses 22.1.1 and for the purposes of placing the [Name of SPV] in the same financial position as it would have enjoyed had there been no Change in Law affecting the costs, returns or other financial burden or gains, the Parties shall rely on the Financial Model to establish a net present value (the "NPV") of the net cash flow and make necessary adjustments in costs, revenues, compensation or other relevant parameters, as the case may be, to procure that the NPV of the net cash flow is the same as it would have been if no Change in Law had occurred.

22.1.3 The Parties acknowledge and agree that the demand for cash compensation under this Article 22.1 shall be restricted to the effect of Change in Law during the respective Accounting Year and shall be made at any time after commencement of such year, but no later than one year from the close of such Accounting Year. Any demand for cash compensation payable for and in respect of any subsequent Accounting Year shall be made after the commencement of the Accounting Year to which the demand pertains, but no later than 2 (two) years from the close of such Accounting Year.

22.1.4 Notwithstanding anything to the contrary contained in this Agreement, the Authority shall not in any manner be liable to reimburse to [Name of SPV] any sums on account of a Change in Law if the same are recoverable from the Users.

22.1.5 During the term of this Agreement the aggregate liability of the Authority in respect of any and all claims under clause 22.1 shall not exceed Rs. 1,00,00,000/- (Rupees One Crore Only).

22.2 Remedies, Waivers, Amendments and Consents

No failure on the part of The Authority or [NAME OF THE SPV] to exercise, and no delay on their part in exercising, any right, power, privilege or remedy under this Agreement will operate as a waiver thereof, nor will any single or partial exercise of any right, power, privilege or remedy preclude any other or further exercise thereof or the exercise of any other right, power, privilege or remedy. Unless specified otherwise, the rights, powers, privileges and remedies provided in this Agreement are cumulative and not exclusive of any other rights, powers, privileges or remedies (whether provided by law or otherwise).

22.3 Amendments, Waivers and Consents

22.3.1 Amendments

Any provision of this Agreement may be amended, supplemented or modified only by an agreement in writing signed by the Parties.

The Authority or [NAME OF THE SPV] may at any time request the other to enter into discussions to review the operation of any part of this Agreement and, but without commitment on either Party, to determine whether it should be amended by mutual agreement provided that, unless there is such mutual agreement, the provisions of this Agreement (as then most recently, if at all, amended) shall continue to apply whatever the outcome of any such discussions or review and whether or not any such discussions or review take place.

Notwithstanding the terms of any other provision of this Agreement, it shall not be a breach of this Agreement if any amendment, supplement or modification to any provision of this Agreement requires ratification by law.

22.3.2 Waivers and Consents

Any provision or breach of any provision of this Agreement may be waived before or after it occurs only if evidenced by an agreement in writing signed by the Parties.

Any consent under or pursuant to any provision of this Agreement must also be in writing and given prior to the event, action or omission for which it is sought.

Any such waiver or consent may be given subject to any conditions thought fit by the Person(s) giving it and shall be effective only in the instance and for the purpose for which it is given.

22.4 Entire Agreement

The Letter of Award issued to Selected Bidder/Consortium, this Agreement and the documents to be entered into pursuant to it constitute the entire agreement between the Parties with respect to the subject matter of this Agreement and supersede any prior written or oral agreement between them with respect to such subject matter.

22.5 Further Assurance

22.5.1 Each Party shall, use all reasonable endeavours to procure that any relevant third party shall, execute such documents and do such acts and things as the requesting Party may reasonably require for the purpose of giving to the requesting Party the full benefit of all the provisions of this Agreement. Provided it is without any detriment to the requested Party and at the cost and risks of the requesting Party.

22.6 Partial Invalidity

22.6.1 If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity 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 and the legality, validity and enforceability of the remainder of this Agreement shall not be affected.

22.6.2 The Parties will negotiate in good faith with a view to agreeing one or more provisions, which may be substituted for any such invalid, illegal or unenforceable provision and which are satisfactory to the Authority and produce as nearly as is practicable in all the circumstances the appropriate balance of the commercial interests of the Parties.

22.7 No Partnership

Neither this Agreement nor any other agreement or arrangement of which does not form part, nor the performance by the Parties of their respective obligations under any such agreement or arrangement, shall constitute a partnership between the Parties. No Party shall have any authority (unless expressly conferred in writing by virtue of this Agreement or otherwise and not revoked) to bind any other Party as its agent or otherwise.

22.8 Time is of the Essence

Time shall be of the essence of this Agreement, both as regards the dates, periods or times of day mentioned and as regards any dates, periods or times of day which may be substituted for them in accordance with this Agreement.

22.9 Computation of Time

Times referred to in this Agreement are times in Bengaluru, Karnataka. In computing any period of time prescribed or allowed under this Agreement, the day of the act, event or default from which the designated period of time begins to run shall be included. If the last day of the period so computed is not a business day, then the period shall run until the end of the next business day.

22.10 Notices

22.10.1 Communications in Writing

Any communication to be made under or in connection with this Agreement shall be made in writing and, unless otherwise stated, may be made by fax or registered letter.

22.10.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Agreement is as follows:

[Name and Address of the Authority]

[NAME OF THE SPV]:

Or any substitute address, fax number or department or officer as the Party may notify to the other Party, by not less than five (5) Business Days' notice.

22.11 Deemed Delivery

Subject as otherwise provided in this Agreement, any communication under or pursuant to this Agreement shall be deemed to be received by the recipient (if sent by email, immediately, in case of fax with confirmation of transmission or telex and, in the case of telex, with answerback received) on the next working day in the place to which it is sent or (in any other case) when left at the address required by Article 22.10.2 or within ten (10) such working days after being sent by registered post (by airmail if to another country) postage prepaid and addressed to that address. For these purposes, working days are days other than Saturdays, Sundays and bank holidays.

22.12 Governing Language

The language which governs the interpretation of this Agreement is the English language. All notices required to be given by either Party to the other and all other communications and documentation which is in any way relevant to this Agreement and which is relevant to the execution, implementation and termination of this Agreement, including but not restricted to any dispute resolution proceedings, shall be in the English language.

22.13 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of India.

22.14 Waiver of Sovereign Immunity

The Authority unconditionally and irrevocably:

- a) Agrees that the execution, delivery and performance by it of this Agreement and those agreements and other documents comprising the Security to which it is a party constitute commercial acts rather than public or governmental acts; and
- b) Agrees that, should any proceedings be brought against it or its assets in relation to this Agreement or any transaction contemplated by this Agreement, no sovereign immunity from such proceedings shall be claimed by or on behalf of itself or with respect to its assets.

22.15 Default Interest

Any amounts due and payable under the terms of this Agreement and not paid on their due date shall bear interest at the State Bank of India Medium Term Prime Lending Rate plus two per cent (2%).

22.16 Confidentiality

Neither Party shall without the prior written consent of the other Party at any time divulge or disclose or suffer or permit its servants or agents to divulge or disclose to any person or use for any purpose unconnected with the purposes of this Agreement any information which is, by its nature confidential, except to their respective officers, directors, employers, agents, representatives and professional advisors or as may be required by any law, rule, regulation or any judicial process.

In witness whereof the Authority and [NAME OF THE SPV] have signed this Agreement through their authorised representatives, as above stated, as of the date first hereinabove mentioned.

Signed and Sealed

For and on behalf of the Authority (through its authorised signatory) by:

Signature:

Name:

Designation:

For and on behalf of [NAME OF THE SPV] (through its authorised signatory) by:

Signature:

Name:

Designation:

In the presence of:

(1)

(2)