

CONFIDENTIAL

Execution Version

Dated 14 December 2015

HELLENIC REPUBLIC

HELLENIC REPUBLIC ASSET DEVELOPMENT FUND SOCIÉTÉ ANONYME

and

FRAPORT REGIONAL AIRPORTS OF GREECE A SOCIÉTÉ ANONYME

and

FRAPORT AG FRANKFURT AIRPORT SERVICES WORLDWIDE

and

SLENTEL LIMITED

CONCESSION AGREEMENT

Upgrade, Maintenance, Management and Operation of Cretan, Continental
Greece and Ionian Sea regional airports

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Preamble

1. In the context of the Greek Privatisation Program, as stated in (a) table II of chapter B of law 3985/2011 "*Medium-Term Fiscal Strategy Framework 2012-2015*" (Government Gazette 151/A/1.7.2011), as in force, (b) appendix IV of the Memorandum of Economic and Financial Policies, which was ratified by article 1 paragraph 2 of law 4046/2012 "*Approval of the Draft Financial Assistance Facility Agreement between the European Financial Stability Facility (EFSF), the Hellenic Republic and the Bank of Greece, of the Draft Memorandum of Understanding between the Hellenic Republic, the European Commission and the Bank of Greece and of other urgent provisions in order to reduce the public deficit and secure the national economy*" (Government Gazette 28A/14.2.2012), as in force, (c) table II of chapter "*Privatizations*" of appendix I of law 4093/2012 "*Medium-Term Fiscal Strategy Framework 2013-2016*" (Government Gazette 222A/12.11.2012), as in force, and (d) point 4.4 "*Privatisation*" of subparagraph 4 "*Structural policies for the enhancement of competitiveness and development*" of paragraph C "*Agreement on fiscal targets and structural reforms*" of law 4336/2015 (Government Gazette 94/A/14.8.2015) on "*Social security provisions – Ratification of the Draft Agreement on the Financial Assistance by the European Stability Mechanism and provisions for the implementation of the Financing Agreement*" and by virtue of Decision No. 195/27.10.2011 (Government Gazette 2501B/4.11.2011) of the Inter-ministerial Committee for Asset Restructuring and Privatisations that transferred to the Grantor (as defined in this Agreement) the right provided under paragraph 8(c) of article 22 of law 3913/2011, as in force, to grant concession of the rights of use, administration, development, expansion, maintenance and exploitation of one or more regional airports in Greece, which are currently operated by the Hellenic Civil Aviation Authority, including the rights of administration, management and exploitation of the movable and fixed assets that are relevant to the operation of such airports, as well as of the land for commercial or other use that lies within the boundaries of or close to the airports, under the terms specified in the above mentioned legislative provision, the Grantor has announced a tender procedure for the award of a concession for the exploitation and provision of services in relation to the operation and maintenance of the Regional Airports (as defined in this Agreement) (the **Tender Procedure**).
2. In this respect the Grantor has issued (a) the Invitation for Expression of Interest (as defined in this Agreement) and (b) the Request for Proposal (as defined in this Agreement) in relation to the operation and maintenance of the Regional Airports. According to the Tender Procedure and following the Grantor's Board of Directors' resolution dated 25.11.2014, the consortium "FRAPORT AG – SLENTEL Ltd" was declared the preferred investor for the Regional Airports.
3. Pursuant to the Acts No. 17/2015 and 301/2015 of the 7th Department of the Court of Auditors, the final draft of the agreement for the concession of the exploitation and the provision of services in relation to the Regional Airports was approved and its execution was allowed.
4. Pursuant to the decision of the Governing Council for the Economic Policy No. 240B/13.8.2015 (Government Gazette 98B/17.8.2015) the execution by the Grantor of the Concession Agreement for Upgrade, Maintenance, Management and Operation of Cretan, Continental Greece and Ionian Sea regional airports was approved.
5. Pursuant to the act of the Council of Ministers No. 39/2.11.2015 (Government Gazette 138A/3.11.2015) the joint execution by the Hellenic Republic of the Concession Agreement for the Upgrade, Maintenance, Management and Operation of Cretan, Continental Greece and Ionian Sea regional airports was approved and authorization was granted to the Ministers of Defense, Economy and Infrastructure, Transport and Networks to jointly execute on behalf of the Hellenic

Republic the Concession Agreement for the Upgrade, Maintenance, Management and Operation of Cretan, Continental Greece and Ionian Sea regional airports, together with any other agreements that are amending or are ancillary or executory to this Agreement.

Pursuant to the above the Contracting Parties, as these are defined in Article 3.1 (*Definitions*), agree and accept the following:

1 Introduction - Contracting Parties

In Athens on this 14 day of the month December of the year two thousand fifteen (2015), the contents of the Articles and its Appendices have been mutually agreed and accepted,

BETWEEN

- (1) **THE HELLENIC REPUBLIC** (hereinafter the **Greek State** or the **State**) lawfully represented by Mr. Eyclides Tsakalotos, *Minister of Finance*, Mr. Christos Spirtzis, *Minister of Infrastructure, Transport and Networks* and Mr Panayiotis Kammenos, *Minister of Defence*;
- (2) **HELLENIC REPUBLIC ASSET DEVELOPMENT FUND SOCIÉTÉ ANONYME** (hereinafter **Grantor**) a *société anonyme* incorporated under law 3986/2011 (Government Gazette 152A/1.7.2011) of 1 Kolokotroni and Stadiou str., 7th Floor, PC 105 62 Athens, Greece, the entire share capital of which is owned and controlled by the Greek State, lawfully represented herein by its Chairman, Mr. Asterios Pitsiorlas; and
- (3) **FRAPORT REGIONAL AIRPORTS OF GREECE A SOCIÉTÉ ANONYME** hereinafter called the **Concessionaire** or the **Company**, a *société anonyme* incorporated under the laws of Greece, having its registered office in the Municipality of Amaroussio, 209 Kifissias avenue, that has been incorporated by virtue of No. 37095/26-2-2015 statutory act of the Notary public Christos Steiros, a certified copy of which is provided in accordance with Appendix 4 (*Completion Documents/Concession Commencement Date*) that has been registered in the General Electronic Commercial Registry (G.E.MI.) under the number 133592401000 and is hereby lawfully represented by Mr. Christoph Hans Nanke, resident of Wiesbaden, Germany, president of the board of directors of the Company pursuant to No. 64682/13.10.2015 announcement of the Registry Department of G.E.MI. in which the representation of the Company was published in conjunction with the resolution number 8 dated 08.12.2015 of the board of directors of the Company;
- (4) the shareholders of the Concessionaire:
 - (a) **FRAPORT AG FRANKFURT AIRPORT SERVICES WORLDWIDE** a company incorporated under the laws of Germany, registered with the Commercial Register of Frankfurt am Main under HRB 7042, having its registered seat at Flughafen, Geb. 178, 60547 Frankfurt am Main, Germany, which is lawfully represented by Messrs. Alexander Zinell and Martin Glock in accordance with its articles of association in conjunction with the resolution dated 08.12.2015 of its executive board and the powers of attorney granted by the executive board dated 08.12.2015; and
 - (b) **SLENTEL LIMITED** a company incorporated under the laws of Cyprus having its registered office in 15, Esperidon Street, ATLANTIC INSURANCE BUILDING, Strovolos

2001, Nicosia, Cyprus, and is lawfully represented by Mr. Dimitrios Copelouzos in accordance to its articles of association in conjunction with the resolution of the sole director of such company Mrs. Giannoula Georgiou dated 30.11.2015. This company has been incorporated in 17.1.2011 and is registered with the Companies Register (of Cyprus) under number HE 280254:

enter into this Agreement exclusively in relation to the obligations they undertake in accordance with the provisions of Articles 6.2.1(b)(iii), 9.1 (*Committed Investment*), and 11 (*Share Capital - Shareholders*) and the statements of Article 2 (*Legality and Accuracy of Submitted Documents*) (the **Initial Shareholders**).

Reference is made that for the award and execution of this Agreement the provisions of paragraph 4 of article 9 of law 3986/2011, have been observed.

2 Legality and Accuracy of Submitted Documents

The Concessionaire and the Initial Shareholders by entering in this Agreement make a declaration to the State and the Grantor that all of the submitted documents in accordance with Article 1 (*Introduction – Contracting Parties*) above:

- (a) are lawful, accurate and valid; and
- (b) are not inconsistent with the terms of this Agreement and its Appendices and even if there is such an inconsistency, they accept without any reservation to correct the point of inconsistency at their own cost and expense, without any excuse and within a reasonable time from the date notice is given to them or from the date they become aware of the inconsistency.

3 Definitions - Interpretation of this Agreement - Appendices

3.1 Definitions

In this Agreement the terms used have the meaning given next to them unless this Agreement otherwise requires.

Acceleration Cost has the meaning given to it in Article 30.1.4;

Acceptable Bank means (a) a bank or other financial institution which is regulated by regulators within the EU and which has a credit rating for long-term unsecured financing not lower than 2 rating grades or notches of the credit rating of the Hellenic Republic or (b) any bank or other financial institution which has a credit rating for long-term unsecured financing of BBB+ (or better) from Standard & Poor's Corporation, or Baa1 (or better) from Moody's Investors Services, Inc., or BBB+ (or better) from Fitch Ratings;



Acceptable Period means the first one hundred and fifty 60-minute intervals in any Peak Period during which a Regional Airport is determined to have apron under-capacity;

Additional Period means the period of 12 months after the Termination Date or such shorter period as notified to the Concessionaire by the State;

Additional Period Operations has the meaning given to it in Article 36.1.1(a);

Additional Period Operations Fee has the meaning given to it in Article 36.1.1(c);

Additional Period Termination Date means the last day of the Additional Period;

Additional Permitted Borrowings Limit means the amount equal to the aggregate of the following:

- (a) 10% of the original senior commitment (as defined in the Designated Loan Agreements); and
- (b) the aggregate amount of principal which has been borrowed to fund all or part of any Qualifying Variation, any Qualifying Change in Law or any Future Works;

Additional State Works Snagging Matters has the meaning given to it in Article 19.3.3(a);

ADF means the duty levied on departing Passengers introduced pursuant to article 40 of law 2065/1992, as in force, which following the Concession Commencement Date shall be fully payable by the State to the Concessionaire pursuant to the procedure specified in Article 28.10 of this Agreement; the ADF shall be fixed pursuant to Article 5.2.1(n).

ADSCR means in respect of any previous or future twelve month period (as the case may be), the ratio of:

- (a) Net Cash Flow of the Concessionaire, being, for the relevant period, the sum of (each element to be understood on a pure cash basis, as opposed to accounting basis):
 - (i) Revenues;
 - (ii) product of the Designated Loan Agreements used to pay debt service obligations, if any;
 - (iii) any interest received in respect of the balances in the Concessionaire's accounts;
 - (iv) any amounts in any reserve account, which are at that time capable of being automatically released,

less Capital Expenditure (to the extent that these are not financed by the Designated Loan Agreements and/or Committed Investment), Operational Expenditure, any

Concession Fee, the Levy, taxes and transfers to any reserve accounts (up to their balance reaching the required balance as per the Designated Loan Agreements, if any) to:

- (b) Debt service obligations (in principal, interest, fees, payments by the Concessionaire under any hedging agreement less any amounts received by the Concessionaire under such hedging agreement during such period and other costs) accrued in such period as per the Designated Loan Agreements,

provided that:

- (A) subject to paragraph (B) below, if the Calculation Date is at least six (6) months but less than twelve (12) months after the Concession Commencement Date, the relevant period for the calculation shall be the period from the Concession Commencement Date to the Calculation Date; and
- (B) for the first two (2) Calculation Dates following a Shock Event, the relevant period for the calculation shall be from the date six (6) months prior to the Calculation Date to the Calculation Date, provided that if the first Calculation Date following a Shock Event is at least six (6) months but less than twelve (12) months after the Concession Commencement Date, the relevant period for the calculation for the first Calculation Date shall be the period from the Concession Commencement Date to the Calculation Date or such shorter period if the period between the Concession Commencement Date and the Calculation Date is less than six (6) months;

Aerodrome Certificate means a certificate issued or to be issued by the HCAA in accordance with the Certification Regulations and as specified by the HCAA;

Aerodrome Manual means each manual relating to a Certified Regional Airport to be provided by the HCAA prior to the Effective Date and each manual to be updated and/or created by the Concessionaire as aerodrome operator in accordance with Annex III, Subpart E of the Aerodromes Regulation 2014, and shall contain all necessary instructions, information and procedures for the aerodrome, the management system and for operations personnel to perform their duties;

Aerodromes Regulation 2014 means Commission Regulation (EU) No 139/2014 laying down requirements and administrative procedures related to aerodromes pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council;

Aeronautical Charges means the Regulated Aeronautical Charges and the Non-Regulated Aeronautical Charges;



Aeronautical Information Service means a service established within the defined area of coverage responsible for the provision of aeronautical information and data necessary for the safety, regularity, and efficiency of air navigation;

Aeronautical Revenues means Revenues arising from Air Activities including all Regulated Aeronautical Charges;

Affiliate means, in relation to a Person, any other person who, directly or indirectly is in control of, or controlled by, or is under common control with, that Person (and for the purposes of this definition, **control** means the power, directly or indirectly; (i) to vote, or direct the voting of more than 50% of the voting rights of such person or (ii) to direct or cause the direction of the management and policies of such person, whether by contract or otherwise);

Agent Bank means any bank or financial institution designated as such by the Lenders from time to time under the Designated Loan Agreements (if any);

Air Activities means the provision in relation to the Regional Airports of any facilities and/or services for the purposes of:

- (a) the landing, parking or taking-off of aircraft and the supply of fuel (excluding for the avoidance of doubt the sale of fuel);
- (b) the handling of Passengers (including in-flight catering), baggage, cargo or mail at all stages while on any Regional Airport premises (including the transfer of Passengers baggage, cargo or mail to and from aircraft);

including but not limited to the services and facilities specified in Part 1 of Appendix 18 (*Air Activities*). The facilities and services that are specified in Part 2 of Appendix 18 (*Air Activities*), and any other services and facilities that the Concessionaire may undertake at its own absolute discretion, shall not form part of Air Activities;

Air Activities CAPEX has the meaning given to it in Article 28.4.5(a)(A);

Air Activities Capital means the aggregate of:

- (a) the amounts paid up, or credited as paid up, from time to time on the shares issued pursuant to article 5 of the articles of association of the Concessionaire;
- (b) any Subordinated Debt provided pursuant to Article 9.1 (*Committed Investment*);
- (c) any further Committed Investment to the extent that such amounts are used (in connection with a New or Expansion Works or otherwise) for the purpose of the provision, construction, acquisition, maintenance, repair, renewal, upgrade and operation of the

assets allocated to Air Activities pursuant to Article 28.3.2 and acknowledged in writing as such by the State;

provided that:

- (i) the Concessionaire shall, subject to the availability of debt on reasonable commercial terms, use borrowed money rather than equity capital or Subordinated Debt for the purpose of the provision, construction, acquisition, maintenance, repair, renewal, upgrade and operation of the assets allocated to Air Activities pursuant to Article 28.3.2; and
- (ii) the Air Activities Capital will be Indexed from the first calendar year after the Effective Date (applied to the weighted average of Air Activities Capital over such period);

Air Navigation Services Provider means any entity designated by the State in accordance with article 8 of Regulation (EC) No 550/2004, which is currently the "Directorate General ANS Provider" within the HCAA or HAF;

Air Navigation Services means Air Traffic Services, communication, navigation and surveillance services, meteorological services for air navigation and Aeronautical Information Services;

Air Navigation Services Provision Allocation Matrix means the allocation of responsibilities for the provision of Air Navigation Services between the Concessionaire and the relevant Air Navigation Services Provider as set out in Appendix 17 (*Air Navigation Services Provision Allocation Matrix*);

Air Navigation Services Equipment means the systems and equipment as set out in Annex I of Regulation (EC) No 552/2004 that the provider of Air Navigation Services may require from time to time;

Air Traffic Control Service means a service provided for the purpose of preventing collisions both between aircraft and in the manoeuvring area between aircraft and obstructions, and for expediting and maintaining an orderly flow of air traffic;

Air Traffic Services means the various flight information services, alerting services, air traffic advisory services and Air Traffic Control Services (including area, approach and aerodrome control services);

Aircraft Fuelling Contract means each of the contracts for the provision of fuelling services at the Regional Airports as more particularly described in the list of Transferred Airport Contracts

that will be transferred by the HCAA to the Concessionaire in accordance with the provisions of Article 4.8 (*Transfer of contracts*);

Airport Charges means the levies collected for the benefit of the Concessionaire or any Airport Right Holder and paid by the airport users for the use of facilities and services at the Regional Airports;

Airport Contracts means the contracts in respect of certain rights and/or services at the Regional Airports which have been entered into between the State and/or the HCAA and the Airport Contract Parties including the Contracts and any other document designated as an 'Airport Contract' by the Concessionaire and the State entered into by the Concessionaire on or before the Concession Commencement Date;

Airport Contract Party means any party to any of the Airport Contracts other than the State and **Airport Contract Parties** shall be construed accordingly;

Airport Right means any privilege(s) or right(s) granted by or under this Agreement or any franchise, licence or other right or sub-right granted by the Concessionaire (or by any person pursuant to Article 4.6 (*Airport Rights*)) for the exploitation of or otherwise in relation to any privilege(s) or right(s) granted by or under this Agreement;

Airport Right Holder means any person (including without limitation, any Affiliate of the Concessionaire, any person licensed, hired, contracted, sub-licensed or otherwise permitted to operate any of the Airport Services or part of them) holding from time to time an Airport Right granted pursuant to this Agreement;

Airport Services means the Basic Airport Services, Mandatory Services and other airport services to be provided by the Concessionaire, as in each case set out in Appendix 5 (*Airport Services*);

Amount Payable for Termination means the amount due and payable as compensation to the Concessionaire or for the benefit of the Lenders by the State as a result of the termination of this Agreement;

Annual Concession Fee means a fixed amount of eleven million, three hundred thousand Euro (€11,300,000) Indexed from the Effective Date (the relevant Indexation Date) on every anniversary and due from the Concessionaire to the Grantor in each Concession Year (reduced pro rata for a Concession Year of less than twelve (12) months) in accordance with Article 29.2 (*Calculations and Payment*);

Annual Performance Report means the report to be submitted annually no later than 1 March by the Concessionaire to the HCAA in accordance with Appendix 6 (*Performance*

Measurement) which, amongst other things, measures the achievement of the Performance Standards;

Antiquities means all the fossils, antiquities, structures and any other object or ruins of archaeological value or interest pursuant to law 3028/2002 discovered in the Regional Airports in the course of carrying out any of the Works;

Approved Environmental Terms means the Concession's environmental terms as set out in Appendix 8 (*Approved Environmental Terms / Existing Permits*) as amended, supplemented or replaced during the Concession Period in accordance with the terms of this Agreement;

Approved Master Plan has the meaning given to that term in Article 20.3 (*Review and Approval of Rectification Plans and Master Plans*);

Approved Refurbishment Development Plan has the meaning given to it in Article 20.5.7;

Approved Rectification Plan has the meaning given to it in Article 20.3.5;

Apron Capacity Critical means, in relation to any Regional Airport, that the Capacity Assessment Provider has determined that there are more than one hundred fifty (150) 60-minute intervals during the Peak Period with under-capacity in accordance with paragraph 3.1 (*Apron Capacity Assessment*) of Appendix 6 (*Performance Measurement*);

Arbitral Tribunal means the arbitral tribunal as stipulated in Article 39.3 (*Arbitration*);

Arbitration means the Dispute resolution procedure stipulated in Article 39.3 (*Arbitration*);

Arbitration Award means the decision of the Arbitral Tribunal on a Dispute that the Parties have referred to it;

Arbitrators means the persons appointed according to Articles 39.3.4 and 39.3.5;

Archaeological Service means the civil service within the Ministry of Culture and Sports that is, *inter alia*, responsible for the formulation and supervision of the State's policy with regards to the discovery, preservation, maintenance and promotion of the cultural heritage of the State, including Antiquities;

Archaeological Test Excavations means the excavations of ditches up to 1 meter deep and 0.5 meters wide, performed sporadically by the Concessionaire in the Concession Sites following the indication and under the supervision of the competent Archaeological Service, in order to ascertain the potential existence of Antiquities;

Asset Register means, in respect of each Regional Airport, the register of all vehicles and other moveable assets required by the Concessionaire for the provision of the Concession Operations as such vehicles, equipment, furniture and other moveable assets are in existence at the Regional Airports at or around the Effective Date and over which the State has the rights described in Article 5.2.1(d);

Aviation Security means the combination of measures and human and material resources intended to safeguard civil aviation against acts of unlawful interference that jeopardise the security of Passengers and Users;

Basic Airport Services means those services to be provided by the Concessionaire at each of the Regional Airports as more particularly described in paragraph 3 (*Basic Airport Services*) of Appendix 5 (*Airport Services*) to this Agreement;

Business Day means a day when banks are open for business in Greece;

Business Plan means the five (5) year business plan to be provided by the Concessionaire to the State on the Concession Commencement Date as updated from time to time in accordance with this Agreement;

Calculation Date means 30 June and 31 December in each Concession Year;

Capacity Assessment means the Initial Capacity Assessment and any subsequent capacity assessment performed by the Capacity Assessment Provider in accordance with Article 20.2 (*Capacity Assessment*) and paragraph 3 (*Passenger Terminal and Apron Capacity Assessment*) of Appendix 6 (*Performance Measurement*);

Capacity Assessment Provider means a specialised company with a proven track record of airport capacity assessments appointed by the Concessionaire and approved by the HCAA in accordance with Appendix 6 (*Performance Measurement*);

Capacity Critical means Apron Capacity Critical or, as the case may be, Terminal Capacity Critical;

Capital Expenditure means capital expenditure (as such term is interpreted in accordance with generally accepted accounting principles in the Hellenic Republic from time to time, including for the avoidance of doubt, international financial reporting standards/IFRS);

Certification Regulations means Regulation (EC) 216/2008 of the European Parliament and of the Council on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, as amended from time to time, the Aerodromes Regulation 2014, and any Laws in force at the relevant time including the Ministerial Decision;

Certified Regional Airport means any Regional Airport that has been certified by the HCAA on the basis of the national legislation prior to the Effective Date;

Change in Costs has the meaning given to it in paragraph 1.9 of Appendix 23 (*Financial Adjustments*);

Change in Law means:

- (a) the enactment of any Law;
- (b) the repeal or modification of any Law;
- (c) the commencement of any Law;
- (d) a change in the interpretation or application of any Law; or
- (e) a change in, or change in the interpretation of, any law, which gives rise to the revocation, non-renewal or change in the terms of any Permit;

Change in Revenue has the meaning given to it in paragraph 1.9 of Appendix 23 (*Financial Adjustments*);

Chicago Convention means the Convention on International Civil Aviation 1944, as amended and/or supplemented from time to time, and references to an "annex" to the Chicago Convention will mean such annex as amended and/or supplemented from time to time;

Cluster B Concession means the financing, upgrade, maintenance, management and operation of the Cluster B Regional Airports in accordance with the Cluster B Concession Agreement;

Cluster B Concession Agreement means the concession agreement under which the Grantor grants the concession for the financing, upgrade, maintenance, management and operation of the Cluster B Regional Airports to the concessionaire;

Cluster B Regional Airports means the following seven core airports which together form cluster B: (1) Rodos; (2) Kos; (3) Santorini; (4) Mikonos; (5) Mitilini; (6) Samos; and (7) Skiathos;

Committed Investment means the sum of the Share Capital and any Subordinated Debt;

Committed Investment Guarantee means the irrevocable bank guarantee provided by the Initial Shareholders in the form provided for in Section 1 of Appendix 1 (*Form of Letters of Guarantee*);



Committed Investment Payment Schedule means the amounts and dates for payment of the Committed Investment in accordance with the provisions of Article 9.1.4;

Committee means the committee appointed by the competent Government Authority pursuant to the relevant State Works legislation and that is mandated to issue any Temporary Acceptance Protocol or, as the case may be, the Final Acceptance Protocol;

Competent Authority means any service of the State or the Grantor or other public authority, organisation or legal entity controlled by the State, either national or regional, prefectural, municipal or local, including the State and its ministries and departments (but specifically excluding any Public Utility Organisation), and including, for the avoidance of doubt, the State Representative and the Grantor Representative that has jurisdiction in relation to the Concession;

Completion Documents means each of the documents set out in Appendix 4 (*Completion Documents/Concession Commencement Date*), required to be submitted pursuant to Article 6.2.1;

Completion Certificate means a Substantial Completion Certificate and/or a Final Completion Certificate;

Concession means the financing, upgrade, maintenance, management and operation of the Regional Airports (including the provision of the Airport Services) and the carrying out and completion of the Works as this is described in detail in Appendix 12 (*Works*);

Concession Agreement or Agreement means this Agreement with its Appendices;

Concession Agreement Term means the time period defined in Article 6.6 (*Concession Agreement Term*);

Concession Commencement Date means the date set out in Article 6.2.2;

Concession Commencement Deadline means the time period starting from the Effective Date until the date falling one hundred and twenty (120) days from the Effective Date, excluding any time during which the Hellenic Parliament is dissolved and until a new Government has received the Hellenic Parliament's vote of confidence (in which case the Concession Commencement Deadline shall be extended by any such time), as such time period may be extended following an agreement in writing between the Parties prior to the lapse thereof;

Concession Documents means each of the following documents:

- (a) this Agreement;
- (b) the Designated Loan Agreements (if any);

- (c) the Performance Bonds;
- (d) the Independent Engineer's Agreement;
- (e) the Multi-Party Arbitration Agreement;
- (f) the Airport Contracts;
- (g) the Contracts;
- (h) the Design – Construction Contract(s) or the relevant template;
- (i) the Transferred Airport Contracts;
- (j) the Cooperation Agreements implementing HAF Cooperation Framework;
- (k) the State Service Level Agreements;
- (l) the Subordinated Debt Documents (if they exist);
- (m) the Completion Documents; and
- (n) any other document approved as such by the State and the Concessionaire,

the form and substance of which has been approved by the Grantor and/or the State;

Concession Fee means the sum of Variable Concession Fee and the Annual Concession Fee in any Concession Year;

Concession Fee Adjustments means adjustments to the Concession Fee calculated in accordance with this Agreement including pursuant to any Performance Deductions that may be payable in accordance with the Performance Measurement;

Concession Guarantee Period means the time period of two (2) years commencing on the day after the end of the Concession Period;

Concession Implementation Permit has the meaning given to it in Article 17.5 (*Upgrade Operation and Exploitation Permit*);

Concession Operations means the Works, the provision of the Airport Services and all of the Concessionaire's other rights and obligations under this Agreement;

Concession Period means the period commencing on the Concession Commencement Date and ending, subject to termination in accordance with this Agreement, after forty (40) years as the same may be extended in accordance with this Agreement, during which period the

Concessionaire shall have full responsibility for the operation, maintenance and exploitation of all or part of the Concession Operations;

Concession Sites means the land and buildings made available to the Concessionaire at each Regional Airport as more particularly specified in Appendix 3 (*Concession Site Plans*) to this Agreement and it shall include the area that is subject to aerodrome certification and to oversight by the HCAA once an Aerodrome Certificate is awarded for the operation of such Regional Airport;

Concession Tender Date means the Offer submission date;

Concession Year means in respect of the first Concession Year, the period commencing on the Concession Commencement Date and ending on 31 December next following and, in respect of each subsequent Concession Year, the period of twelve (12) months commencing on the expiry of the preceding Concession Year (1 January) and ending on 31 December next following or, if earlier, the expiry of the Concession Period;

Concessionaire's Representative(s) has the meaning given to it in Article 7.10 (*The Concessionaire's Representative(s)*);

Concessionaire-Controlled Standards means those standards numbered 1-10 set out in paragraph 2 of Appendix 6 (*Performance Measurement*);

Concessionaire Default Compensation Sum has the meaning given to it in Article 33.3.1(g);

Concessionaire Events of Default means the events stated in Article 33.1 (*Concessionaire Events of Default*), the occurrence of one or several of which gives the State the right to terminate this Agreement;

Concessionaire Permits means all Permits required from time to time for carrying out the Concession Operations excluding both the State Permits and those which the State is expressly required to obtain, procure and/or maintain under this Agreement;

Concessionaire Service Variation means a variation to the Airport Services initiated by the Concessionaire in accordance with Appendix 19 (*Variations*);

Concessionaire Shock Event Notice has the meaning given to it in Article 45.2 (*Shock Events*);

Concessionaire's Liquid Assets means the sum of the Concessionaire's cash reserves of any kind, including any short term investment of such cash reserves and any amounts due and payable to the Concessionaire that are not required to be applied in prepayment of the Lenders, minus the sum of all amounts due and payable by the Concessionaire to third parties (including

outstanding amounts due to the Contractor, the Independent Engineer, and any other subcontractor), but excluding the Liabilities to Lenders;

Concessionaire Variation means either or both of a Concessionaire Service Variation or a Concessionaire Works Variation as the case may be;

Concessionaire Works Variation means a variation to the Works initiated by the Concessionaire in accordance with Appendix 19 (*Variations*);

Confidential Information has the meaning given to it in Article 46.1;

Consumer Price Index or **CPI** means the consumer price index as this is compiled and published monthly by the Hellenic Statistical Authority (EL. STAT);

Contracting Parties or **Parties** means the State, the Grantor, the Concessionaire and the Concessionaire's Initial Shareholders that are party to this Agreement and **Contracting Party** or **Party** is anyone of them;

Contractor means, in relation to any part of the Imminent Works, the contractor(s) (or their successors or substitutes) approved by the Grantor and the State or, in relation to any other works required to be carried out under this Agreement by the Concessionaire, the contractor(s) (or their successors or substitutes) engaged by the Concessionaire at any given time in accordance with Articles 16.1 and 16.2;

Contracts means the Hellenic Duty Free Contracts, the Ground Handling Contracts and the Aircraft Fuelling Contracts;

Cooperation Agreements mean the arrangements to be agreed between the Concessionaire, the HAF and the HCAA for the implementation of the HAF Cooperation Framework;

Critical Activity means any activity on the Critical Path of the Imminent Works Implementation Time Schedule or on any time schedule agreed in an Approved Master Plan;

Critical Path means the series of Critical Activities on the Imminent Works Implementation Time Schedule or on any time schedule agreed in an Approved Master Plan which determines such time schedule's shortest total length so that any delay to such activity causes a respective delay to the total length of such time schedule. The critical path may change if any Critical Activity is completed ahead of or behind the time set out in the time schedule;

Dangerous Substance means any pollutant, or hazardous, toxic, radioactive, noxious, explosive, corrosive or caustic substance whether in solid, liquid, gaseous form which alone or in combination with others causes harm to the Environment;

Default Interest means any increased margin that is payable to the Lenders or which accrues as a result of any payment due to the Lenders not being made on the date on which it is due;

Deferred Amount has the meaning given to it in Article 45.5;

Deficiency Points means the deficiency points incurred by the Concessionaire in accordance with Appendix 6 (*Performance Measurement*);

Delivery Plan has the meaning given to it in Article 14.1.3;

Design Approval Certificate means a certificate issued by the Independent Engineer approving the Designs in accordance with Article 18.4 (*Design Approval Certificate*);

Design – Construction Contract(s) means the agreement(s) that has or will be executed in respect of any part of the Imminent Works or may be executed from time to time for any Future Works between the Concessionaire and the Contractor(s) the template or templates or the agreed form of which is appended to this Agreement as Appendix 28 (*Design - Construction Contract(s) and/or Design-Construction Contract Template for Imminent Works*);

Designated Airport Services means those Airport Services that are subject to Performance Deductions as specified in Appendix 6 (*Performance Measurement*);

Designated Loan Agreement means, with the exception of the Committed Investment and for the avoidance of doubt any Performance Bonds issued from or for the benefit of the Concessionaire, any agreement between the Concessionaire and a third party pursuant to which any financing is or will be made available to the Concessionaire in accordance with its obligation under Article 9.2 (*Financing of the Concession with Loans*), (either in the form of loans, bonds or provision of documentary credits or loan guarantees or under any other form including pursuant to any hedging agreements) and any similar agreement which after the date hereof has been approved in writing by the State and has been accepted by it as a Designated Loan Agreement;

Designers means the persons that the Concessionaire has nominated in its Offer to perform the Designs for the Imminent Works and any persons that the Concessionaire appoints to perform the designs for the Future Works or in each case any of their successors or substitutes;

Designs means all of the designs for the Works and **Design** means any design for the Works;

Disclosure Bundle means the bundle of documents contained in the virtual data room until 10 October 2014, a copy of which bundle has been retained by each of the Contracting Parties in the form of DVD(s) initialled for the purposes of identification only by or on behalf of the Contracting Parties and any other document designated by the State and the Concessionaire in writing as a document forming part of the Disclosure Bundle;

Discriminatory Change in Law means a Change in Law:

- (a) the terms of which apply expressly to:
 - (i) the Concession and not to similar projects;
 - (ii) the Concessionaire and not to similar contractors; and/or
- (b) which specifically relates to the provision of the Works and/or a service the same as or similar to the Airport Services and/or other Concession Operations or to the holding of shares in companies where the main business is the construction, operation and/or maintenance of airports;

Dispute means any dispute, disagreement or contestation between the Contracting Parties that arises from or is related to the application, interpretation or validity of this Agreement as well as from any act or omission of the Independent Engineer;

Dispute Notice has the meaning given to it in Article 25.1.2;

Dispute Resolution Procedure means the dispute resolution procedure set out in Article 39 (*Dispute Resolution*);

Distribution means whether in cash or in kind, any:

- (a) dividend or other distribution in respect of share capital;
- (b) reduction of capital, redemption or purchase of shares or any other reorganisation or variation to share capital which gives rise to any cash benefit to a Shareholder;
- (c) payments under the Subordinated Debt (whether of principal, interest, or fees);
- (d) payment, loan, contractual arrangement or transfer of assets or rights to the extent (in each case) it was made to a Shareholder or an Affiliate of the Concessionaire after the Concession Commencement Date and was neither in the ordinary course of business nor on reasonable commercial terms; or
- (e) the payment to a Shareholder or an Affiliate of the Concessionaire of any other benefit which is not received in the ordinary course of business and on reasonable commercial terms;

EASA means the European Aviation Safety Agency;



EASA Certification Specifications means the technical standards adopted by the EASA indicating means to show compliance with Regulation (EC) No 216/2008 and its Implementing Rules and which can be used by an organisation for the purpose of certification;

EBITDA means operating profit before financial interest, tax, depreciation and amortisation of the Concessionaire, which for the avoidance of any doubt is the profit of the Concessionaire (including any profit from discontinued operations) for the relevant Concession Year calculated (even on a pro forma basis) as confirmed by the Concessionaire's auditor:

- (a) before deducting corporate tax or other income related taxes;
- (b) before deducting interest payable and other finance costs (whether payable in cash, accrued or compounded), and any amortisation of upfront fees and expenses, all in relation to the Designated Loan Agreements;
- (c) after deducting (to the extent otherwise included) interest income;
- (d) excluding unusual or non-recurring items;
- (e) adding back (to the extent otherwise excluded) any minority shareholder's share of profits (or losses);
- (f) before deducting or after adding back (to the extent applicable) the amount of any dividends or other profit distributions (net of withholding tax) received in cash by any Shareholder during such period, including interest and principal repayments under the Subordinated Debt Facilities;
- (g) taking no account of any unrealised gains or losses on any financial instrument;
- (h) taking no account of any income or charge attributable to a post-employment benefit scheme other than the current service costs attributable to the scheme;
- (i) taking no account of any expense (other than expenses paid in cash) referable to equity-settled share-based compensation of employees or management;
- (j) taking no account of any gains or losses arising on:
 - (i) restructuring of the activities of any entity;
 - (ii) disposals or write downs of non-current assets;
 - (iii) litigation settlements; or
 - (iv) the disposal of assets associated with discontinued operations;

- (k) excluding the amount of any loss or gain against book value arising on a disposal of any asset (other than stock disposed of in the ordinary course of trading) during that Concession Year;
- (l) before deducting (or adding in case of certain amortisation cases) any amortisation, impairment or depreciation;
- (m) before deducting any start-up losses for new entities or operations and losses related to discontinued operations;
- (n) before deducting restructuring charges related to employee terminations, closings of facilities and relocations of plant, property and equipment;
- (o) before deducting any costs, expenses or charges incurred in connection with any actual or attempted incurrence or issuance of debt or equity;
- (p) after adding back any loss to the extent covered by business interruption or similar insurance or any compensation received by the State or the Grantor;
- (q) before deducting any Concession Fee, in each case, payable in respect of the relevant Concession Year; and
- (r) after deducting any Levy, in each case, payable in respect of the relevant Concession Year;

Effective Date means the date of the execution of this Agreement;

Emergency Exercises means the emergency exercise activities as defined in the Aerodromes Regulation 2014;

Emergency Services means the local services, (public or private) or services provided by the Concessionaire's subcontractors that intervene in the event of an accident including the police authorities, the Hellenic Fire Brigade and the National Centre of Emergency Care (EKAB);

Environment has the meaning given to it in Article 13.1 (*Environment – Protection*);

Environmental Management Plan means a management plan that includes the monitoring and managing of waste, water, rainwater run-off, ecosystems and bird strike control systems, and for monitoring air quality and noise and the carrying of radioactive and other dangerous materials, waste collection and protection from electromagnetic radiation;

Environmental Permit means any environmental permit that is required by any law in force in the Hellenic Republic from time to time in relation to any of the Works and/or for the operation of any Regional Airport;

Environmental Requirements means the terms set out in the Approved Environmental Terms, and all other relevant environmental protection laws and official environmental requirements in force from time to time in the Hellenic Republic;

Environmental Terms means the terms and requirements included in any decision that approves environmental terms in accordance with law 4014/2011, as in force from time to time;

Estimated Change in Concession Costs has the meaning given in paragraph 1.9 of Appendix 23 (*Financial Adjustments*);

Euro means the single currency of the Participating Member States;

European State Aid means any aid granted by the State or through the State's resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods and which affects trade between European Union Member States;

Event of Delay means any event that is expressly referred to in this Agreement as being an Event of Delay as well as any event which is not (a) a risk of the Concessionaire under this Agreement or (b) caused by the Concessionaire or any person(s) that it uses for the implementation of the Concession (including the Independent Engineer) or (c) a Force Majeure Event the financial consequences of which are assumed by the Concessionaire, and which adversely affects the ability of the Concessionaire to meet the agreed deadlines of the Imminent Works (as set out in the Imminent Works Implementation Time Schedule);

Event of Delay Make-up means the procedure stipulated in Article 30.3 (*Event of Delay Make-up*);

Excess Hour means each period of 60-minutes during the Peak Period during which a Regional Airport is determined to have apron under-capacity but excluding the Acceptable Period;

Excluded Periods means any one hundred and fifty (150) periods of 60-minute intervals during the Peak Period;

Exclusivity Area means a circular area of 100 kilometre radius with its centre in the aerodrome reference point of the relevant Regional Airport;

Exempt Refinancing means:

- (a) any Refinancing that was fully taken into account in the Financial Model provided that the State has approved any assumptions thereto;
- (b) a change in taxation or change in accounting treatment;

- (c) the exercise of rights, waivers, consents and similar actions which relate to day to day administration and supervisory matters and which are in respect of:
 - (i) breach of representations and warranties or undertakings;
 - (ii) movement of monies between the project accounts in accordance with the terms of the Designated Loan Agreements (if any) as at the Effective Date;
 - (iii) late or non-provision of information, consents or licences;
 - (iv) amendments to subcontracts;
 - (v) approval of revised technical and economic assumptions for financial model runs (to the extent required for the Forecasts);
 - (vi) restrictions imposed by the Lenders on the dates at which the Senior Debt can be advanced to the Concessionaire under the Designated Loan Agreements (if any) and which are given as a result of any failure by the Concessionaire to ensure that the Imminent Works are performed in accordance with the agreed Master Plan and which are notified in writing by the Concessionaire or the Lenders to the State prior to being given;
 - (vii) changes to milestones for drawdown set out in the Designated Loan Agreements (if any) and which are given as a result of any failure by the Concessionaire to ensure that the Imminent Works are performed in accordance with the agreed Master Plan and which are notified in writing by the Concessionaire or the Lenders to the State prior to being given;
 - (viii) failure by the Concessionaire to obtain any consent by statutory bodies required by the Designated Loan Agreements (if any);
 - (ix) voting by the Lenders in respect of the levels of approval required by them under the Designated Loan Agreements (if any);
- (d) any amendment, variation or supplement of any agreement approved by the State as part of any Qualifying Variation under this Agreement;
- (e) any sale of shares in the Concessionaire by the Shareholders or securitisation of the existing rights and/or interests attaching to shares in the Concessionaire;
- (f) any sale or transfer of the Subordinated Lenders' existing rights and/or interests under the Subordinated Debt Documents or securitisation of the Subordinated Lenders' existing rights and/or interests under the Subordinated Debt Documents;

- (g) any Refinancing or provision of new financing covering day to day working capital facilities, including overdraft facilities which may be necessary for the Concession Operations; and
- (h) any new financing raised for the sole purpose of covering Capital Expenditure related to the Future Works;

Existing Contamination means the presence of Dangerous Substances in:

- (a) soil or groundwater or surface water at or under any Concession Site at (i) the Concession Commencement Date, or (ii) if caused by the State Works, at the date of handover of the State Works; or
- (b) soil or groundwater or surface water at or under any Concession Site after the Concession Commencement Date as a result of a defect in the condition of any storage tank, facilities, equipment or pipework (whether below or above ground) where the relevant defect existed prior to the Concession Commencement Date; or
- (c) any other soil, groundwater or surface water at any time as a result of the migration from any Concession Site of any Dangerous Substances described in either of sub-paragraphs (a) or (b) above;

Existing Environmental Permit means any Environmental Permit as at the Concession Commencement Date;

Existing Operational Permit means any permit issued by the State for the establishment and operation of the Regional Airports which shall be transferred to the Concessionaire by the State on or prior to the Concession Commencement Date pursuant to Article 17.6.1(a) or, to the extent not issued, shall be deemed to be granted upon the Ratification Law Effective Date pursuant to Article 17.6.1(b);

Existing Works Construction Permit means any permit that has been issued or is required for any existing works at any Regional Airport which shall be transferred to the Concessionaire by the State on or prior to the Concession Commencement Date pursuant to Article 17.6.1(a) or, to the extent not issued, shall be deemed to be granted upon the Ratification Law Effective Date pursuant to Article 17.6.1(b);

Expansion Trigger means the obligation on the Concessionaire to construct an expansion to civil aprons and/or Passengers terminals as a result of any Regional Airport being Apron Capacity Critical and/or Terminal Capacity Critical for two (2) consecutive years;

Expert means the member of the Technical Disputes Resolution Panel;

Extensive Force Majeure Events means the Force Majeure Events specified in Article 25.4 (*Extensive Force Majeure Events*);

Facilities Condition Assessment means each facilities condition assessment prepared by the Independent Engineer pursuant to Article 20.4 (*Refurbishment Works – Facilities Condition Assessment*) at the Regional Airports and in accordance with the requirements set out in Appendix 12 (*Works*);

Final Acceptance Protocol means the protocol issued by the Committee confirming the final acceptance of the relevant State Works by the State;

Final Completion Certificate means each certificate issued by the Independent Engineer certifying that the Imminent Works have been completed at the relevant Regional Airport in accordance with the terms of this Agreement including the Standards and Specifications and the Works Requirements, and in accordance with Health and Safety Regulations;

Financial Model means the audited financial model in xls. format (specifying the date last saved in the file name) as provided with the Offer (i) attached to this Agreement as Appendix 25 (*Financial Model*), and (ii) provided on a CD-ROM with only the summary page being printed, as audited and updated prior to the Concession Commencement Date, and as further updated from time to time in accordance with this Agreement;

Findings means the decision by which the Technical Disputes Resolution Panel rules on the Technical Dispute that the Parties have referred to it for resolution;

First Approved Environmental Terms has the meaning given to it in Article 13.2.4(a);

First Facilities Condition Assessment means the first Facilities Condition Assessment prepared by the Independent Engineer;

First Refinancing Gain End Date has the meaning given to it in Article 47.2;

Force Majeure Compensation Sum has the meaning given to it in Article 35.1;

Force Majeure Event means:

- (a) all those events or incidents or their consequences that lie beyond the control or influence of the Parties and which could not have been anticipated or prevented or deterred even if the Parties had exercised particular prudence; or
- (b) any event or incident the occurrence of which none of the Parties is accountable for and in respect of which the Concessionaire does not have an obligation to insure pursuant to this Agreement and is indeed not insured, or the Concessionaire was exempt from the obligation to insure in whole or in part pursuant to the provisions of Article 24,

which directly prevents any one of the Parties from, or delays any one of the Parties in, performing any of its obligations under this Agreement;

Force Majeure Notice has the meaning given to it in Article 25.1.1;

Forecast or Forecasts means the financial projections of the Concessionaire's providing at least a balance sheet and profit and loss account, the projected cash flows, the ADSCR, the LLCR (if such term is defined and used in the Designated Loan Agreement(s), and as defined in such Designated Loan Agreement(s)), the project life coverage ratio, the return on equity ratios and other similar information that results from running the Financial Model as this is updated from time to time in accordance with the provisions set out in this Agreement;

Fully Functional means capable of performing all operational requirements for the performance of the relevant Concession Operation in accordance with this Agreement;

Future Material Works means any Future Works to be performed at a Regional Airport in accordance with an Approved Master Plan and/or an Approved Refurbishment Development Plan, the aggregate capital cost of which in respect of such Regional Airport exceeds five million Euro (€5,000,000);

Future New or Expansion Works means those works necessary at each Regional Airport to ensure that the Required Service Level is met and which shall be determined, at any time, by the volume of historic and forecasted air traffic by the Concessionaire at each Regional Airport;

Future Refurbishment Works means those works described in each Refurbishment Development Plan from time to time necessary at each Regional Airport to ensure that the existing facilities will operate with no or minor deficiencies as more particularly described in Appendix 12 (*Works*) and Appendix 10 (*Works Requirements*);

Future Works means any Future Refurbishment Works and/or Future New or Expansion Works to be undertaken at the Regional Airports in accordance with each Approved Refurbishment Development Plan or the Approved Master Plan (as applicable) based on and in accordance with the criteria set out in Appendix 12 (*Works*);

General Change in Law means a Change in Law which is not a Discriminatory Change in Law but excluding any changes to income tax which is applicable to companies generally;

Good Industry Practice means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced constructor and/or operator seeking to comply with its contractual obligations with the utmost care;

Government Authority means the State or any ministry or other independent offices or department or subdivision thereof or any person exercising executive, regulatory or administrative functions on behalf of the foregoing and includes the State Representative;

Government Related Party means:

- (a) a Government Authority or a Government User or any officer, agent or employee thereof or other party for whom the State is responsible; and
- (b) in relation to any Regional Airport, any person visiting that Regional Airport at the express invitation of an officer, agent or employee of a Government Authority or a Government User acting in the course of his employment;

Government Services means regulatory and supervisory authorities, customs control and excise, immigration control, police and national guard, Hellenic Fire Brigade, public health, quarantine (human and animal), veterinary and phytosanitary services, meteorological and air navigation services, public ambulance or other emergency response services and such other services as may be designated as Government Services by the State from time to time;

Government User means regulatory & supervisory authority, customs & excise, immigration, police, Hellenic Fire Brigade, public health, quarantine, public veterinary and phytosanitary services, public meteorological and air navigation services, public ambulance or other public emergency response services;

Government User Premises means any part of the Concession Sites falling within the Regional Airports occupied or required by a Government User, as described in the relevant State Service Level Agreement and in accordance with the provisions of Article 4.4 (*Government Users*);

Grantor's Representative has the meaning given to it in Article 7.11 (*Grantor's and State's Representative*);

Ground Handling Contract means each of the contracts for the provision of ground handling services at the Regional Airports as more particularly described in the list of Transferred Airport Contracts that will be transferred by the HCAA to the Concessionaire in accordance with the provisions of Article 4.8 (*Transfer of Contracts*);

HAF means the Hellenic Air Force;

HAF Cooperation Framework means the cooperation framework between the HAF, the HCAA and the Concessionaire relating to the provision of Joint Use Airport Services at and summarising the rights, duties and obligations of each of the HAF, the HCAA and the Concessionaire in relation to the Joint Use Airports as set out in Appendix 20 (*Cooperation*

Framework between the Hellenic Air Force (HAF), the Hellenic Civil Aviation Authority (HCAA) and the Concessionaire at Joint Use Airports);

Handback Amount has the meaning given to it in Article 32.9.8;

Handback Certificate means a certificate issued by the State confirming that all Renewal Works (if any) have been completed and that the Regional Airports comply with the Handback Requirements;

Handback Inspection has the meaning given to it in Article 32.9.1;

Handback Requirements means the requirements set out in Appendix 15 (*Handback Requirements*);

HCAA means the Hellenic Civil Aviation Authority and any reference to it includes, where appropriate, reference to it in its capacity as (i) the Independent Supervisory Authority pursuant to EU legislation for airport charges and Presidential Decree 52/2012, as amended from time to time and/or (ii) the Hellenic Republic's national aviation authority;

HDFS Ministerial Decisions means those ministerial decisions that have been issued pursuant to the Presidential Decree 86/1979 (as amended by law 2533/1997) as appended to this Agreement in Appendix 21A (*HDFS Ministerial Decisions*);

Health and Safety Regulations means all rules, regulations and standards in force at any given time relating to health, safety and/or protection of Passengers, workers, the Users and the Government Related Parties;

Hellenic Duty Free Contracts means all lease agreements and/or concessions of premises within the Regional Airports entered into between the HCAA and the Hellenic Duty Free Shops S.A. pursuant to the Hellenic Duty Free Laws, that will be transferred by the State to the Concessionaire in accordance with the provisions of Article 4.8 (*Transfer of Contracts*);

Hellenic Duty Free Laws means each of law 827/1978, the Presidential Decree 86/1979 (as amended by law 2533/1997) and the ministerial decisions that have been issued pursuant to this Presidential Decree allocating the spaces for the establishment and operation of duty free shops as included in Appendix 21A (*HDFS Ministerial Decisions*) and article 31 paragraph 10 of law 4141/2013, as well as the concession agreement for the provision of the exclusive right to establish and operate duty free shops in, inter alia, the Regional Airports entered into between the State and Hellenic Duty Free Shops S.A. on 30 December 1997;

Hellenic Fire Brigade means the agency falling under the Ministry of Citizen Protection jurisdiction which is competent, inter alia, to provide fire protection to citizens;

High Usage Joint Use Airport means those Joint Use Airports identified as high usage in the HAF Cooperation Framework and any other Regional Airport designated by the Concessionaire and the State as a High Usage Joint Use Airport from time to time;

HSCA means the Hellenic Slot Coordination Authority;

ICAO means the International Civil Aviation Organisation formed by the Chicago Convention or any successor thereof;

ICAO Airport Economics Manual means ICAO Document 9562;

ICC means the International Chamber of Commerce;

ICC Court means the Court of Arbitration of the ICC in Paris;

ICC Rules means the Rules of Arbitration of the ICC in force as from 1 January 2012 as subsequently amended or revised;

ICC's Scale of Arbitrators' Fees means the Scale of Arbitrators' Fees set forth below Article 4.1 to Appendix III of the ICC Rules;

Imminent New or Expansion Works means those works necessary at each Regional Airport to remedy under capacity or a failure to meet Required Service Levels based on and in accordance with the criteria set out in paragraph 1.1 of Appendix 12 (*Works*);

Imminent Refurbishment Development Plan means the plan for each Regional Airport which will describe in detail all Imminent Refurbishment Works required at each Regional Airport to address issues identified in the First Facilities Condition Assessment and to ensure that the existing facilities will operate with no or minor deficiencies as more particularly described in of Appendix 10 (*Works Requirements*);

Imminent Refurbishment Works means those works described in the Imminent Refurbishment Development Plan and which are necessary at each Regional Airport to ensure that the existing facilities at such Regional Airport will operate with no or minor deficiencies as more particularly described in Appendix 12 (*Works*) and Appendix 10 (*Works Requirements*);

Imminent Refurbishment Works End Date means the date on which a Final Completion Certificate is issued in respect of the Imminent Refurbishment Works at any of the Regional Airports;

Imminent Works means the Imminent Refurbishment Works and/or the Imminent New or Expansion Works;



Imminent Works End Date means the date on which the Final Completion Certificate is issued in respect of the Imminent Works at any of the Regional Airports;

Imminent Works Implementation Time Schedule means the implementation time schedule for the Imminent Works submitted by the Concessionaire in accordance with Article 20.1 (*Master Plan*);

Implementing Rules means any regulation or implementing regulation as may be in force from time to time and which is enacted by the European Commission under any power conferred on it pursuant to Regulation (EC) No 216/2008 (or under any legislation which is repealed by Regulation (EC) No 216/2008);

Independent Engineer means such person appointed in respect of the Imminent Works prior to the Concession Commencement Date and approved by the State and such other person who may be appointed from time to time in accordance with Article 21 (*Independent Engineer*) and who shall in each case check, and approve the Designs, supervise the Works and prepare the Facilities Condition Assessments;

Independent Engineer's Agreement means the agreement that has been executed or will be entered into between the Concessionaire and the Independent Engineer the terms of which are set out in Article 21 (*Independent Engineer*);

Index means the Consumer Price Index or, if the Consumer Price Index for the Indexation Date is not published and available within twenty eight (28) days after the scheduled publication date, such other alternative index as the Parties shall meet to agree to be used for the purpose of Indexation;

Indexation Date has the meaning given in Article 3.2.3(i);

Indexation Efficiency Factor means the amount to be applied in accordance with the provisions set out in Article 28 (*Airport Charges*) which amount shall be calculated as follows:

If $CPI_t > CPI_{t-1}$, the following formula shall be applied: $\{ \{ CPI_t / CPI_{t-1} - 1 \} * 0.9 \} + 1$

If $CPI_t < CPI_{t-1}$, the Indexation Efficiency Factor shall amount to 1

where

CPI_t refers to the most recently published CPI on or immediately prior to the date on which an increase in Regulated Aeronautical Charges is to be calculated in accordance with Article 28.4 (*Fixed Tariff Cap with Growth Index*); and

CPI_{t-1} refers to the CPI applicable on the date falling twelve (12) months earlier;

Indexed has the meaning given in Article 3.2.3(i);

Indexed Regulated Aeronautical Charge means:

- (a) on Concession Commencement Date and on each anniversary thereof until the Imminent Works End Date at a Regional Airport, the amount calculated in accordance with Article 28.4.2(b)(i);
- (b) on the Imminent Works End Date at a Regional Airport, the amount calculated in accordance with Article 28.4.3(b)(i);
- (c) on the 1 November falling immediately after the 1 November in Article 28.4.3(b)(ii)(A) or (B), as applicable, and on each anniversary thereof until 1 November falling immediately after the completion of the Imminent Works at all Regional Airports, the amount calculated in accordance with Article 28.4.3(c)(i).

Initial Capacity Assessment means the initial capacity assessment performed by the Capacity Assessment Provider in accordance with paragraph 3 (*Passenger Terminal and Apron Capacity Assessment*) of Appendix 6 (*Performance Measurement*);

Initial Inspection has the meaning given to it in Article 32.5.1;

Initial Service Level Agreements means the agreements entered into by the Concessionaire and the following Government Users and as validly updated and varied from time to time during the Concession Period:

- (a) Hellenic Police;
- (b) Customs;
- (c) Veterinarian and Phytosanitary Services;
- (d) First Aid Services (EKAV);
- (e) Hellenic National Meteorological Service;
- (f) HCAA with regards to Air Navigation Services;
- (g) Public Health Services;
- (h) Hellenic Coast Guard;
- (i) General Secretariat for Civil Protection;
- (j) Hellenic Air Force (HAF); and

(k) Hellenic Fire Brigade;

Initial Shareholder means the initial shareholders of the Concessionaire named in Recital 4;

Insurance Proceeds means the proceeds payable to or receivable by the Concessionaire or any agent or subcontractors or its or their direct employees of any insurance taken out by or on behalf of the Concessionaire or which the Concessionaire is obliged to take out pursuant to Article 24 (*Insurance*) and Appendix 16 (*Minimum Insurance Requirements*);

Intellectual and Industrial Property Rights means the rights defined in Article 38.1.1;

Intercreditor Agent has the meaning given to it in Appendix 14 (*Multi-Party Arbitration Agreement*);

International Treaty means a formally signed and ratified agreement between two or more states (and/or sovereigns) in written form and governed by international law;

Inventory means the Asset Register as updated by the Concessionaire in accordance with Article 4.11 (*Inventory*) and Article 6.2.1(b)(xiii) as such inventory may be amended over the Concession Period;

Invitation for Expression of Interest means the invitation to submit an expression of interest for the award of the concession for the exploitation and provision of services in relation to the operation and maintenance of the Regional Airports posted on the Grantor's website on 1 April 2013;

IRR means an internal rate of return as computed using the relevant computer formula (IRR or XIRR, in Microsoft Excel ® software);

Joint Use Airport Services means the services to be provided by the HAF at Joint Use Airports as set out in Appendix 5 (*Airport Services*) and as more particularly detailed in the HAF Cooperation Framework;

Joint Use Airports means each of the airports identified as Joint Use Airports in Appendix 2 (*Regional Airports*);

Kasteli means the new airport at Kasteli, Heraclion, Crete;

Landing Charge means the landing charges that the Concessionaire is entitled to charge as more particularly described in paragraph 1.2 (*Landing Charge*) of Appendix 7 (*Airport Charges*) as the same may be adjusted pursuant to Article 28.4 (*Fixed Tariff Cap with Growth Index*);

Law means any statute, statutory instrument, law, proclamation, order, regulation, resolution, notice, by-law, directive, treaty, ministerial decisions or other instrument having the force of law

within the Hellenic Republic including any administrative decrees, any directly applicable EU Law and any International Treaty;

Lead Member means the member of the consortium that owns shares in the Concessionaire that is designated to control the management and operation of the consortium in accordance with the tender process for this Concession;

Lenders means the providers of financing to the Concessionaire pursuant to the Designated Loan Agreements (if any), including the Agent Bank and any joint creditors, and their successors or assignees;

Levy means the amount payable by the Concessionaire to the State in each Concession Year that corresponds to certain percentage of the ADF in accordance with Article 28.9;

Liabilities to Lenders means at any particular time the aggregate of:

- (a) any principal, interest (excluding Default Interest incurred pursuant to Termination of this Agreement due to a Concessionaire Event of Default), fees and reasonable costs and expenses incurred that are due or outstanding to the Lenders by the Concessionaire under or pursuant to the Designated Loan Agreements on the Termination Date; and
- (b) all amounts due from the Concessionaire to the Lenders by reason of the early termination of any interest rate hedging agreement that is a Designated Loan Agreement (including break costs payable as a result thereof, provided that such costs have been certified as due and payable by the Agent Bank), provided that the Concessionaire and the Lenders following the consent of the State, as applicable, will have mitigated all such amounts to the extent possible;

minus the aggregate of:

- (i) every amount due and payable by the Lenders to the Concessionaire by reason of the early termination of any interest rate hedging agreement that is a Designated Loan Agreement;
- (ii) every amount credited by or to the benefit of the Concessionaire in any debt service reserve account to secure obligations owed to the Lenders under the Designated Loan Agreements; and
- (iii) any amount not included in the paragraphs (i) and (ii) above in cash or cash equivalents or other amounts (including pursuant to any guarantees of which the Lenders are the beneficiaries) (but expressly excluding any possible guarantees that have been granted to the Lenders by another Lender or third party (excluding the Shareholders or their subsidiaries)) available to the Lenders (whether in any

reserve account or otherwise) and any insurance proceeds paid or payable to the Concessionaire and which, in each case, secure the Lenders' claims and are at their disposal and are not reserved for payment to a third party or otherwise;

Liaison Committee means the joint liaison committee described in Article 7 (*Liaison and Representatives*);

Lighting Charge means the lighting charges that the Concessionaire is entitled to charge as more particularly described in paragraph 1.4 (*Lighting Charge*) of Appendix 7 (*Airport Charges*) as the same may be adjusted pursuant to Article 28.4 (*Fixed Tariff Cap with Growth Index*);

Losses means all damages, losses, liabilities, costs, expenses (including legal and other professional charges and expenses), and charges whether arising under statute, contract or in connection with judgments, proceedings, internal costs or demands but, in each case, excluding any future loss of profit;

Maintenance Plan means the manuals that shall contain instructions and procedures for the inspection and maintenance of the Regional Airports respectively that shall be compiled in accordance with the stipulations of Article 26.3 (*Maintenance Plan*) and the Maintenance Requirements;

Maintenance Requirements means the minimum maintenance requirements with which the Concessionaire is obliged to comply as more particularly set out in Appendix 13 (*Maintenance Requirements*) to this Agreement;

Mandatory Services means those services that the Concessionaire shall provide as more particularly set out in paragraph 4 (*Mandatory Services*) of Appendix 5 (*Airport Services*);

Master Plan means the twenty (20) year initial master plan submitted in accordance with Article 20.1.1 for each Regional Airport which will define in detail all Imminent New or Expansion Works and describe potential Future New or Expansion Works (and any relevant expropriations required pursuant to Article 14.1.7) that the Concessionaire proposes to undertake at each Regional Airport in accordance with the provisions of Appendix 12 (*Works*) to this Agreement and any updated master plan submitted by the Concessionaire pursuant to and in accordance with Article 20.1 (*Master Plan*) that has been approved by the HCAA;

Materially Capacity Critical means, in relation to any Regional Airport, that the Capacity Assessment Provider has determined in the Initial Capacity Assessment that:

- (a) there are more than two hundred and fifty (250) 60-minute intervals during the Peak Period with under-capacity in accordance with paragraph 3.1 (*Apron Capacity Assessment*) of Appendix 6 (*Performance Measurement*); or

- (b) the Required Level of Service is not achieved at such Regional Airport during the Peak Period in accordance with paragraph 3.2 (*Passenger Terminal Capacity Assessment*) of Appendix 6 (*Performance Measurement*) for more than two hundred and fifty (250) 60-minute intervals;

Maximum Average Yield per Departing Passenger means the maximum average charge per departing Passenger, indicated in Article 28.4 (*Fixed Tariff Cap with Growth Index*), which corresponds to the maximum fraction of revenues from Regulated Aeronautical Charges that can be earned by the Concessionaire, to the departing Passengers for the same calculation period, at each Regional Airport. The number of departing Passengers shall be calculated in accordance with paragraph 1.5 (*Passenger Charge*) of Appendix 7 (*Airport Charges*);

Minimum Cover Ratios means the minimum values of ADSCR and LLCR as set out in and required pursuant to the Designated Loan Agreements (if any);

Minimum Insurance Requirements are the insurance requirements as set out in this Agreement;

Ministerial Decision means the Ministerial Decision D3/A/4641/2002 - 'Approval of Basic Regulation of Licensing and Operation - Exploitation of Airports (FEK B 701/10.6.2002)';

Ministry means the Ministry of Infrastructure, Transport and Networks or any other competent ministry for the Concession;

Ministry of Citizen Protection means the ministry which implements public order and the citizen protection policy in the context of the government of the Hellenic Republic, as such ministry may be renamed or reformed in the future;

Ministry of Defence means the ministry which implements the national defence policy in the context of the government of the Hellenic Republic, as such ministry may be renamed or reformed in the future;

Monthly Progress Reports means the monthly progress reports to be submitted by the Independent Engineer in accordance with Article 27.3.5;

Movable Property means all of the facilities, equipment, vehicles, material and other moveable property owned by HCAA at each of the Regional Airports to be transferred to the Concessionaire on the Concession Commencement Date as noted in the Inventory prepared in accordance with Articles 4.11 (*Inventory*) and 6.2.1(b)(xiii) (including that which has been paid for by the Concessionaire but has not yet been delivered to it), with the exception of equipment embedded in the Concession, as well as all facilities, equipment, and material that is or will be used by the Concessionaire for the operation, maintenance and exploitation of the Concession as the same may be depreciated, renewed or replaced during the Concession Period;

Multi-Party Arbitration Agreement means the arbitration agreement to be executed on or prior to the Concession Commencement Date in the form set out in Appendix 14 (*Multi-Party Arbitration Agreement*);

New or Expansion Works means the Imminent New or Expansion Works and the Future New or Expansion Works;

Non-Aeronautical Charges means all Airport Charges that are not Aeronautical Charges including all rents, charges and/or fees in relation to retail, food and beverage and advertising which are not regulated under the terms of this Agreement and the Law;

Non-Certified Regional Airport means any Regional Airport that has not been certified by the HCAA on the basis of the national legislation prior to the Effective Date;

Non-Regulated Aeronautical Charges means the Airport Charges levied by the Concessionaire in respect of each non-regulated aeronautical activity as more particularly described in paragraph 2 (*Non-Regulated Aeronautical Charges*) of Appendix 7 (*Airport Charges*);

NPV has the meaning given to it in Article 33.3.1(g)(ii);

NPV Compensation has the meaning given to it in Article 33.3.1(g)(ii);

Offer means the Financial Offer as appended to this Agreement as Appendix 24 (*Financial Offer*);

Operating Hours means the minimum operating hours for which the Concessionaire is obliged to keep each Regional Airport open and operational as set out in and adjusted in accordance with paragraph 2 (*Operating Hours*) of Appendix 5 (*Airport Services*);

Operational Expenditure means operational expenditure (as such term is interpreted in accordance with generally acceptable accounting principles in the Hellenic Republic from time to time, that include, for the avoidance of doubt, international financial reporting standards/IFRS), including for the avoidance of doubt, the Levy and all payments from the Concessionaire to the HAF under the HAF Cooperation Framework, but excluding any part of the Concession Fee;

Operation Bond means the bank letter of guarantee that shall be delivered by the Concessionaire to the Grantor in accordance with Article 12.5 (*Operation Bond*) in the form provided for in Section 3 of Appendix 1 (*Form of Letters of Guarantee*), and which shall be effective from the Concession Commencement Date;

Parking Charge means the parking charges that the Concessionaire is entitled to charge as more particularly described in paragraph 1.3 (*Parking Charge*) of Appendix 7 (*Airport Charges*) as the same may be adjusted pursuant to Article 28.4 (*Fixed Tariff Cap with Growth Index*);

Participation Letters of Guarantee means the bank letters of guarantee submitted to the Grantor on the Concession Tender Date and which shall be effective until the Concession Commencement Date;

Participating Member States means any member states of the European Union that have the Euro as its lawful currency in accordance with the legislation of the European Union relating to Economic and Monetary Union;

Passenger Charge means the Passenger charges that the Concessionaire is entitled to charge as more particularly described in paragraph 1.5 (*Passenger Charge*) of Appendix 7 (*Airport Charges*) as the same may be adjusted in accordance with Article 28.4 (*Fixed Tariff Cap with Growth Index*);

Passengers means passengers at a Regional Airport who are either embarking or disembarking an aircraft or transiting (as the case may be) at such Regional Airport;

Peak Period means the six week period ending on the last Sunday in August in any Concession Year;

Performance Bonds means each of the Works Performance Bond, the Operation Bond, the Participation Letters of Guarantee and the Committed Investment Guarantee which shall, other than the Participation Letters of Guarantee, be subject to the State Direct Agreement (if any, in accordance with Article 37.1.8), as regards order of claims and application of proceeds¹;

Performance Deductions has the meaning given to it in Appendix 6 (*Performance Measurement*);

Performance Measurement means the performance measurement set out in Appendix 6 (*Performance Measurement*);

¹ If the Designated Loan Agreements exist, then subject to the State Direct Agreement (in accordance with Article 37.1.8), during the life of the Concession until the Concession Agreement is terminated, any payments made under the Performance Bonds shall be paid into the Proceeds Account (as defined in the Designated Loan Agreements so as for the financial stability of the project to be rectified). If the Designated Loan Agreements and the State Direct Agreement exist, after the termination of the Concession Agreement, the Performance Bonds shall be liquidated in order to first pay any outstanding amounts owed to the Lenders under the Designated Loan Agreements and only then shall the remaining balance be paid to the Grantor, in the case of the Operation Bond, or the State, in the case of the Works Performance Bond and the Committed Investment Guarantee; and no Demands shall be made by the Grantor under the Performance Bonds after the termination of the Concession Agreement and after that time only the Lenders may make Demands under the Performance Bonds. This is to be set out in the State Direct Agreement to the extent the Designated Loan Agreements exist in accordance with Article 37.1.8.

Performance Measurement Commencement Date means the date falling forty eight (48) months after the Concession Commencement Date;

Performance Standards means each of the Concessionaire-Controlled Standards and the Third Party Controlled Standards;

Permit means any permit, consent, approval, licence, permission, certificate or authorisation, supply or connection that is required in relation to the implementation of the Concession in accordance with Greek law and issued by the State or any Competent Authority or any Public Utility Organisation;

Planned Completion Date means each date for the completion of the Works as set out in the Imminent Works Implementation Time Schedule, each Approved Master Plan and/or each Approved Refurbishment Development Plan as the case may be;

Plans has the meaning given to it in Article 20.3.1;

Potentially Capacity Critical means that a Regional Airport is not Capacity Critical but a Capacity Assessment demonstrates that:

- (a) there are more than one hundred and twenty (120) 60-minute intervals during the Peak Period with under-capacity in accordance with paragraph 3.1 (*Apron Capacity Assessment*) of Appendix 6 (*Performance Measurement*); or
- (b) the level of service C or above (as defined by IATA in the Airport Development Reference Manual or any replacement thereof) is not achieved at such Regional Airport during the Peak Period in accordance with paragraph 3.2 (*Passenger Terminal Capacity Assessment*) of Appendix 6 (*Performance Measurement*) for more than one hundred and twenty (120) 60-minute intervals;

Protection of the Environment has the meaning given to it in Article 13.1 (*Environment – Protection*);

PSOs means Public Service Obligations as set out in article 16 of EU Regulation 1008/2008;

Publication Date means the date of publication of the Ratification Law in the Government Gazette;

Public Service Obligation means any obligation imposed upon an air carrier to take, in respect of any route which it is licensed to operate by a Member State, all necessary measures to ensure the provision of a service satisfying fixed standards of continuity, regularity, capacity and pricing, which standards the air carrier would not assume if it were solely considering its commercial interest;

Public Utility Organisation – PUO means every municipal authority, enterprise or company of the public or private sector that is the owner or is responsible for the operations/provisions of a public utility such as electrical power, natural gas, water, sewerage, telecommunications or railway transport;

Qualifying Change in Law means:

- (a) a Discriminatory Change in Law; or
- (b) a General Change in Law, which comes into effect after the date of this Agreement and which involves additional Capital Expenditure and or Operational Expenditure;

Qualifying Refinancing means any Refinancing that will give rise to a Refinancing Gain greater than zero that is not an Exempt Refinancing;


Qualifying Variation means a Variation for which a Variation Confirmation has been issued and the supplementary agreement referred to in paragraph 9.1 of Appendix 19 (*Variations*) has become unconditional in all respects and any Concessionaire Variation which has become unconditional in accordance with Appendix 19 (*Variations*);

Quarterly Period means a period of three (3) calendar months ending 31 March, 30 June, 30 September and 31 December, provided that:

- (a) the first Quarterly Period during the Concession Period is to exclude any days up to (but excluding) the Concession Commencement Date;
- (b) the first Quarterly Period during the Concession Period is to start on the Concession Commencement Date and end on the first to occur of 31 March, 30 June, 30 September and 31 December;
- (c) each such three month period will start on the day following the last day of the preceding Quarterly Period; and
- (d) the last Quarterly Period during the Concession Period is to end upon the expiry of the Concession Period;

Quarterly Progress Reports means the quarterly progress reports to be submitted by the Concessionaire in accordance with Article 27.3 (*Progress Reports*) which shall set out the results of the measurement of the Performance Standards;

Ratification Law means the law of the Hellenic Republic ratifying this Agreement to be voted on by the Hellenic Parliament and published in the Government Gazette;



Ratification Law Effective Date means the date that the Ratification Law becomes effective which shall be ten (10) days from the Publication Date;

Ready for Handover means the relevant State Works are complete, safe for use and ready for handover by the State to the Concessionaire;

Reasonable and Prudent Operator means, in respect of the Concessionaire, acting in good faith to perform its contractual obligations under this Agreement and, in so doing, exercising that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and internationally experienced Airport operator complying with Good Industry Practice, engaged in the same or similar type of undertaking, in the same or similar circumstances and conditions;

Recoverable Amount has the meaning given to it in Article 41.5.4;

Rectification Plan means a rectification plan prepared by the Concessionaire in accordance with the provisions of paragraph 3.1 (*Apron Capacity Assessment*), paragraph 3.2 (*Passenger Terminal Capacity Assessment*) or paragraph 5 (*Procedure in the case of Deficiency Points*) of Appendix 6 (*Performance Measurement*);

Reference Interest Rate means an interest rate equal to the interest rate payable on one (1) year Greek treasury bills plus a margin of one and a half (1.5) percentage points;

Reference Level has the meaning given to it in Article 4.4.6;

Refinancing means:

- (a) any amendment, variation, transfer, novation, supplement or replacement of any Designated Loan Agreement (other than any Subordinated Debt Documents);
- (b) the exercise of any right, or the grant of any waiver or consent, under any Designated Loan Agreement (other than any Subordinated Debt Documents);
- (c) the replacement or refinancing of Subordinated Debt or other type of financing with Designated Loan Agreements;
- (d) the disposition of any rights or interests in, or the creation of any rights of participation in respect of, the Designated Loan Agreements (other than any Subordinated Debt Documents) or the creation or granting of any other form of benefit or interest in either the Designated Loan Agreements (other than any Subordinated Debt Documents) or the contracts, revenues or assets of the Concessionaire whether by way of security or otherwise; or

- (e) any other arrangement put in place by the Concessionaire or another person which has an effect which is similar to any of (a) – (d) above or which has the effect of limiting the Concessionaire's ability to carry out any of (a) – (d) above;

Refinancing Gain means an amount equal to the greater of zero and $A - B$, where:

- A = the net present value (discounted using Threshold Equity IRR) of the Distributions projected immediately prior to the Refinancing (taking into account the effect of the Refinancing and using the Financial Model as updated (including as to the performance of the Concession) so as to be current immediately prior to the Refinancing) to be made to each Shareholder and Subordinated Lender over the remaining term of this Agreement following the Refinancing; and
- B = the net present value (discounted using Threshold Equity IRR) of the Distributions projected immediately prior to the Refinancing (but without taking into account the effect of the Refinancing and using the Financial Model as updated (including as to the performance of the Concession) as to be current immediately prior to the Refinancing) to be made to each Shareholder and Subordinated Lender over the remaining term of this Agreement following the Refinancing;

Refinancing Notice has the meaning given to it in Article 47.9.1;

Refurbishment Development Plan means each refurbishment development plan prepared in accordance with Article 20.4 (*Refurbishment Works - Facilities Condition Assessment*);

Regional Airports means those Cretan, Continental Greece and Ionian Sea regional airports set out in Appendix 2 (*Regional Airports*) to this Agreement;

Regulated Aeronautical Charges means the Airport Charges levied by the Concessionaire for the Basic Airport Services and in particular Landing Charges, Lighting Charges, Parking Charges, Passenger Charges and the actually received amount of the ADF that the Concessionaire is entitled to pursuant to Article 28.10 as, in each case, more particularly set out in Article 28.4 (*Fixed Tariff Cap with Growth Index*) but excluding for the purpose of this definition Security Charges;

Relevant Event has the meaning given to it in paragraph 1.9 of Appendix 23 (*Financial Adjustments*);

Renewal Amount means the cost of carrying out the Renewal Works as agreed or determined in accordance with Article 32 (*Handback of Concession to the State*) and in accordance with the Renewal Programme and shall include an element of profit and on and offsite overheads save for those aspects of the Renewal Works that are required due to the Concessionaire's failure to

comply with the obligations under this Agreement which shall be carried out at the Concessionaire's cost and expense;

Renewal Programme means the programme for the carrying out of the Renewal Works over the remainder of the Concession Period following the Initial Inspection, as agreed or determined in accordance with Article 32 (*Handback of Concession to the State*), as such programme may be revised or amended at any time in accordance with Article 32 (*Handback of Concession to the State*) or otherwise amended or extended by operation of an extension of time or otherwise under this Agreement;

Renewal Works means the works of renewal, reconstruction, repair or reinstatement required, as agreed or determined at any time in accordance with Article 32 (*Handback of Concession to the State*), to be carried out in order to procure that the Regional Airports will, at the expiry of the Concession Period as a result of the effluxion of time, satisfy the Handback Requirements;

Renewal Works Element has the meaning given to it in Article 32.10.6;

Request for Proposal means the request for proposal dated 4 February 2014 for the provision of services in relation to the operation and maintenance of the Regional Airports of the Hellenic Republic, as produced by the Grantor;

Required Air Traffic Control Capacity means that during each Peak Period at any Regional Airport no more than 150 60-minute intervals occur during which slot requests addressed to the HSCA have not been approved for arrival or departure times as originally requested due to Air Traffic Control capacity shortage;

Required Level of Service means at all times other than the Excluded Periods, level of service C or above (as defined by IATA in the Airport Development Reference Manual or any replacement thereof) and during the Excluded Periods, level of service D or above (as defined by IATA in the Airport Development Reference Manual or any replacement thereof);

Residual Life means that part of the Service Life of an element of the Regional Airports that remain at the expiry of the Concession Period;

Retention Account means the account designated as such under Article 32.10 (*Retention Account*) and includes any replacement of that account;

Revenues means the Concessionaire's revenues of any kind after deduction of VAT (if applicable) which shall include, for the avoidance of doubt, any Insurance Proceeds received and arising out of a loss of income under any claim under the business interruption insurance;

Revised Refurbishment Development Plan has the meaning given to it in Article 20.4.2(b);

Right of Way or Rights of Way means the Concessionaire's rights of way on each Concession Site;

Safety Manager means the accountable person that the Concessionaire shall nominate in accordance with Subpart D (*Management*) of the Aerodromes Regulation 2014 and appoint in accordance with Article 26.1.5;

Second Inspection has the meaning given to it in Article 32.7.1;

Security Charge means the security charges that the Concessionaire is entitled to charge as more particularly described in paragraph 1.7 (*Security Charge*) of Appendix 7 (*Airport Charges*);

Senior Debt means the financing provided by the Lenders under the Designated Loan Agreements;

Service Life means:

- (a) in the case of a proprietary manufactured element of the Regional Airports, the period of time, as declared in writing by the manufacturer, for which the element will continue to perform as intended after incorporation in the Regional Airports in a manner, and operating under design conditions, accepted by the manufacturer, and subject to maintenance in accordance with the manufacturer's written recommendations; and
- (b) in the case of a non-proprietary element of the Regional Airports, the period of time for which the element is expected to continue to perform as intended after completion of construction of the relevant Airport Facility, as defined in accordance with ISO 15686: Buildings and Constructed Assets – Service Life Planning or any other equivalent internationally accepted standard;

Service Quality Measurement means the service quality measurement set out in Appendix 6 (*Performance Measurement*);

Service Quality Standards means the measures of performance set out in respect of each Designated Airport Service in paragraph 4 (*Service Quality Measurement*) of Appendix 6 (*Performance Measurement*);

Share Capital means the Concessionaire's share capital;

Shareholder means any person from time to time holding share capital in the Concessionaire;

Shock Event means an event or circumstance, or combination of events or circumstances, in each case beyond the control of the Concessionaire and that has or have a material adverse impact on one or more of the Regional Airports (including on air traffic at the Regional Airports) and/or air traffic generally following which there occurs a Traffic Fall within eighteen (18) months

thereafter. An event which is a Force Majeure Event, a State Responsible Event or an Event of Delay shall not constitute a Shock Event;

Shock Event End Date means the first Calculation Date after the Shock Event Start Date on which the Minimum Cover Ratios have been achieved for the preceding calculation period without any deferral of the Concession Fee;

Shock Event Period means the period commencing on and including the Shock Event Start Date and ending on the Shock Event End Date;

Shock Event Start Date means the day on which the Concessionaire delivers a Concessionaire Shock Event Notice for a Shock Event to the State and the Grantor;

Snagging Matters means matters scheduled by the Independent Engineer and the Concessionaire when the Independent Engineer issues the Substantial Completion Certificate in respect of the relevant part of the Works which remain outstanding, are of a temporary nature, are minor in scope and importance and (either individually or in conjunction with each other) would not materially impair the Users use and enjoyment of the relevant Regional Airport;

Specifications means any provision in this Agreement (including its Appendices and the regulations and codes to which they refer) that describe in detail the material requirements, including the Works Requirements, the Standards and Specifications and the Maintenance Requirements, for objects, materials and/or services that are required for the implementation of the Concession including the procedures by which the compliance with these requirements will be assessed;

Standards and Specifications means those standards and specifications with which the Concessionaire is obliged to comply as more particularly set out in Appendix 9 (*Standards and Specifications*) to this Agreement;

State means the Hellenic Republic, including, for the avoidance of any doubt, all local and municipal subdivisions and prefectures;

State's Representative has the meaning given to it in Article 7.11 (*Grantor's and State's Representative*);

State Default Compensation Sum has the meaning given to it in Article 34.2.1(c);

State Direct Agreements means the agreements between the State, the Grantor and the Lenders (or the Agent Bank) that, without adversely affecting the State and the Grantor's rights and obligations deriving from this Agreement, directly regulate the relations between the Lenders and the State and regulate the order of claims and application of proceeds in respect of each Performance Bond (as applicable). Such Agreements shall be governed by Greek Law;

State Events of Default means the events stated in Article 34.1 (*State Events of Default*), the occurrence of any one of which gives the Concessionaire the right, among other rights, to terminate this Agreement;

State Permits means the Aerodrome Certificates together with any Existing Works Construction Permits, Existing Environmental Permits and Existing Operational Permits;

State Responsible Event means any event that is expressly referred to in this Agreement as being a State Responsible Event as well as any event (including Events of Delay and the obligation of the Air Navigation Services Provider to provide the Required Air Traffic Control Capacity in accordance with Article 30.6) which is not (a) a State Event of Default for which a Termination Notice has been served, which is not (b) a risk of the Concessionaire under this Agreement or caused by the Concessionaire or any person(s) that it uses for the implementation of the Concession (including the Independent Engineer) or (c) a Force Majeure Event the financial consequences of which are assumed by the Concessionaire, and which adversely affects the revenues of the Concessionaire during the Concession Period and/or materially affects the provision of the Airport Services;

State Service Level Agreements means the agreements entered into by the Concessionaire and the Government Users and as validly updated and varied from time to time during the Concession Period;

State Services Variation means a variation to the Airport Services initiated by the State in accordance with Appendix 19 (*Variations*);

State Variation means either or both of a State Services Variation or a State Works Variation as the case may be;

State Works means those works relating to the refurbishment, upgrade and expansion of the Regional Airports that the State has procured, contracted and/or will procure and be liable for as detailed in the programme of works provided by the Ministry and set out in Appendix 11 (*State Works Contracts*);

State Works Completion Certificate means the certificate issued by the competent supervising authority pursuant to the relevant State Works legislation stating that the State Works are complete, have passed the required tests and are ready and safe for use;

State Works Contracts means the contracts set out at Appendix 11 (*State Works Contracts*) between the State and the relevant contractor providing the designs and the specifications for the State Works and setting out the respective deadlines for the completion of the State Works;

State Works Snagging Matters means matters that are scheduled to the Temporary Acceptance Protocol by the Committee in respect of the relevant part of the State Works and

that remain outstanding, are of a temporary nature, minor in scope and importance and (either individually or in conjunction with each other) would not materially impair the Concessionaire from operating the relevant Regional Airport;

State Works Variation means a variation to the Works initiated by the State in accordance with Appendix 19 (*Variations*);

Subordinated Debt means that part of the Committed Investment made available by way of subordinated loans and/or any other amounts made available to the Concessionaire by:

- (a) the Initial Shareholders or their Affiliates (within the meaning of cod. law 2190/20 in conjunction with law 4308/2014) provided that the Initial Shareholders agree to guarantee the commitment that these companies provide; and/or
- (b) third parties, provided that the Initial Shareholders or their Affiliates guarantee their repayment;

Subordinated Debt Documents means any documents under which Subordinated Debt is provided;

Subordinated Lenders means a person providing financing under a Subordinated Debt Document;

Substantial Completion Certificate means a certificate issued by the Independent Engineer in accordance with Article 21.2 (*Supervision*) stating that the relevant Supervised Works are Substantially Complete;

Substantial Completion Snagging Schedule means the schedule of Snagging Matters for the relevant Works agreed between the Concessionaire and the Independent Engineer at the time of inspection of such Works pursuant to Article 18.12.8 (*Substantial Completion Certificates*);

Substantially Complete means in relation to any Works, the fulfilment and satisfaction of each of the requirements and tests on completion agreed with the Independent Engineer save only for Snagging Matters;

Supervised Works means the Imminent Works, any Works as a result of a Variation scheduled to be completed prior to the Imminent Works End Date at the relevant Regional Airport where such Works are to be undertaken and the Future Material Works;

Supervision means the activities of the Independent Engineer during the Works in accordance with Article 21.2 (*Supervision*) and the Independent Engineer's Agreement;

Supplementary Land means the use of the land that may be required pursuant to a survey conducted by the Concessionaire in accordance with Article 14.1.7;

Tariff Cap means the maximum charge that the Concessionaire may charge for the Regulated Aeronautical Charges set out in Article 28.4 (*Fixed Tariff Cap with Growth Index*) as the same may be amended in accordance with Article 28.4 (*Fixed Tariff Cap with Growth Index*);

Tariff Cap Deactivation End Date has the meaning given to it in Article 28.4.4(b)(i);

Tax means any kind of tax, duty, levy, withholding or other charge whether or not similar to any in force at the date this Agreement is entered into and whether imposed nationally or locally within the Hellenic Republic;

Technical Disputes means any Dispute:

- (a) of substantially a technical nature which relates to the Master Plans, the Refurbishment Development Plans, the Designs, the Works, the State Works and the Handback Requirements;
- (b) that is expressly defined in this Agreement as being a technical issue to be referred to the Technical Dispute Panel for resolution; or
- (c) that is not expressly defined in this Agreement as being a technical issue but which is resolved to be a Technical Dispute by the Technical Disputes Resolution Panel in accordance with Article 39.2.7 or the Arbitral Tribunal in accordance with Article 39.3.3.

For the avoidance of doubt, the fact that in relation to any Dispute a Party claims a financial remedy or the resolution of that Dispute may otherwise entail financial consequences for any Party shall not alone preclude such Dispute from being a Technical Dispute.

Technical Disputes Resolution Panel means the three (3) member expert panel provided for in Article 39.2.1, to which Technical Disputes are referred by the Parties for resolution;

Technical Disputes Resolution Procedure means the disputes resolution procedure set out in Article 39.2 (*Technical Dispute Resolution*);

Temporary Acceptance Protocol means the protocol issued by the Committee stating that the relevant State Works are temporarily accepted by the State;

Terminal Capacity Critical means, in relation to any Regional Airport, that the Capacity Assessment Provider has determined that the Required Level of Service is not achieved at such Regional Airport during the Peak Period in accordance with paragraph 3.2 (*Passenger Terminal Capacity Assessment*) of Appendix 6 (*Performance Measurement*);

Termination Date has the meaning given to it in Articles 33.2.4 and 34.1.5;



Termination Notice means the notice by a Party for the termination of this Agreement in accordance with Articles 33.2.1 and 34.1.2;

Termination Points has the meaning given to it in Appendix 6 (*Performance Measurement*);

Third Party Controlled Services means airline counter check in services, baggage handling services referred to in paragraph 2.1 to 2.2 of Appendix 6 (*Performance Measurement*) and other services to be agreed between the Parties from time to time including but not limited to services provided by aircraft operators, Air Navigation Services Providers, providers of apron management services, ground handling service providers, providers of services to persons with reduced mobility, aircraft maintenance organisations and public authorities;

Third Party Controlled Standards means those performance standards numbered 11-16 set out in paragraph 2.2 of Appendix 6 (*Performance Measurement*);

Threshold Equity IRR means the IRR produced for the Committed Investment by the Financial Model;

Total Deferred Amount means the sum of the Deferred Amounts deferred and not repaid to the Grantor, in accordance with Article 45 (*Shock Events*);

Traffic Fall means any of the following events:

- (a) that in any month, the number of Passengers for the Regional Airports in aggregate is below the number of Passengers for the Regional Airports in aggregate in the same month in the 12 month period prior to the Shock Event Start Date by more than 10% of such latter number; or
- (b) that for any Quarterly Period, the number of Passengers for the Regional Airports in aggregate is below the number of Passengers for the Regional Airports in aggregate in the same Quarterly Period in the 12 month period prior to the Shock Event Start Date by more than 5% of such latter number; or
- (c) that in any month, the number of Passengers for any Regional Airport is below the number of Passengers for that Regional Airport in the same month in the 12 month period prior to the Shock Event Start Date by more than 20% of such latter number; or
- (d) that for any Quarterly Period, the number of Passengers for any Regional Airport is below the number of Passengers for that Regional Airport in the same Quarterly Period in the 12 month period prior to the Shock Event Start Date by more than 15% of such latter number;

Transferred Airport Contracts means the Contracts and any other Airport Contracts selected by the Concessionaire to be transferred to it on or before the Concession Commencement Date;

Transferred Assets means the assets listed in the Asset Register as updated by the Inventory prepared by the Concessionaire in accordance with Article 4.11 (*Inventory*);

Transfer Indemnity Sum has the meaning given to it in Article 4.9.7;

Updated Asset Register means, in respect of each Regional Airport, the Asset Register as updated by the Concessionaire to record all movable assets in existence at each such airport on the date of the Concession Site handover in accordance with Article 14.1 (*Delivery of the Concession Sites*), and be completed ten (10) Business Days after the completion of the handover, in accordance with this Agreement;

Updated Financial Model means the Financial Model as updated from time to time in accordance with Article 31 (*Financial Model*);

Upfront Concession Fee means an amount of six hundred and nine million Euro (€609,000,000) to be paid on the Concession Commencement Date;

User means any natural or legal person responsible for the carriage of Passengers, mail and/or cargo by air to or from the Regional Airport concerned;

Vacant Possession (ακώλυτη χρήση) means the exclusive right of the Concessionaire for use and possession of each Concession Site for any purpose or activity permitted by Article 4.1.1;

Valid Environmental Terms means an Environmental Permit (in the form of a decision that approves environmental terms in accordance with law 4014/2011) that is not expired;

Variable Concession Fee means a variable amount being EBITDA (if positive) multiplied by 28.20% due from the Concessionaire to the Grantor in respect of each Concession Year following the third anniversary of the Concession Commencement Date, where EBITDA is EBITDA for the Concession Year;

Variation means either or both of a State Works Variation or a State Service Variation (as the case may be);

Variation Confirmation has the meaning given to it in paragraph 7 of Appendix 19 (*Variations*);

Variation Enquiry has the meaning given in paragraph 2 of Appendix 19 (*Variations*);

Works means the Imminent Refurbishment Works, the Imminent New or Expansion Works, any Future Refurbishment Works and any Future New or Expansion Works, and any other works

necessary in order for the Regional Airports to be refurbished and upgraded in accordance with the terms of this Agreement as more particularly set out in Appendix 12 (*Works*);

Works Performance Bond means the irrevocable bank guarantee delivered by the Concessionaire in the form of Section 2 of Appendix 1 (*Form of Letters of Guarantee*), for its obligations deriving from this Agreement relating to the Imminent Works, which shall be submitted to the State on or before the Concession Commencement Date and which shall be effective from the Concession Commencement Date;

Works Price List means the list of prices for public works procurements for roads, hydraulics, ports, buildings, landscaping and electromechanical works for road projects as approved by Decision No. Δ11γ/0/9/7/7-2-2013, the readjustment and completion of which has been approved by Decision No. Δ11γ/0/9/15/5-3-2013 of the Ministry as modified and in force from time to time; and

Works Requirements means the minimum technical standards with which the Concessionaire is obliged to comply as more particularly set out in Appendix 10 (*Works Requirements*) to this Agreement.

3.2 Interpretation

- 3.2.1 This Agreement is the entire agreement between the Parties and is to be interpreted in accordance with the principles of good faith and business ethics to the satisfaction of the public interest and the continuity of the conceded public service.
- 3.2.2 The possible invalidity of any part thereof shall not result in the invalidity of the whole Agreement which shall remain valid and binding on the Parties.
- 3.2.3 In this Agreement, and unless the context requires a different meaning:
- (a) references to Articles and Appendices are references to articles and appendices of this Agreement;
 - (b) references to days are references to calendar days unless expressly provided otherwise;
 - (c) references to Laws, a law or provision of a law will be interpreted, at any given time, as including a reference to every amendment, extension or re-enactment then in force;
 - (d) references in the singular will include references in the plural and vice-versa;
 - (e) headings will be ignored in construing this Agreement;

- (f) references to an agreement, deed, instrument, licence, code or other document (including this Agreement), or to a provision contained in any of them, will be construed, at the particular time, as a reference to such as it may have been amended, varied, supplemented, modified, suspended, transferred or novated;
- (g) references to the Contracting Parties or Parties include their successors and assignees;
- (h) unless a contrary indication appears, a term defined or used in the Certification Regulations has the same meaning in this Agreement;
- (i) amounts referred to as Indexed, or amounts that the Concessionaire shall Index, in this Agreement shall be Indexed on each anniversary of the Indexation Date, unless otherwise stated. The Indexation Date, unless otherwise stated, shall be the Effective Date. On each anniversary of the Indexation Date, unless otherwise stated, or as soon as shall be practicable thereafter, the relevant amount (previously Indexed as the case may be) shall be multiplied by an amount equal to the most recently available Index on the relevant anniversary divided by the Index applicable twelve (12) months earlier (or any other date specifically stated);
- (j) any rights and/or obligations of the Grantor under to this Agreement or any agreement entered into pursuant to this Agreement shall be transferred to and/or assumed by the State on the date (if any) that the Grantor ceases to exist; and
- (k) where provision is made for the giving of notice by any Contracting Party under this Agreement, such notice shall be in writing and the word "notify" shall be construed accordingly.

3.3 Appendices - Order of Precedence

- 3.3.1 The text of this Agreement, as executed by the Contracting Parties, is the only valid text of the Concession Agreement that will be submitted by the State to the Hellenic Parliament, in accordance with the agreement in Article 6.1.1 in order to be ratified in its totality.
- 3.3.2 The following documents are integrally appended to this Agreement and constitute its Appendices:

Appendix 1 Form of Letters of Guarantee

Appendix 2 Regional Airports

Appendix 3 Concession Site Plans

Appendix 4 Completion Documents/Concession Commencement Date

Appendix 5 Airport Services

Appendix 6 Performance Measurement

Appendix 7 Airport Charges

Appendix 8 Approved Environmental Terms / Existing Permits

Appendix 9 Standards and Specifications

Appendix 10 Works Requirements

Appendix 11 State Works Contracts

Appendix 12 Works

Appendix 13 Maintenance Requirements

Appendix 14 Multi-Party Arbitration Agreement

Appendix 15 Handback Requirements

Appendix 16 Minimum Insurance Requirements

Appendix 17 Air Navigation Services Provision Allocation Matrix

Appendix 18 Air Activities

Appendix 19 Variations

Appendix 20 Cooperation Framework between the Hellenic Air Force (HAF), the Hellenic Civil Aviation Authority (HCAA) and the Concessionaire at Joint Use Airports

Appendix 21 NOT USED

Appendix 21A HDFS Ministerial Decisions

Appendix 22 NOT USED

Appendix 23 Financial Adjustments

Appendix 24 Financial Offer

Appendix 25 Financial Model

Appendix 26 Technical Offer

Appendix 27 Concessionaire's Articles of Association

Appendix 28 Design-Construction Contract(s) and/or Design-Construction Contract Template for Imminent Works

If there is a conflict between the Appendices and this Agreement, the Concession Agreement shall prevail.

- 3.3.3 If there is a conflict between the Appendices their order of precedence is set by the order of reference set out above.

4 Contractual Object – operation, exploitation and maintenance

- 4.1** By this Agreement the Grantor awards to the Concessionaire the Concession for the financing upgrade, maintenance, management and operation of the Regional Airports including the exclusive right of exploitation of the Concession Operations at the Regional Airports, together with other considerations and in particular:

- 4.1.1 The right to exploit the Concession Operations at the Regional Airports consists of the concession by the Grantor to the Concessionaire pursuant to and in accordance with the terms and conditions of this Agreement:

- (a) of the exclusive right to impose and collect the Airport Charges from the Users which, subject to the provisions of this Agreement and to the rights of the Airport Right Holders, shall be for its own account;
- (b) of the right of commercial exploitation of the Airport Services at each Concession Site at each Regional Airport; and
- (c) any other activity or business which the Concessionaire sets out in its Business Plan or notifies to the Grantor for augmenting the revenue generated by the Regional Airports, and if so required under the terms of this Agreement, for which the Grantor and/or the State has given its consent.

- 4.1.2 The Concessionaire must not undertake any other activities (in relation to the Regional Airports or otherwise) without the consent of the Grantor and/or the State.

4.2 Concessionaire's Obligations

4.2.1 The Concessionaire shall implement the Concession in accordance with the terms of this Agreement and its Appendices at its own cost and risk, unless otherwise provided for in this Agreement and, subject to the terms of the HAF Cooperation Framework, shall:

- (a) pay the Upfront Concession Fee, the Concession Fee and the Levy when due and payable in accordance with the terms of this Agreement;
- (b) make available the required financing for the Concession through its Shareholders and/or other parties or services;
- (c) conduct all necessary investigations and Designs;
- (d) execute all the Works, other than the State Works, at each of the Regional Airports and all other necessary works that are contractually required until the expiry of the Concession Period;
- (e) perform the Concession Operations at the Concession Site of each Regional Airport throughout the duration of the Concession Period;
- (f) provide, or make available, the Airport Services at each Regional Airport and the relevant apron capacity in accordance with this Agreement including in accordance with the Performance Measurement and the Service Quality Measurement throughout the Concession Period;
- (g) provide the Required Level of Service in accordance with this Agreement at each Regional Airport throughout the Concession Period;
- (h) ensure that no Regional Airports are closed during the relevant Operating Hours and subject always to the requirements as regards ad hoc and emergency flights in accordance with paragraph 2 (*Operating Hours*) of Appendix 5 (*Airport Services*);
- (i) cooperate with HAF and enter into any agreements that may be necessary to regulate the Concessionaire's and HAF's respective rights in relation to and use of the Joint Use Airports and to undertake and perform all its duties and obligations at Joint Use Airports as more particularly set out in the HAF Cooperation Framework;
- (j) compensate HAF for the civil use of the runways and taxiways at each of the High Usage Joint Use Airports by paying to HAF the percentages, in

accordance with the HAF Cooperation Framework, of the Landing Charges, the Lighting Charges and the Security Charges received as a result of such use in accordance with the terms of the HAF Cooperation Framework. The Landing Charges, the Lighting Charges and the Security Charges received by the Concessionaire in any Concession Year that are payable to HAF pursuant to this paragraph (j) shall be paid in accordance with the provisions of Article 29.2.1 and the HAF Cooperation Framework. To clarify, the related costs and expenses shall be considered Operational Expenditure of the Concessionaire;

- (k) during the Concession Guarantee Period perform the obligations as specified in Article 26.4 (*Responsibility during the Concession Guarantee Period*);
- (l) pay the total of the Independent Engineer's fees in accordance with any Independent Engineer's Agreement;
- (m) undertake the obligations and assume the rights of the HCAA provided under the Transferred Airport Contracts, excluding any obligations that relate to the Transferred Airport Contracts for the period prior to the Concession Commencement Date, and continue such Transferred Airport Contracts pursuant to and in accordance with any applicable Laws, the terms of each Transferred Airport Contract and Articles 4.8 (*Transfer of Contracts*) and 4.9 (*Airport Contracts*);
- (n) handback the Concession (including any Movable Property) at the end of the Concession Period in accordance with the terms of this Agreement;
- (o) execute and maintain in effect the required insurance policies, in accordance with the provisions of Appendix 16 (*Minimum Insurance Requirements*);
- (p) train the State's personnel in accordance with this Agreement;
- (q) facilitate the exercise of the State's, the Grantor's and the Competent Authority's rights and obligations throughout the duration of the Concession Period and in accordance with the terms of this Agreement;
- (r) establish and implement an airport emergency plan and the provision of rescue and fire-fighting services in accordance with paragraph 6 (*Rescue and Fire-fighting Services*) of Appendix 5 (*Airport Services*);
- (s) provide the data to allow for the calculation of payments due to the State and the Grantor;

- (t) comply with the obligations as regards Government Users set out in Article 4.4 (*Government Users*); and
- (u) ensure that, save as may otherwise be required by Law, as regards the aircraft of all countries the Regional Airports operate under uniform conditions.

4.2.2

- (a) Unless otherwise provided for in this Agreement, the Concessionaire's liability is not limited or otherwise determined by the consents or approvals granted by the Grantor and/or the State (as applicable) pursuant to the terms of this Agreement.
- (b) If the Grantor and/or the State (as applicable) grants a consent or approval without further comment then the Grantor and/or the State (as applicable) is deemed to have no objection. Whenever the approval is granted with conditions, the Concessionaire shall comply with such conditions in accordance with the provisions of this Agreement.

4.3 Grantor and/or State Obligations

- 4.3.1 The Grantor shall, subject to Article 4.8 (*Transfer of Contracts*), allow the Concessionaire throughout the Concession Period the unobstructed exercise of the exclusive right to exploit the Concession Operations at the Concession Sites of each Regional Airport.
- 4.3.2 The State shall in accordance with the terms of this Agreement:
 - (a) deliver to the Concessionaire, in accordance with the provisions of Article 14 (*Concession Sites*), the Concession Sites and the relevant Rights of Way;
 - (b) procure and be liable for the timely construction of any access roads outside the Concession Sites that are required to allow the Concessionaire to undertake Concession Operations at any new terminals that may be constructed in accordance with the Approved Master Plans from time to time;
 - (c) maintain and/or improve each of the access roads outside the Concession Sites as are or maybe required to each Regional Airport to a good standard and in a timely manner and provide the Concessionaire and its contractors, servants, agents, employees and subcontractors with all relevant access rights;
 - (d) procure and be liable for the State Works in accordance with the State Works Contract and ensure that such works are completed in accordance with the standards and specifications set out in the relevant State Works Contract and

Article 19 (*State Works*) on or before the relevant completion dates set out in Appendix 11 (*State Works Contracts*);

- (e) provide or procure the provision by other Government Users of all Government Services at the Regional Airports, ensure that the Government Services are available at least during the Operating Hours as adjusted in accordance with Appendix 5 (*Airport Services*) and procure that any Government User cooperates in a timely manner and in good faith in order to agree such terms with the Concessionaire as required in accordance with Article 4.4 (*Government Users*);
- (f) procure that the Competent Authorities recognise certificates of airworthiness, certificates of competency and valid licences issued by contracting states to the Chicago Convention, which are at least equivalent to the minimum standards established under the Chicago Convention;
- (g) ensure that HAF cooperates with the Concessionaire and enters into any agreements which may be necessary to regulate the Concessionaire's and HAF's respective rights in relation to the use of the Joint Use Airports and to undertake and perform all its duties and obligations at High Usage Joint Use Airports (including operating and maintaining the runways and taxiways and related airside areas at the High Usage Joint Use Airports in accordance with the Standards and Specifications) as more particularly set out in the HAF Cooperation Framework;
- (h) bear the cost for the works and measures required in accordance with Article 17.4.1;
- (i) ensure that charges for Basic Airport Services can be introduced as specified in Appendix 7 (*Airport Charges*);
- (j) support or facilitate that non-EU nationals employed for the management and/or operation of the Regional Airports receive visa and work permits for themselves and their families;
- (k) invest in the modernisation and capacity expansion of the air navigation infrastructure, the upgrade of the Air Traffic Services and the qualification of its workforce as in each case may be required in order to handle air traffic as such increases in accordance with the relevant forecasted demand set out in the Financial Model at the Regional Airports in cooperation with the Concessionaire;

- (l) support the Concessionaire in the provision of rescue and firefighting services (either by implementing laws that allow full provision of such services by the Concessionaire or by ensuring that the Hellenic Fire Brigade is available as contractor and does not charge more than its reasonably incurred direct costs for such services). To this effect, following the Effective Date and to the extent that the Concessionaire opts to use the Hellenic Fire Brigade as a contractor, the Concessionaire shall contact the competent services of the Ministry of Citizen Protection, so that they can jointly regulate through a respective State Service Level Agreement, the rescue and firefighting services at the Regional Airports. The Concessionaire shall secure and maintain at its own expense the appropriate equipment and the required personnel's facilities for the rescue and firefighting services at the Regional Airports;
- (m) grant the Concessionaire a right of use over such areas at the High Usage Joint Use Airports as required in order to allow the Concessionaire to provide the Airport Services, as set out in more detail in the HAF Cooperation Framework;
- (n) use best endeavours to ensure that any Transferred Airport Contract provides for compliance by the relevant Airport Contract Party with the applicable Third Party Controlled Standards;
- (o) except as specifically otherwise provided in this Agreement, pay any amounts due and payable to the Concessionaire by the State and/or the Grantor within sixty (60) days as of the date on which such amounts are due, such date being in connection with Article 6.4 (*Compensations for Transferred Assets*), Concession Commencement Date or, if the matter has been referred to the Technical Disputes Resolution Panel, within sixty (60) days of a determination in favour of the Concessionaire by the Technical Disputes Resolution Panel;
- (p) carry out any other task specifically allocated to the State in accordance with this Agreement;
- (q) procure that the Concessionaire participates and submits its view to the Committee of article 17 paragraph 2 of PD. 86/1979 which will be appointed by the Ministry;
- (r) ensure that the Concessionaire participates in and submits its views to any regulated procedures relating to the development of national transport policy or airport policy or other strategic plans in respect to transportation in the Hellenic Republic;

- (s) ensure that the HCAA shall cooperate with the Concessionaire from the Effective Date until delivery of the Concession Sites in accordance with Article 14 (*Concession Sites*) and ensure that the HCAA shall provide all necessary information and human and technical support upon request by the Concessionaire, in relation to a smooth transition of the operation of any of the Regional Airports to the Concessionaire in accordance with this Agreement; and
- (t) ensure that any state authorisations required for the amendment of the current internal groundhandling regulations of the Regional Airports so as to allow the introduction of fees and charges requested by the Concessionaire regarding the access and use of the central infrastructure and other airport infrastructure at Regional Airports will be promptly granted, following the relevant request submitted by the Concessionaire in accordance with Council Directive 96/67/EC and article 24 of law 3913/2011.

4.3.3 The Concessionaire may, if it so elects, with the consent of and on terms agreed with the State, perform some or all of the State Works, any works required pursuant to Article 4.4.7 and any other works that the State is required to perform or procure pursuant to the terms of this Agreement on behalf of and at the cost of the State.

4.3.4 The Concessionaire's right to exploit the Hellenic Duty Free Contracts shall be subject to and in accordance with the Hellenic Duty Free Laws.

4.3.5 The State and the Grantor undertake to fulfil their contractual and financial obligations related to the Concession only to the extent that there is an explicit provision in this Agreement to this effect.

4.4 Government Users

4.4.1 From the Effective Date, the Concessionaire shall consult with the representatives of each Government User with regard to:

- (a) general terms and conditions of cooperation as well as responsibilities at each of the Regional Airports;
- (b) installation and commissioning of equipment and facilities required for functions to be carried out by Government Users at each of the Regional Airports, to be borne by the Concessionaire but, for the avoidance of doubt, the procurement and commissioning of air navigation equipment is the responsibility of the State unless otherwise specified;

- (c) availability of Government Users during Operating Hours and any extension thereof; and
 - (d) requirements of Government Users in terms of space, utilities supply and equipment and material resources.
- 4.4.2 Government Users may use the respective Government User Premises free of charge subject to the terms of the relevant State Service Level Agreement. For the avoidance of doubt, the State Service Level Agreement with each relevant Government User will specify the location of the respective Government User Premises.
- 4.4.3 Area sizes for office and relaxation purposes to be made available to the respective Government Users shall not be less than seven (7) square metres per person employed as a full-time employee per shift by the Government User at the relevant Regional Airport, provided that the respective Government User shall act prudently and reasonably in its decisions and requirements in relation to employees employed by the Government User on the basis of actual needs for the maintenance of the Required Level of Service.
- 4.4.4 Subject to Article 4.4.7, increased areas for Government User Premises shall be provided as may be required, in line with future air traffic growth in terms of aircraft movements, Passengers, baggage, cargo and mail if this necessitates growth of staff numbers for the relevant Government User.
- 4.4.5 The Parties shall negotiate in good faith and use best endeavours to enter into State Service Level Agreements between the Concessionaire and the respective Government User in order for the Concessionaire to meet and maintain the Required Level of Services.
- 4.4.6 The Concessionaire will be responsible for arranging for the provision of utility services within the relevant Concession Site (electricity, water, drainage, domestic telephone, voice and data communication). The provision of any such utilities to Government Users within the Concession Site shall be free of charge provided that, if consumption of any utility is above reasonable levels of use (which shall be determined by the Concessionaire acting reasonably having regard to Government User consumption at other Regional Airports (the **Reference Level**)) the Concessionaire may, after notifying the relevant Government User limit the provision of the specific utility to a reasonable level or seek reimbursement from such Government User of any costs for the provision of such utility in excess of the Reference Level.

- 4.4.7 If the State requires further Government User Premises in order for a Government User to meet its obligations under the State Service Level Agreements this will be requested and paid for either:
- (a) as a State Variation provided that when constructed the Government User Premises will be provided at the cost of the State on terms similar to those in the existing State Service Level Agreements; or
 - (b) as a separately procured State construction project, provided that the consent of the Concessionaire shall be required prior to constructing any further Government User Premises (not to be unreasonably withheld or delayed) and any interference to Concession Operations resulting from such construction shall be a State Responsible Event.
- 4.4.8 The State shall ensure, to the extent reasonably possible, that except in the case of an emergency and subject always to Article 23 (*State Intervention*), the use of the runway(s) or other areas within the Regional Airports by a Government User does not materially adversely interfere with the Concessionaire's ability to (i) provide the Airport Services, or (ii) otherwise to enjoy any of its rights and perform any of its obligations under this Agreement, and any such interference shall be a State Responsible Event.
- 4.4.9 Each Government User shall use and occupy the Government User Premises without interference from the Concessionaire subject to the terms of the relevant State Service Level Agreement.
- 4.4.10 The State shall be liable to the Concessionaire for any damage caused by a Government Related Party occurring on or within the Government User Premises and to areas, facilities, buildings or structures located within the Regional Airports, including the runways and any such damage shall be a State Responsible Event. If such damage is covered by the insurance that the Concessionaire is obliged to effect in accordance with this Agreement, then the State will not compensate the Concessionaire for the relevant damage. The Concessionaire shall take such steps as are necessary to ensure that Insurance Proceeds are obtained (including using reasonable endeavours to make enquiries of the Concessionaire's insurance brokers and shall notify the State of any potential increases in insurance premia arising from such claims on the insurances that the Concessionaire is obliged to effect in accordance with this Agreement).
- 4.4.11 The Concessionaire may, at its own cost and subject to obtaining the prior written consent of the State (such consent not to be unreasonably withheld or delayed), for the purpose of carrying out any Works, or for proper operational purposes, require the temporary or permanent relocation of all or part of the Government User Premises.

The State shall procure the co-operation and compliance of the Government Users with any such proposals.

- 4.4.12 The Concessionaire shall not be liable for any failure or delay in complying with any of the terms and conditions of this Agreement to the extent that any such failure or delay is a result of any act or omission of any Government User.

4.5 Transferred Assets

- 4.5.1 The State shall transfer the Transferred Assets or make available to the Concessionaire equivalent rights to such Transferred Assets, in each case on the Concession Commencement Date and throughout the Concession Period free from any third right, claim and encumbrances. No warranty as to condition or otherwise is given by the State in relation to the Transferred Assets other than the warranty set out in Article 5.2.1(d).

- 4.5.2 If any of the Transferred Assets are not required for the operation of the Regional Airports, then the Concessionaire, having given fourteen (14) days' prior notice to the HCAA to take such assets back at the HCAA's cost, may sell, transfer or otherwise dispose of these assets from the Regional Airports (at its own cost).

4.6 Airport Rights

- 4.6.1 The Concessionaire must establish fair, reasonable and objective criteria (consistent with the Law) for the grant of Airport Rights. In granting, and in determining whether or not to grant, any Airport Right to any person, and in determining whether to amend, waive, terminate or extend any such rights, the Concessionaire shall comply with and apply such criteria.
- 4.6.2 Subject at all times to this Article 4.6 (*Airport Rights*), the Concessionaire may grant the right of use of any part of the Concession Sites to third parties to give effect to the grant of Airport Rights.
- 4.6.3 The Concessionaire may grant Airport Rights to Airport Right Holders which, among other things, entitle such Airport Right Holders to grant sub-rights to others in respect of the relevant Airport Rights, with the prior written consent of the State, such consent not to be unreasonably withheld or delayed, nevertheless to the extent that such granted sub-rights do not exceed the value of one hundred thousand Euro (€100,000) per annum no consent of the State would be required, although notification and clearance from the State for national security purposes is in all cases necessary. If the State does not respond to the Concessionaire within fifteen (15) Business Days of the written request for consent, such consent shall be deemed to be issued by the State.

Any such grant does not relieve the Concessionaire from compliance with the provisions of this Agreement. The Concessionaire must ensure that (a) the provisions of this Agreement are in all other respects strictly complied with in relation to the grant of such sub-rights and the terms thereof and (b) it has the right to terminate, or require that the Airport Right Holder terminates, the relevant agreement if there has been a breach of the provisions of this Agreement or otherwise takes, or procure that the Airport Right Holder takes, all necessary steps to remedy such a breach.

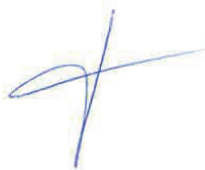
4.7 Role of the HCAA and HAF at the Regional Airports

4.7.1 Air Navigation Services

- (a) Subject to the provisions of the HAF Cooperation Framework, throughout the Concession Period, the State shall ensure that the HCAA, HAF and/or any other entity appointed by the State for such purpose provide ongoing Air Navigation Services together with, in the case of the HCAA, an ongoing monitoring role.
- (b) The State shall ensure that the HCAA, HAF and/or other entity appointed by the State for the purpose of providing Air Navigation Services shall comply at all times with all applicable Laws and the Standards and Specifications as these relate to the provision of Air Navigation Services in the Hellenic Republic.
- (c) The Concessionaire and the Air Navigation Services Provider shall have the responsibilities in respect of Air Navigation Services at each of the Regional Airports as set out in the Air Navigation Services Provision Allocation Matrix and shall each comply with all applicable Laws in the provision of Air Navigation Services.

4.7.2 Regional Airport Access

At any time and from time to time, the State (including through the HCAA, the Ministry of Defence, HAF or otherwise) may, subject to prior notice to the Concessionaire, access and temporarily occupy relevant parts of the Concession Sites for the purposes of installing or maintaining any Air Navigation Services Equipment, provided that with respect to the installation of Air Navigation Services Equipment, the State first discusses with the Concessionaire the intended location of any such Air Navigation Services Equipment and must to the extent reasonably practicable, ensure that the State and/or the HCAA uses all reasonable efforts to minimise any disruption to the operation of the Regional Airports or the Concessionaire's provision of the Airport Services, and provided further that the Concessionaire is not liable for any costs or expenses in relation to the foregoing activities undertaken by the State and/or the HCAA or other relevant party appointed by the State.

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4.7.3 *Accommodation and Access*

Subject to Article 4.4 (*Government Users*), the Concessionaire shall from time to time provide the State (at no cost to the State) with such facilities, premises or other areas within the Concession Sites as the State, the HCAA or any Air Navigation Services Provider may reasonably require in relation to the provision of the Air Navigation Services in accordance with the terms of the relevant State Service Level Agreement.

4.7.4 *Liability*

- (a) The Concessionaire is not liable for any actions or omissions of the State, the HCAA or other relevant party appointed by the State in relation to the HCAA's, HAF's or other relevant party's provision of the Air Navigation Services and/or the installation of any Air Navigation Services Equipment and is not to incur any liability (whether civil or criminal) to any person in respect thereof and the State shall indemnify the Concessionaire for all Losses incurred by the Concessionaire in respect of any such liability, except to the extent that any action or omissions of the Concessionaire directly contributes to any such actions or omissions on the part of the State, the HCAA, HAF or other relevant party appointed by the State.
- (b) Any breach by the HCAA, HAF and/or other entity appointed by the State for the purpose of providing Air Navigation Services, of any of its obligations under this Agreement, the HAF Cooperation Framework and/or any other agreement entered into pursuant to this Agreement and relating to the provision of Air Traffic Control Services shall constitute a State Responsible Event.

4.7.5 *Charges*

The State undertakes that the charges levied by the State or the HCAA, HAF or other relevant party appointed by the State on aircraft operators using the Regional Airports in respect of Air Navigation Services provided by the State, the HCAA, HAF or other relevant party appointed by the State are to be in accordance with the relevant provisions of the Chicago Convention and ICAO recommended policies and practices in relation to charges for services similar to the Air Navigation Services.

4.7.6 *Airfield and other lighting*

Subject to the HAF Cooperation Framework, the Concessionaire, acting as a Reasonable and Prudent Operator, shall maintain and operate all Regional Airport approach, runway, taxi and other lighting fixed to and within the perimeter of the Concession Sites relating to the landing, take-off and movement of aircraft over, around or on the Concession Sites. The State shall maintain and operate all lighting

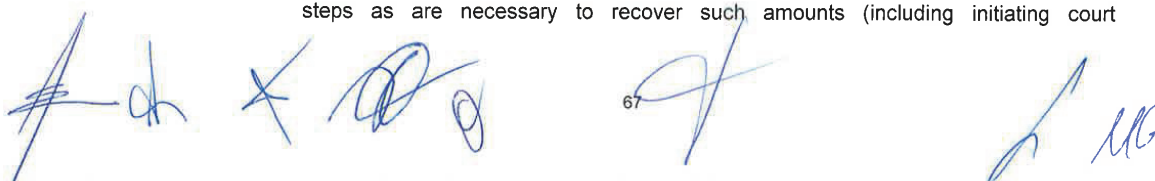
(with the exception of approach lighting which shall be maintained and operated by the Concessionaire) required outside the Concession Sites.

4.8 Transfer of Contracts

By virtue of this Agreement and the Ratification Law and notwithstanding any provisions to the contrary in the Transferred Airport Contracts, on the Concession Commencement Date the State and the HCAA transfer the rights and obligations under each of the Transferred Airport Contracts and the Concessionaire accepts such transfer and undertakes to fulfil its obligations in respect of such Transferred Airport Contracts for the duration of the relevant contract. Any non-transferability clause within the Transferred Airport Contracts shall not apply as regards the transfer thereof and from the Concession Commencement Date the Concessionaire shall have the right to collect each and all amounts payable under the Transferred Airport Contracts. The publication of the Ratification Law shall operate by law as a notification in accordance with article 460 of the Greek Civil Code.

4.9 Airport Contracts

- 4.9.1 A list of all Airports Contracts in respect of each Regional Airport available to be transferred to the Concessionaire has been provided in the Disclosure Bundle and the State warrants that this list of Airport Contracts is true, complete and accurate as at the Effective Date.
- 4.9.2 In respect of any Airport Contracts which are not Transferred Airport Contracts and which have not been transferred to the Concessionaire, the Concessionaire may, at any time by notice to the State, require the State to terminate the relevant Airport Contract in accordance with its terms and/or the Law. In such circumstances the State shall, on receipt of such notice, immediately take all such actions as may be necessary to terminate such Airport Contract in accordance with its terms and/or the Law and any costs or Losses which are incurred either by the State and/or the Concessionaire and relate to or result from such termination shall be borne by the State. Any interference caused directly or indirectly to Concession Operations resulting from delays to such termination (indicatively by delay, non-enforcement, court order or otherwise) shall be a State Responsible Event.
- 4.9.3 Subject to Article 4.9.5, any amounts received by the State on or after the Concession Commencement Date in respect of the Transferred Airport Contracts or any guarantee thereunder shall be paid in full by the State to the Concessionaire within sixty (60) days of receipt of such amounts by the State. In respect of any amounts which are owed to the State or which are due and payable under the terms of any Transferred Airport Contract from the Effective Date, the State shall take all such steps as are necessary to recover such amounts (including initiating court



proceedings) and shall pay such amounts to the Concessionaire in full within sixty (60) days of receipt of the same.

4.9.4 The State shall be liable for any liabilities and the beneficiary of any claims which arose or were incurred by and between the State and any Airport Contract Party prior to the date of transfer of any Transferred Airport Contract to the Concessionaire (and which produces any effect before or after such transfer date).

4.9.5 Any deposit or amount paid to the State by any Airport Contract Party or any letter of guarantee provided by way of security for the performance of the Airport Contract Party's obligations under the relevant Transferred Airport Contract shall be transferred by the State to the Concessionaire on the date of transfer of the relevant Airport Contract to the Concessionaire in accordance with article 458 of the Greek Civil Code applying *mutatis mutandis* to the transfer in accordance with this Article 4.9.5.

4.9.6

(a) Subject to paragraph 4.9.6(b) below, the State shall indemnify and keep indemnified the Concessionaire, its employees, agents, contractors (of any tier) on demand from and against, all liability for:

(i) death or personal injury to any person;

(ii) loss of or damage to property (including property belonging to the State or the Concessionaire or for which either is responsible); and

(iii) all Losses (including legal expenses on an indemnity basis),

which may arise out of or in consequence of, any act, omission or negligence of any Airport Contract Party, their servants, agents and/or subcontractors (of any tier) or the performance or non-performance of any Airport Contract Party's obligations under the relevant Airport Contract or the presence on the Concession Sites of any Airport Contract Party or its subsidiaries and the State shall procure that the relevant Airport Contract Party shall be obliged to take reasonable steps to mitigate any such liability.

(b) The State shall not be obliged to indemnify the Concessionaire under this Article 4.9.6 in respect of any such liabilities in respect of a Transferred Airport Contract which arise after the date of transfer of that Transferred Airport Contract to the Concessionaire and in respect of which the circumstances or events which lead to such liabilities occurred after the date of such transfer including for the avoidance of doubt any liabilities which may arise pursuant to a termination of any such Airport Contracts by the Concessionaire other than in accordance with its terms or any applicable Laws.

- (c) In case of amendment of the terms of a Transferred Airport Contract in breach of this Article 4.9.6, the State shall indemnify and keep indemnified the Concessionaire against any Loss incurred by the Concessionaire due to such amendment of the terms of the relevant Transferred Airport Contract. The State undertakes the obligation not to amend any of the terms of such Transferred Airport Contracts, as such contracts have been provided in the Disclosure Bundle, until the date of transfer thereof to the Concessionaire.

- 4.9.7 Where the State is obliged to indemnify the Concessionaire pursuant to Article 4.9.6 above, then such sum (**Transfer Indemnity Sum**) shall become due and payable within sixty (60) days from the date that such Transfer Indemnity Sum is agreed or determined provided that if following the date that such Transfer Indemnity Sum has been agreed or determined the Concessionaire is obliged to make a payment of the Levy pursuant to Article 29 (*Payments*) then the Transfer Indemnity Sum may be deducted from such Levy and if there is any part of the Transfer Indemnity Sum which remains to be paid after the deduction from the Levy then the balancing payment shall be paid by the State within sixty (60) days as of the date on which such Transfer Indemnity Sum was agreed or determined.

4.10 Competition

- 4.10.1 If the Grantor and/or the State:

- (a) directly or through a concession to a third party constructs, develops, upgrades and/or operates any other airport in the Exclusivity Areas of any of the Regional Airports (and excluding for the avoidance of doubt the new Kasteli airport) (other than those airports already operating as of the Concession Commencement Date as public use commercial airports in the Hellenic Republic); or
- (b) exercises its powers pursuant to any Law and seeks to: (i) specify types or descriptions of air traffic that are permitted under such Law to use the Regional Airports, (ii) impose prohibitions or restrictions in relation to the use of the Regional Airports by air traffic of any class or description specified in such Law, (iii) restrict the Concessionaire charging the Regulated Aeronautical Charges as permitted under this Agreement or impose additional levies on Passengers or Users, (iv) levy or set minimum limits for Regulated Aeronautical Charge in airports within the Exclusivity Areas of any of the Regional Airports, including those airports retained by the State and/or transferred to other publicly or privately owned concession companies, that are more than ten (10) percent lower than the Regulated Aeronautical Charges levied or minimum limits for Regulated Aeronautical Charges at the relevant Regional Airport by the

Concessionaire, or (v) impose limitations on aircraft movements at the Regional Airports or otherwise restricts capacity at the Regional Airports,

a State Responsible Event will have occurred unless such action is taken pursuant to and in accordance with Article 23.2 (*Permissible Intervention*).

4.10.2 The State shall ensure that the provisions relating to Aeronautical Charges in the Cluster B Concession are no less restrictive or advantageous on the relevant concessionaire than those set out in this Agreement as applicable to the Concessionaire.

4.10.3 *Public transport*

- (a) Nothing in this Agreement shall prevent the State from:
 - (i) determining the ticket price of public transport servicing the immediate and wider area of the Regional Airports as well as its right to impose restraints, regulations and/or measures that may influence the use and/or development of public transport;
 - (ii) awarding PSOs in accordance with applicable Laws; or
 - (iii) developing seaplanes infrastructure and activity.
- (b) The Concessionaire shall not be entitled to any compensation for any consequences that may arise from the State exercising any of the rights set out in paragraph (a) above.

4.11 Inventory

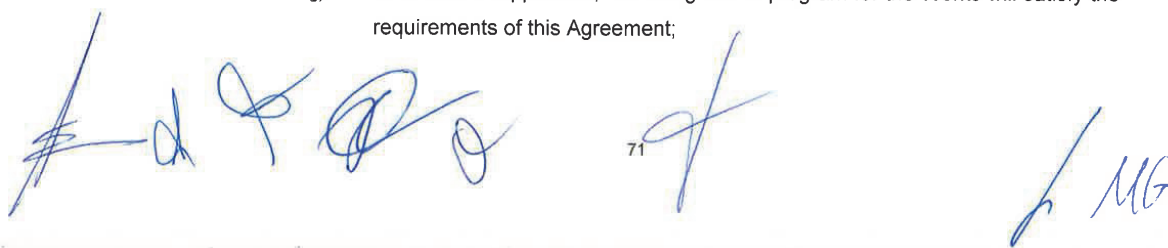
The Concessionaire shall prior to the Concession Commencement Date prepare an Inventory of all Movable Property at each of the Regional Airports that it requires to be transferred to it on the Concession Commencement Date. The State shall allow access to each of the Regional Airport sites to the Concessionaire, subject to an earlier notice from the Concessionaire, for the purpose of compiling the Inventory and shall be entitled to attend the preparation of the Inventory. The HCAA shall use its best efforts to support the Concessionaire in preparing an Inventory.

5 Representations and Warranties

5.1 Concessionaire Representations

5.1.1 The Concessionaire makes the representations and warranties set out below to the Grantor and the State on the Effective Date and on the Concession Commencement Date:

- (a) it has the necessary legal capacity to assume and perform its rights and obligations as set out in this Agreement;
- (b) it does not engage in businesses or activities other than those related to the Regional Airports;
- (c) its obligations under the documents relating to the Concession to which it is a party are, or when such documents are executed will be, legal, valid, binding and enforceable;
- (d) there are no agreements or arrangements to which it is a party or between its Shareholders which relate to the Regional Airports other than the Concession Documents and such other documents which do not have a material impact on the interests, obligations or liabilities of the State and/or the Grantor;
- (e) it is subject to the law of the Hellenic Republic and waives any immunity in respect thereof;
- (f) there are no actions, suits, proceedings or investigations pending or threatened against it the outcome of which may constitute a default under this Agreement or result in a material adverse effect on its business or assets or its ability to perform its obligations under this Agreement;
- (g) it has not been subject to any fines and/or penalties, which may result in a material adverse effect on its business or assets or its ability to perform its obligations under this Agreement;
- (h) it has satisfied itself as to the nature and extent of the risks assumed by it under this Agreement;
- (i) it has gathered all information required to perform its obligations under this Agreement;
- (j) to the extent applicable, the Designs and program for the Works will satisfy the requirements of this Agreement;



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- (k) it has no liabilities or claims against it which would materially adversely affect the interests of the Grantor and/or the State; and
- (l) there are no circumstances giving rise to an imminent claim by it against the Grantor and/or the State subject to any claims which could arise under this Agreement.

5.2 Grantor/State Representations and Warranties

5.2.1 Each of the Grantor and the State, as appropriate, hereby represents and warrants to the Concessionaire that on the Effective Date and on the Concession Commencement Date each of the following is true in all material respects:

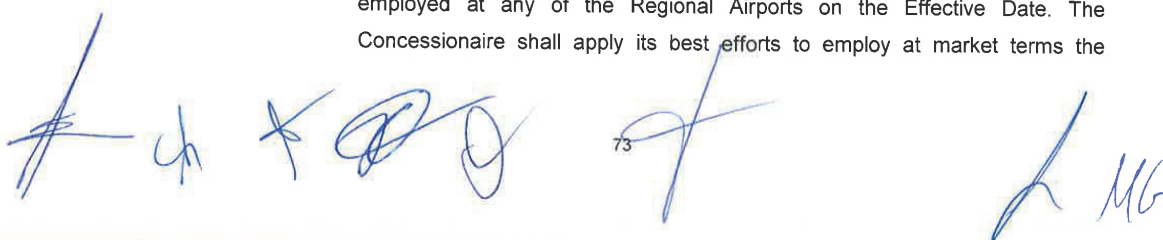
- (a) it has the necessary legal capacity to assume and perform its rights and obligations as set out in this Agreement;
- (b) it has the legal capacity to undertake the tender process;
- (c) its obligations under this Agreement are legal, valid, binding and enforceable;
- (d) the State is the sole, exclusive and uncontested owner and beneficiary (*nomeas*) of the Transferred Assets, or where it does not have such ownership to the Transferred Assets, it has made or will have made available equivalent rights (and at its own cost and expense) to the Concessionaire and it transfers each of the Transferred Assets free and clear of any mortgage, charge, pledge, lien, encumbrance, option, claim, attachment or assessment of any kind, nature or description and in general of any real or legal defect and of any and all rights of third parties of any kind, nature and description;
- (e) the Grantor has the right to exploit and grant to the Concessionaire the Concession Operations and the Grantor has full power and authority to enter into this Agreement and the other documents to be executed in connection with it, all of which constitute (or will, when executed, constitute) legal and valid binding obligations on the Grantor enforceable in accordance with their respective terms;
- (f) the State has not received notice of any proceedings in respect of the validity of any State Permits, other than those disclosed to the Concessionaire in the Disclosure Bundle;
- (g) the State has provided accurate and complete copies of all Transferred Airport Contracts and any contracts relating to the State Works which may affect the ability of the Concessionaire to exercise its rights or perform its obligations

under this Agreement but otherwise the State makes no representation as to the accuracy and/or completeness of the Disclosure Bundle;

- (h) it has all relevant rights in respect of data in relation to the Regional Airports and confirms that the Concessionaire can use such data to exercise its rights and perform its obligations under this Agreement;
- (i) the State represents that any existing works undertaken prior to the Effective Date and/or the Concession Commencement Date have been effected in compliance with the applicable Laws and Standards and Specifications as such were in force at the date of execution of such works;
- (j) the State will provide the Concessionaire with Vacant Possession and free and uninterrupted use of the Concession Sites in a timely manner for the purpose of carrying out the Concession Operations and exercising its rights and performing its obligations under this Agreement;

The State further represents that:

- (k) for the full term of the concession agreement for the provision of the exclusive right to establish and operate duty free shops in, inter alia, the Regional Airports entered into between the State and Hellenic Duty Free Shops S.A. on 30 December 1997, the duty free shops currently being operated by the Hellenic Duty Free Shops S.A. in the Regional Airports are located in the space detailed in the HDFS Ministerial Decisions and given for the benefit of the Hellenic Duty Free Shops S.A. and the remuneration that has been agreed between the HCAA and the Hellenic Duty Free Shops S.A. for the use of such space is five percent (5%) of the gross annual revenue of each duty free shop;
- (l) upon the Ratification Law Effective Date the Concessionaire will be relieved from any obligation arising out of any Law to pay any duties or taxes to any municipal or local authority for public utility services that are the subject of such duties or taxes in respect of the Works to be executed and/or the Airport Services to be provided under this Agreement and/or the Concession in general, including, inter alia, lighting, security, cleaning, waste disposal and sewage services, to the extent that such services are provided by the Concessionaire to the Airport Users pursuant to this Agreement;
- (m) the Concessionaire bears no obligation to take over any employees of the State, the HCAA or any other Government Authority or Government Service employed at any of the Regional Airports on the Effective Date. The Concessionaire shall apply its best efforts to employ at market terms the



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existing employees of the HCAA in the Regional Airports to fill-in its organisational needs at any of the Regional Airports, if said employees opt to be employed by the Concessionaire; and

- (n) upon the Ratification Law Effective Date and latest prior to the Concession Commencement Date, and up to 1 November 2024 the ADF shall be fixed at twelve Euro (€12) for all departing Passengers and following 1 November 2024 shall be fixed at three Euro (€3) for all departing Passengers.

6 Ratification by Law of this Agreement - Concession Commencement - Compensations - Concession Period

6.1 Ratification by Law of this Agreement

- 6.1.1 This Agreement shall be presented by the State to the Hellenic Parliament for its ratification by law.
- 6.1.2 The Ratification Law when ratified by the Hellenic Parliament will come into effect ten (10) days after its publication in the Government Gazette (**Ratification Law Effective Date**) provided that such Ratification Law shall have no effect on Hellenic Duty Free Laws other than the right of the Concessionaire to receivables under the Hellenic Duty Free Contracts in accordance with Article 4.3.4.

6.2 Concession Commencement

- 6.2.1 The Concession Commencement Date is subject to the satisfaction of the following conditions prior to the lapse of the Concession Commencement Deadline:
 - (a)
 - (i) the Hellenic Parliament voting on the law ratifying this Agreement and the publication of the Ratification Law in the Government Gazette (the **Publication Date**);
 - (ii) the clearance by the European Commission of any European State Aid (under articles 107 to 109 of the Treaty on the Functioning of the European Union, ex articles 87 to 89 of the Treaty establishing the European Community);
 - (iii) the obtainment by the Concessionaire of either express or implied (in particular through expiration of applicable mandatory waiting periods) unconditional merger control approval required either by the Hellenic Competition Commission in accordance with law 3959/2011, as in force,

or by the European Commission in accordance with EU Regulation No 139/2004;

- (iv) the signature of any State Direct Agreement entered into between the State and the Lenders, in accordance with Article 37.1.8;
 - (v) the delivery by the State to the Concessionaire of the Concession Sites in accordance with Article 14.1 (*Delivery of the Concession Sites*), subject to the prior fulfilment of conditions specified in Article 6.2.1(b)(ii), (iii), (iv), (v), (vi), (vii), (x), (xi), (xii), (xiii), (xiv) and (xv) by the Concessionaire;
 - (vi) the execution of the Multi-Party Arbitration Agreement by the State;
 - (vii) the execution of the Initial Service Level Agreements by the Government Users; and
 - (viii) the approval of the HCAA of the Tariff Cap for the Maximum Average Yield per Departing Passenger in accordance with Article 28.4.2(a) including its Table B, which shall not exceed thirteen Euro (€13);
- (b)
- (i) if applicable, the delivery of a certificate in a form and substance reasonably satisfactory to the State and the Grantor, issued and addressed by the Lenders or the Agent Bank to the State and the Grantor, confirming that the Designated Loan Agreements are in full force and effect and that all terms and conditions for the initial conditions precedent under the Designated Loan Agreements, as confirmed by a certificate in writing from the Lenders (or their agent), with the exception of conditions relating to Article 6.2.1(a) above have been satisfied;
 - (ii) the increase of the Concessionaire's Share Capital in accordance with Article 11.1 (*Share Capital*);
 - (iii) the delivery by the Initial Shareholders through the Concessionaire to the Grantor of the Committed Investment Guarantee in accordance with the form agreed in Section 1 of Appendix 1 (*Form of Letters of Guarantee*);
 - (iv) the delivery by the Concessionaire to the Grantor of the executed Works Performance Bond in accordance with the form agreed in Section 2 of Appendix 1 (*Form of Letters of Guarantee*);


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- (v) the delivery by the Concessionaire to the Grantor of the executed Operation Bond in accordance with the form agreed in Section 3 of Appendix 1 (*Form of Letters of Guarantee*);
- (vi) the delivery by the Concessionaire to the State in accordance with the provisions of Article 24.10 and Appendix 16 (*Minimum Insurance Requirements*), of certified copies of the agreed executed insurance policies;
- (vii) the delivery by the Concessionaire to the Grantor of a letter of undertaking, in the form of the specimen letter of undertaking contained in Part 3 of Appendix 16 (*Minimum Insurance Requirements*), in accordance with the provisions of Article 24.11 and Appendix 16 (*Minimum Insurance Requirements*);
- (viii) the delivery by the Concessionaire to the State of the Business Plan;
- (ix) the delivery by the Concessionaire to the State on or before the Concession Commencement Date of each of the other Completion Documents as set out in Appendix 4 (*Completion Documents/Concession Commencement Date*);
- (x) the payment by the Concessionaire to the Grantor of the Upfront Concession Fee, subject to Article 43.1.1 and the execution and perfection of an assignment referred thereto;
- (xi) the delivery by the Concessionaire to the HCAA of Aerodrome Manuals updated with amended administrative details applicable at such time and applications for the conversion of Aerodrome Certificates for each Certified Regional Airport and the transfer of existing Aerodrome Certificates to the Concessionaire;
- (xii) the delivery by the Concessionaire to the HCAA of the relevant application for the initiation of the certification process for each Non-Certified Regional Airport in accordance with the Aerodromes Regulation 2014;
- (xiii) the delivery by the Concessionaire to the HCAA of the Inventory prepared in accordance with Article 4.11 (*Inventory*);
- (xiv) the execution by the Concessionaire of the protocol in accordance with Article 14.1.3;

- (xv) the execution of the Multi-Party Arbitration Agreement by the Concessionaire and the Lenders;
- (xvi) the execution of the Initial Service Level Agreements, if any, by the Concessionaire;
- (xvii) the delivery by the Concessionaire to the State on or before the Concession Commencement Date of a list of the Transferred Airport Contracts;
- (xviii) the execution of the Independent Engineer's Agreement by the Concessionaire and the Independent Engineer; and
- (xix) the representations and warranties set out in Article 5.1 (*Concessionaire Representations*) remaining true and correct in all material respects,

subject to any extensions that may be agreed in writing between the Parties prior to the expiry of each extended deadline.


6.2.2 The date upon which it is established and confirmed in writing by the Parties, according to the form agreed in Part 2 of Appendix 4 (*Completion Documents/Concession Commencement Date*), that each of the above conditions has been fulfilled, shall constitute the Concession Commencement Date.

6.2.3 With the exception of the Concession Commencement Deadline, that commences from the Effective Date and unless expressly provided otherwise in this Agreement, the point of commencement of all of the deadlines referred to in this Agreement shall be the Concession Commencement Date.

6.2.4 If:

- (a) the conditions set out in Article 6.2.1(a) have not been fulfilled by the State, within the deadline set out therein; or
- (b) the conditions set out in Article 6.2.1(b) have not been fulfilled by the Concessionaire, within the deadline set out therein;

subject in each case to any extensions that may be agreed between the Contracting Parties, then this Agreement shall be terminated by operation of law and shall cease to be binding and, subject to Article 6.3 (*Compensations for termination*), the Contracting Parties shall be relieved from any potential liability or claim for compensation against each other. For the avoidance of doubt, upon such termination

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any of the Concession Sites transferred to the Concessionaire must be returned to the State within five (5) days.

6.3 Compensations for termination

6.3.1 If this Agreement is terminated in accordance with Article 6.2.4(a) the State shall:

- (a) within sixty (60) days from the date of termination of this Agreement pay:
 - (i) to the Concessionaire an amount of one million Euro (€1,000,000) as compensation for its and/or the Contractor's costs incurred on or after the Concession Tender Date and prior to the Effective Date; and
 - (ii) to the Concessionaire and/or the Contractor, interest free and following their request in writing to which all of the official receipts shall be attached, all reasonable direct costs of the Contractor and/or the Concessionaire which were incurred from the Effective Date until the date of termination of this Agreement, including all reasonable expenses including arrangement fees and/or funding commitment fees, breakage costs, fees and expenses of all technical, financial and legal advisers;
- (b) return to the Concessionaire (a) any Upfront Concession Fee paid by the Concessionaire pursuant to the terms of this Agreement together with accrued interest calculated at the Reference Interest Rate from the date of payment by the Concessionaire until the day of return and (b) the Participation Letters of Guarantee and any other bonds that the Concessionaire has submitted in accordance with Article 6.2.1(b);

Other than a claim for the payment of the above amounts the Concessionaire and/or the Contractor shall not be entitled to any other claim of any kind against the State and/or the Grantor.

6.3.2 If this Agreement is terminated in accordance with Article 6.2.4(b), the Grantor is entitled to ask for the forfeiture of the Participation Letters of Guarantee but shall return to the Concessionaire any Upfront Concession Fee paid by the Concessionaire pursuant to the terms of this Agreement.

6.4 Compensations for Transferred Assets

6.4.1 If there has been any damage to any of the Transferred Assets or to the Concession Sites which damage occurs after the Concession Tender Date that requires rectification and in respect of which rectification the Concessionaire has submitted invoices for amounts paid by the Concessionaire in excess of one million Euro

(€1,000,000) in aggregate for all Regional Airports, then the State shall reimburse the Concessionaire for the entire cost of such rectification as evidenced by the invoices. If there is a dispute as to the occurrence and/or quantum of any damage, the burden of proof shall be on the Concessionaire. The Parties may, if they are unable to reach agreement, refer the matter to the Technical Disputes Resolution Panel in accordance with the Technical Disputes Resolution Procedure.

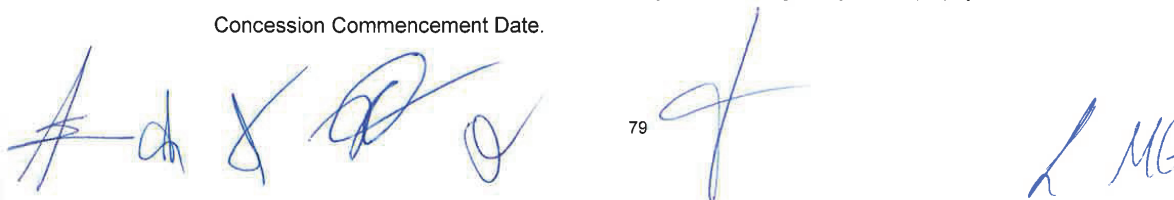
- 6.4.2 If assets included in the Asset Register are either not included in the Updated Asset Register, or included in the Updated Asset Register but are not functional or are severely damaged, in each case for reasons not attributable to normal operational use, then the State shall indemnify the Concessionaire for any cost incurred for the replacement of such assets (without double-counting with Article 6.4.1), provided that the Concessionaire submits the respective invoices evidencing such costs for amounts paid by the Concessionaire, to the State.
- 6.4.3 The delivery by the Concessionaire to the State of any claim it may have pursuant to Articles 6.4.1 and 6.4.2 together with any relevant estimates of the quantum of any damage and the value of any missing assets shall be provided by the Concessionaire to the State within fifteen (15) days from the delivery of each one of the Concession Sites in accordance with Article 14 (*Concession Sites*).

6.5 Concession Period

- 6.5.1 The Concession Period commences on the Concession Commencement Date and, subject to the termination events provided for in this Agreement and subject to Article 6.5.2 and to any other extension effected in accordance with the provisions of this Agreement, including in accordance with Article 30.5, expires on the corresponding date falling forty (40) years after the Concession Commencement Date.
- 6.5.2 During the period referred to in Article 6.5.1, the State and the Concessionaire may commence negotiations, but without commitment on either Party, to agree the terms of a single extension of this Agreement (such terms to be substantially on the same terms as the existing Concession) by a period of up to ten (10) years which shall begin immediately after the end of the forty (40) year period referred to in Article 6.5.1.

6.6 Concession Agreement Term

The Concession Agreement Term commences on the Concession Commencement Date and expires, subject to the termination events provided for in this Agreement and subject to any extensions in accordance with this Agreement (including any extension pursuant to Article 6.5 (*Concession Period*)), on the corresponding date falling forty two (42) years after the Concession Commencement Date.



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7 Liaison and Representatives

Liaison Committee

7.1 The Grantor, the State and the Concessionaire shall promptly after the Concession Commencement Date establish and maintain throughout the Concession Period a joint liaison committee (the **Liaison Committee**) consisting of two (2) representatives of the Grantor (one of whom is appointed chairman) two (2) representatives of the State (one of whom shall be a representative of the HCAA) and two (2) representatives of the Concessionaire which will have the functions described below. If the Grantor ceases to exist and the rights and/or obligations of the Grantor under this Agreement are transferred and/or assumed by the State, the Liaison Committee shall consist of only five (5) representatives; three (3) representatives of which shall be of the State (one of whom shall be a representative of the HCAA and one of whom shall be appointed chairman) and two (2) representatives of the Concessionaire.

7.2 The functions of the Liaison Committee are:

7.2.1 to provide a mechanism for the joint review of issues relating to all day to day aspects of the performance and implementation of this Agreement; and

7.2.2 to provide a forum for joint strategic discussion, considering actual and anticipated changes in the market and possible Variations to reflect those changes or for the more efficient performance of this Agreement.

7.3 The Parties are to appoint and remove their representatives on the Liaison Committee by notice delivered to the other Parties at any time. A representative on the Liaison Committee may appoint and remove an alternate (who may be another representative of that Party) in the same manner. If a representative is unavailable (and the other Party's representative may rely on the alternate's statement that the representative is unavailable) his alternate has the same rights and powers as the representative.

Procedures and practices

7.4 Subject to the provisions of this Agreement, the members of the Liaison Committee may adopt such procedures and practices for the conduct of the activities of the Liaison Committee as they consider appropriate from time to time and:

7.4.1 may invite to any meeting of the Liaison Committee such other persons as its members may agree; and

7.4.2 may receive a review report from any person agreed by its members.

- 7.5** Recommendations and other decisions of the Liaison Committee must have the unanimous approval of the State, the Grantor and the Concessionaire's Representative(s). For the avoidance of doubt the Parties to this Agreement may accept or reject such recommendations at their complete discretion.
- 7.6** The Liaison Committee is to meet at least once each quarter (unless otherwise agreed by its members) and in case of emergency in accordance with Article 7.7. During the first Concession Year meetings shall be held each month. Members may attend by telephone as permitted by Article 7.8 if necessary. The presence of one representative of each of the State, the Grantor and the Concessionaire shall constitute a quorum.
- 7.7** Subject to Article 7.6, any member of the Liaison Committee may request the chairman to convene a meeting of the Liaison Committee at any time. Meetings of the Liaison Committee are to be convened on not less than fourteen (14) days' notice (identifying the agenda items to be discussed at the meeting) provided that in emergencies a meeting may be called at any time on such notice as may be reasonable in the circumstances.
- 7.8** Where the Liaison Committee decides it is appropriate, meetings may also be held by telephone or another form of telecommunication, by which each participant can hear and speak to all other participants at the same time.
- 7.9** Minutes of all recommendations (including those made by telephone or other form of telecommunication) and meetings of the Liaison Committee are to be kept by the Concessionaire and copies circulated to the Parties, within fourteen (14) days after the making of the recommendation or the holding of the meeting. Unless the Concessionaire receives written objection to any such minutes within 10 (ten) Business Days from the date thereof, such minutes shall be deemed to have been approved by the members of the Liaison Committee present or represented at such meeting. A full set of minutes are to be open to inspection by either Party at any time, upon request.
- 7.10 The Concessionaire's Representative(s)**

The Concessionaire shall appoint one or more representative(s) to direct and control the overall performance by the Concessionaire of this Agreement and its duties and obligations under and pursuant to this Agreement (the **Concessionaire's Representative(s)**). Such person shall have authority to act on behalf of the Concessionaire for all purposes in connection with this Agreement and shall represent the Concessionaire (accompanied by such other personnel as may be necessary) at each meeting in relation to the matters envisaged herein. The Grantor and the State may rely on statements and directions made by the Concessionaire's Representative(s) and are entitled to assume that he/she is acting as a representative of the Concessionaire. The Concessionaire may from time to time replace the Concessionaire's

Representative(s) and shall forthwith notify the Grantor and the State of the identity of any replacement of the Concessionaire's Representative(s).

7.11 Grantor's and State's Representative

The Grantor and the State shall each appoint a representative to be its agent during the Concession Period (and after the Concession Period to the extent necessary) to perform the functions of the Grantor or, as applicable, the State under and pursuant to this Agreement and such further functions as the Grantor or, as applicable, the State shall from time to time delegate to him (the **Grantor's Representative** or the **State's Representative** (as applicable)). The Concessionaire may rely on statements and directions made by the Grantor's Representative and is entitled to assume that he/she is acting as a representative of the Grantor. The Grantor may from time to time replace the Grantor's Representative and shall forthwith notify the Concessionaire of the identity of any replacement Grantor's Representative.

8 Knowledge of Condition of Regional Airports – Risk Undertaking

8.1 Except as otherwise stated in this Agreement, the Concessionaire represents and acknowledges that it has already investigated, taken into account, fully understood, undertaken and reflected in its Offer and is bound in relation to the risks associated with:

8.1.1 the nature of the environmental, climatic, hydrological, geophysical, tectonic and general conditions prevailing at the Concession Sites, the nature of the ground and subsoil (but excluding any Existing Contamination), the form and nature of the Concession Sites, the nature and quantities of materials and works required for the execution of the Works except that the State shall be responsible for, in accordance with Articles 13.4.1 and 13.4.2, all baseline noise insulation costs which are insulation costs for buildings outside the relevant Regional Airport, that are in areas with noise higher than the limits at the time of the Concession Commencement Date, as those limits are defined in the existing approved environmental impact assessment study, subject to the Concessionaire proving and providing evidence to the State that such higher noise level existed as well as, in accordance with Article 13.2.4 (a) and Article 13.2.4(b), all relevant and reasonable costs in connection with the Concessionaire complying with any requirements of the First Approved Environmental Terms issued after the Concession Tender Date in accordance with the conditions of Article 13.2.4 (a) and Article 13.2.4(b);

8.1.2

(a) the degree of adequacy of the means and rights of way to and from the Concession Sites, the availability of materials from Greek and international sources, the availability of a labour force, the existence of public utility facilities

on or near the Concession Sites, the suitability and adequacy of the Concession Sites for the Airport Services and, in general, such other risks and contingencies which may influence or affect the Concessionaire and its rights or obligations to undertake the Concession Operations and to levy and collect Airport Charges as well as any other right or obligation under or pursuant to this Agreement;

- (b) the sites for temporary or permanent dumping of excavation products, the transport, the disposal, management and storage of materials;
- (c) the Concession Sites will be adequate and fit for purpose of this Agreement (subject to any other provisions in this Agreement with regard to additional land expropriation);
- (d) the Standards and Specifications as listed in Appendix 9 (*Standards and Specifications*), technical requirements, all the relevant regulations, standards, practices, relevant legislation (including legislation to which this Agreement expressly refers to); and
- (e) the existing conditions of all the assets relevant to the Concession Operations at each of the Regional Airports;

8.1.3 the financial and macroeconomic data including interest rates and inflation;

8.1.4 the availability and terms of financing for the Concession;

8.1.5 the tax regime in effect as of the date hereof;

8.1.6 any other element that might affect the implementation of the Concession Operations;
and

8.1.7 the parallel use of the Joint Use Airports.

8.2 Data

All data, including all airport traffic data and information concerning the wider geographical region and the Concession Sites, provided by or on behalf of the Grantor and/or the State, has been provided to the Concessionaire for information purposes only and is without any representation or warranty as to its accuracy or completeness and the Concessionaire has performed and is obliged to perform at its own cost and expense any investigations or supplementary investigations as it has deemed or may deem appropriate or necessary in order to verify and/or supplement this data.

- 8.3** The Concessionaire shall not be liable for direct or consequential damages or loss of profit that might be incurred by third parties by the mere existence of the Concession or by the implementation of the Concession Operations or any part thereof unless their occurrence is attributable to its negligence or the negligence of any person that the Concessionaire uses for the implementation of this Agreement (including the Independent Engineer) or because of the failure of the Concessionaire to comply with its obligations under this Agreement.

9 Financing of the Project

9.1 Committed Investment

- 9.1.1 Each Initial Shareholder shall fulfil its obligation to pay to the Concessionaire that part of the Committed Investment that is apportioned to such Initial Shareholder on or before the dates and in the amounts set out in the Financial Model and included in the Committed Investment Payment Schedule in Article 9.1.4.
- 9.1.2 As security for the obligation in Article 9.1.1 the Initial Shareholders shall issue and submit through the Concessionaire to the State within the deadline set out in Article 6.2.1(b), the Committed Investment Guarantee in accordance with Article 12.4 (*Committed Investment Guarantee*) less the amounts, if any, paid in accordance with Articles 11.1.1 and 11.1.2(a).
- 9.1.3 The Initial Shareholders undertake to pay to the Concessionaire as a Committed Investment an aggregate amount of six hundred and fifty one million, eight hundred and sixty two thousand, three hundred and eighty four Euro (€651,862,384) as follows:
- (a) an amount of three hundred and twenty five million, nine hundred and thirty one thousand, one hundred and ninety two Euro (€325,931,192) as Concessionaire's Share Capital, and
 - (b) an amount of three hundred and twenty five million, nine hundred and thirty one thousand, one hundred and ninety two Euro (€325,931,192) as Subordinated Debt,

provided that if there is any Designated Loan Agreement signed prior to the Concession Commencement Date, the amounts listed in this Article 9.1.3, shall be amended to reflect the Concessionaire's capital structure.

9.1.4 The Committed Investment Payment Schedule shall be as follows:²

Committed Investment Payment Schedule				
Payment Number	Committed Investment (in nominal Euro)		Payment / Drawdown Date	Sub Total
	Share Capital	Subordinated Debt		
1	24,000	0	On the date of constitution of Concessionaire and prior to the signature of the present.	24,000
2	5,000,000	0	As per Article 11.1.2(a) of this Agreement.	5,000,000
3	302,882,528	304,500,000	On or before the Concession Commencement Date.	607,382,528
4	18,024,664	21,120,149	Up to date falling six (6) months post the Concession Commencement Date.	39,144,813
5	0	311,043	Up to date falling nine (9) months post the Concession Commencement Date.	311,043
total	325,931,192	325,931,192	-	651,862,384

provided that if there is any Designated Loan Agreement signed prior to the Concession Commencement Date, the amounts listed in this Article 9.1.4, shall be amended to reflect the Concessionaire's capital structure.

² The amounts and payment/drawdown dates of the table for the Committed Investment Payment Schedule of Article 9.1.4 will be updated prior to the Concession Commencement Date to reflect the Committed Investment and debt financing structure of the Concessionaire at that time.

- 9.1.5 The payment of the Committed Investment shall be evidenced on each Payment Date as indicated in the above table:
- (a) in respect of the amount expressed as Share Capital, by submission to the State of a certified copy of all the legal documents that are submitted to the competent business registry (Geniko Emporiko Mitroo G.E.MI) pursuant to cod. law 2190/1920 and the relevant laws in the event of a Société Anonyme share capital increase;
 - (b) in respect of the amount expressed as Subordinated Debt, by submission to the State of the Concessionaire's accounting books together with a certificate from the Concessionaire's certified accountant(s).
- 9.1.6 Subject to payments of Share Capital that in accordance with Article 9.1.4 or Article 11.1.2 are required to be effected before the Concession Commencement Date, if any payment of the Committed Investment is not effected in its entirety prior or on the required date in the Committed Investment Payment Schedule or in accordance with Article 11.1.2 (as the case may be), the State may give notice to the Concessionaire of the amount due and if payment of the relevant portion of the Committed Investment then due is not effected within five (5) Business Days of receipt of such notice, the Lenders or the State may, subject to the provisions of the State Direct Agreement (if any), make a demand under the Committed Investment Guarantee and require the payment to the Concessionaire of an amount equal to the difference between the amount payable on the respective date in accordance with the Committed Investment Payment Schedule or in accordance with Article 11.1.2 (as the case may be) and the amount actually paid on the same date.
- 9.1.7 If the Concessionaire determines that further equity and / or subordinated debt shall be required for the financing, upgrade, maintenance, management and operation of the Regional Airports in accordance with this Agreement, the Concessionaire shall inform the State of the requirements and provide the State with all necessary information in relation to such further equity and/or subordinated debt. The State shall approve and designate in writing further subordinated debt and / or equity capital as Subordinated Debt and/or Concessionaire's Share Capital respectively (including the designation as Commitment Investment) by a ministerial decision to be issued no later than fifteen (15) Business Days from the submission of the required shareholders' resolutions (in case of Share Capital) and/or the executed subordinated debt agreements (in case of Subordinated Debt), unless it deems that such funds are not necessary for the financing, upgrade, maintenance, management and operation of the Regional Airports in accordance with this Agreement.

9.2 Financing of the Concession with Loans

- 9.2.1 The Concessionaire shall ensure that at any given time financing is available for the full and proper implementation of the Concession. If such financing is not available to the Concessionaire, the Concessionaire shall be subject, as an exclusive remedy for its failure to comply with the terms of this Article 9.2.1, to the penalties provided under Appendix 6 (*Performance Measurement*) in respect of Future Works.
- 9.2.2 The loan agreements that have been executed simultaneously with the execution of this Agreement shall be designated by the State as the Designated Loan Agreements on or before the Concession Commencement Date. The State may approve and designate in writing further financial agreements as Designated Loan Agreements following a request of the Concessionaire, by a ministerial decision to be issued no later than fifteen (15) Business Days after submission by the Concessionaire of the executed financial agreements. Every financial agreement that has not been so approved in writing by the State shall not be deemed to be a Designated Loan Agreement for the purposes of this Agreement. Notwithstanding the above, the State shall not without reasonable cause refuse or delay its consent for the approval and designation as a Designated Loan Agreement of any agreement documenting any Refinancing of the Designated Loan Agreements, which does not result in the position of the State vis-à-vis any Party and/or the Lenders being more onerous or the raising of debt financing with the purpose of funding Future Works and / or working capital needs of the normal business cycle of the Concessionaire. If a request is made by the Concessionaire and prior to the granting of the above approval by the State, the Parties shall consult in accordance with Article 47 (*Refinancing*) in order to determine the benefit resulting from the Refinancing.
- 9.2.3 No amendment to a Designated Loan Agreement can be effected without the consent in writing of the State such consent not to be unreasonably withheld or delayed. In any case, such consent shall be deemed as granted by the State following the lapse of one (1) month from receipt of the relevant request submitted by the Concessionaire to the State. Notwithstanding the above, the consent of the State shall not be required (i) in connection with any amendment of the Designated Loan Agreements which does not result in the position of the Grantor and the State vis-à-vis any Party and/or the Lenders being more onerous and (ii) in connection with any amendment that is an Additional Permitted Borrowings Limit. The consent of the State shall not be required for the correction of obvious mistakes, but the relevant corrections must be promptly notified to the Grantor and the State.
- 9.2.4 If an amendment is made to any Designated Loan Agreement or a new financing agreement is proposed which does not increase the Grantor's and the State's

obligations or liabilities or prejudice their rights under this Agreement and/or the State Direct Agreement or is otherwise permitted pursuant to Article 9.2.3 above and therefore does not require the prior written consent of the State, then the Concessionaire shall deliver to the Grantor and the State a confirmed copy of each such amended documents or new financing agreement within fourteen (14) days after the date of its execution certified as a true copy by an officer of the Concessionaire.

10 Assignment, Novation and Transfer

- 10.1** Unless expressly provided otherwise the Concessionaire may not assign or in any way transfer any of his rights and obligations under this Agreement without the prior written consent of the Grantor and the State.
- 10.2** As an exception and in order to grant security to the Lenders for the Concession, the Concessionaire may assign, pledge or transfer to the Lenders its rights under this Agreement.
- 10.3** Any such grant of security to the Lenders will be effected by notarial act or by a certified document and, provided that it is effected in accordance with the provisions of this Article and that it is notified to the Grantor and the State in accordance with applicable Laws, such grant will be valid and binding on the Grantor and the State.
- 10.4** The State and/or the Grantor may at any time assign, transfer or novate the whole or any part of its contractual rights and obligations under this Agreement and any ancillary or related document, to an existing public law entity or a private law entity or one that will be incorporated for this purpose provided that (i) the State or the Grantor (as appropriate) guarantees in full all of the assigned, transferred or novated obligations of the entity in question or, as the case may be, its successors, as such are provided for in this Agreement and (ii) the State or the Grantor (as applicable) provides the Concessionaire with at least thirty (30) days prior notice.

11 Share Capital - Shareholders

11.1 Share Capital

- 11.1.1** The paid in Share Capital of the Concessionaire at the Effective Date is twenty four thousand Euro (€24,000).
- 11.1.2** The Concessionaire shall increase its Share Capital by receipt of payments in cash:
- (a) within four (4) months from the Effective Date or the latest until ten (10) Business Days before the Concession Commencement Date, by the amount of five million Euro (€5,000,000). To this effect, the Concessionaire has provided on the Effective Date certified copy of the relevant resolution of the general

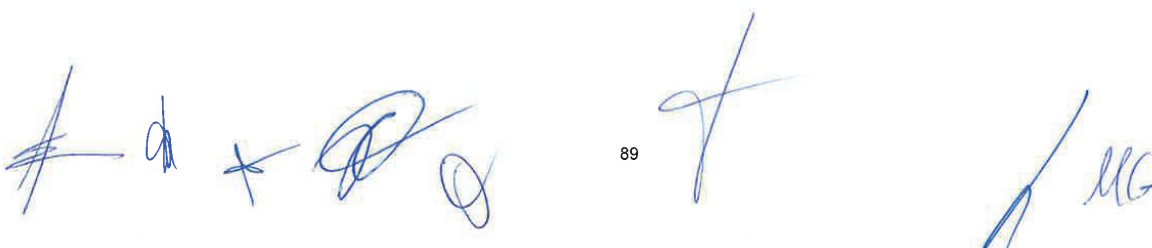
meeting of the Initial Shareholders that has been submitted to GE.MI. pursuant to cod. law 2190/1920 and relevant laws,

- (b) on or prior to the Concession Commencement Date, in an amount at least equal to thirty percent (30%) of the aggregate Share Capital of the Concessionaire required in accordance with Article 9.1.3(a) including the amount referred to in Article 11.1.1, and
- (c) after the Concession Commencement Date, in accordance with the Committed Investment Payment Schedule set out in Article 9.1.4.

11.1.3 With regard to the increase of the Concessionaire's Share Capital in accordance with Article 11.1.2, if the responsible bodies of the Concessionaire delay or withhold the necessary decisions or do not perform the necessary procedures for this increase and these actions or omissions result in the failure to increase the Share Capital within the prescribed time limits and the State or the Lenders (as applicable) are not able to call under the Committed Investment Guarantee in accordance with Article 9.1.6, the State may terminate this Agreement, in accordance with Article 33 (*State Termination - Consequences*).

11.2 Amendment of Concessionaire's Articles of Association

- 11.2.1 With the exception of increases to its Share Capital up to the amount set out in Article 9.1.3(a) and amendments which are effected in compliance with the Law, or for the correction of obvious errors, or which do not materially affect the ability of the Concessionaire to implement this Agreement, no amendment to the articles of association of the Concessionaire is permitted without the prior written consent of the Grantor and the State (such consent not to be unreasonably withheld or delayed). In any case, such consent shall be deemed as granted by the Grantor and the State following the lapse of one (1) month from receipt of the relevant request submitted by the Concessionaire to the Grantor and the State. If the Concessionaire's articles of association are amended in breach of this Article 11.2.1 then the provisions of Article 33 (*State Termination - Consequences*) will apply.
- 11.2.2 The Concessionaire shall invite the Grantor and the State to its Shareholders' general meetings.
- 11.2.3 The Concessionaire shall send to the Grantor and the State the documents that it is required by cod. law 2190/1920 to submit to the supervising authority and within the applicable time limits.



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11.3 Concessionaire's Shares

- 11.3.1 The Concessionaire shall notify the Grantor and the State of any proposed change in ownership including any sale or creation of interest in relation to its Share Capital as soon as reasonably practicable and in any event at least twenty eight (28) days before any such change of ownership is effected. Notwithstanding the provisions of this Article 11.3 (*Concessionaire's Shares*), the prior written consent of the Grantor and the State (not to be unreasonably withheld or delayed) shall be required at any time in relation to a change of ownership to any person, firm or company that the Grantor and/or State would reasonably object to for national security reasons or for reasons which are, in the Grantor's and/or the State's reasonable opinion, in the national interest.
- 11.3.2 The Initial Shareholders must retain in aggregate at least seventy percent (70%) of the entire issued Share Capital until five (5) years from the Concession Commencement Date plus any delay (if any) in the completion of the Imminent Works, not attributable to an Event of Delay or State Responsible Event.
- 11.3.3 The Lead Member must retain at least 33.34% of the entire issued Share Capital until the first (1st) anniversary of the Effective Date. Further to Article 11.3.2, if the Lead Member changes, then a new Lead Member with at least 33.34% of the entire issued Share Capital and with the qualities described in the Invitation for Expression of Interest must be appointed until the tenth (10th) anniversary of the Effective Date, and subject to the consent of the State and the Grantor.
- 11.3.4 The restrictions set out in Article 11.3.2 above are not applicable:
- (a) on transfers:
 - (i) between the Initial Shareholders as long as the Lead Member holds 33.34% until the first (1st) anniversary of the Effective Date;
 - (ii) to Affiliates of the Initial Shareholders;
 - (iii) effected by exercising any rights by virtue of any pledge that has been granted over the shares exclusively for securing the Designated Loan Agreements (if any); or
 - (b) in any other case provided that the Grantor and the State have given their prior written consent.
- 11.3.5 Subject to compliance with this Article 11.3 (*Concessionaire's Shares*) the Concessionaire may issue new shares.

11.3.6 If any permitted transfer of shares is performed prior to the full payment and/or drawdown of the Committed Investment, the transferring Initial Shareholder shall continue to be subject to the obligations set out in Article 9.1.3, until and unless the issuing bank of the Committed Investment Guarantee notifies the State in writing that the Committed Investment Guarantee is in effect in favour of the transferee.

11.3.7 Any transfer of the Concessionaire's shares that is effected in breach of this Article is invalid.

11.3.8 The restrictions of this Article must appear on the face of the share certificates (or temporary titles) of the Concessionaire.

11.4 Listing at the Stock Exchange

Subject to the restrictions of Article 11.3 (*Concessionaire's Shares*) and:

- (a) with the prior written consent of the Grantor and/or the State (not to be unreasonably withheld or delayed) the Concessionaire may at any time prior to the completion of the Imminent Works; or
- (b) without the prior written consent of the Grantor and/or the State, the Concessionaire may at any time after the completion of the Imminent Works,

and in accordance with applicable Laws file an application for its shares to be listed on the Athens Exchange, or on any other recognised stock market and the Concessionaire may issue new shares or offer old shares or both to effect such a listing.

12 Performance Bonds

12.1 The Concessionaire has submitted to the Grantor, the Participation Letters of Guarantee:

- (a) No. 732628NBGA1409/19.9.2014 of Bayerische Landesbank for the amount of nine million, seven hundred and fifty thousand Euro (€9,750,000) as extended from time to time; and
- (b) No. GRA020161/7.10.2014 of Alpha Bank S.A. for the amount of five million, two hundred and fifty thousand Euro (€5,250,000) as extended from time to time,

for the good performance on its part of this Agreement from the Effective Date until the Concession Commencement Date.

12.2 As security for the good performance by the Concessionaire of this Agreement from the Concession Commencement Date, the Performance Bonds provided for in the immediately

following Articles shall be submitted to the Grantor or the State, as applicable, by the Concessionaire.

12.3 Works Performance Bond

12.3.1 On or before the Concession Commencement Date, the Concessionaire shall deliver to the State the Works Performance Bond issued from an Acceptable Bank for an amount equal to twenty million Euro (€20,000,000), the form of which has been agreed by the Contracting Parties and is attached as Section 2 of Appendix 1 (*Form of Letters of Guarantee*).

12.3.2 The Works Performance Bond shall be issued to the Lenders and to the State, and if issued by the Contractor, also to the Concessionaire, as beneficiaries. The order of claims and the application of proceeds of the Works Performance Bond shall be subject to the provisions of the State Direct Agreement (if any, in accordance with Article 37.1.8).

12.4 Committed Investment Guarantee

12.4.1 On or before the Concession Commencement Date, the Concessionaire shall deliver to the State the Committed Investment Guarantee issued by an Acceptable Bank for an amount up to the Committed Investment in the form attached as Section 1 of Appendix 1 (*Form of Letters of Guarantee*).

12.4.2 The Committed Investment Guarantee shall be issued to the Lenders and to the State as beneficiaries. The order of claims and the application of proceeds of the Committed Investment Guarantee shall be subject to the provisions of the State Direct Agreement (if any, in accordance with Article 37.1.8).

12.5 Operation Bond

12.5.1 On or before the Concession Commencement Date, the Concessionaire shall deliver to the Grantor the Operation Bond issued by an Acceptable Bank for an amount equal to ten million Euro (€10,000,000) (Indexed), in the form attached to this Agreement as Section 3 of Appendix 1 (*Form of Letters of Guarantee*).

12.5.2 The first Operation Bond shall be of a duration equal to the time period between the Concession Commencement Date and 31 December in the year following the year of its issue, plus two (2) months. Every subsequent Operation Bond shall be of duration of at least fourteen (14) months.

12.5.3 The Concessionaire undertakes to update the amount of the Operation Bond within the first two (2) months of every year of the Concession Period in accordance with the

percentage increase of the Consumer Price Index of the previous year rounded down, in each case, to the nearest one hundred thousand Euro (€100,000). Notwithstanding the above, the updating of the amount of the first Operation Bond shall be effected during the first two (2) months of the year of its expiry and in accordance with the percentage increase of the CPI for the time period between the month immediately preceding the month of its issue and 31 December of the year preceding the year of its expiry. If the Consumer Price Index for any updating period is reduced then the amount of the Operation Bond shall remain the same for the next year and for as long as the CPI would otherwise have negative impact on the amount of the bond.

- 12.5.4 The Operation Bond shall be issued to the Grantor as beneficiary. The order of claims and the application of proceeds of the Operation Bond shall be subject to the provisions of the State Direct Agreement (if any, in accordance with Article 37.1.8).

12.6 Bank(s) that have issued the Participation Letters of Guarantee and will issue:

- (a) the Works Performance Bond;
- (b) the Operation Bond; and
- (c) the Committed Investment Guarantee;

shall be, Acceptable Bank(s). If the issuing bank(s) of any of the Performance Bonds ceases to be an Acceptable Bank, the Concessionaire shall promptly upon becoming aware of such, notify (i) the Grantor in relation to the Participation Letters of Guarantee and the Operation Bond and (ii) the State in relation to the Works Performance Bond and the Committed Investment Guarantee. If the Concessionaire fails to replace the respective Performance Bond with a guarantee on the same terms from an Acceptable Bank, within sixty (60) days from the relevant notice to the Grantor or the State as applicable and in any case at least thirty (30) days before its expiry, the Grantor in relation to the Participation Letters of Guarantee and the Operation Bond and the State in relation to the Works Performance Bond and the Committed Investment Guarantee, subject to the State's or the Grantor's respective right to terminate this Agreement in accordance with Article 33 (*State Termination - Consequences*), is entitled to make a demand for the total amount of the respective Performance Bond.

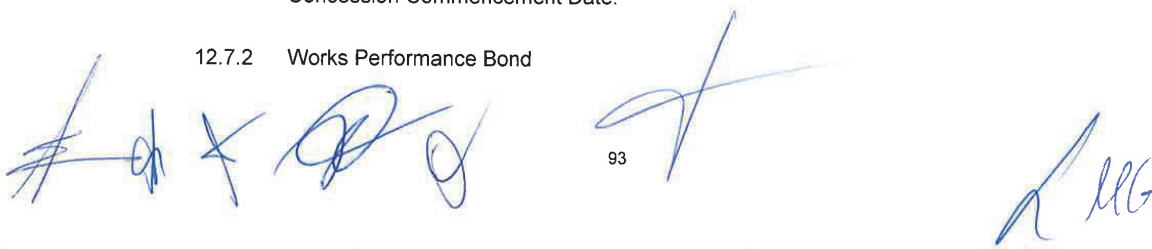
12.7 Amortisation of Guarantees

12.7.1 Participation Letters of Guarantee

The Participation Letters of Guarantee will be returned to the Concessionaire on the Concession Commencement Date.

12.7.2 Works Performance Bond

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The Works Performance Bond shall be amortised:

- (a) by a percentage of thirty percent (30%) within five (5) days from the Imminent Refurbishment Works End Date for all Regional Airports; and
- (b) by the remaining percentage of seventy percent (70%) within five (5) days from the Imminent Works End Date for all of the Regional Airports.

12.7.3 Committed Investment Guarantee

The Committed Investment Guarantee shall be amortised in proportion to the payment of the Committed Investment, as this will be certified each time in accordance with the provisions of Article 9.1.5(a) and 9.1.5(b).

12.7.4 Operation Bond

Subject to the provisions on termination of this Agreement, the Operation Bond will be reduced by 50% at the end of Concession Period and will be returned to the Concessionaire within five (5) days from the expiry of the Concession Agreement Term.

13 Protection of the Environment

13.1 Environment - Protection

13.1.1 Environment is any natural or man-made factors and elements that interact with and influence the ecological balance, the quality of life, the health of the inhabitants, historical and cultural traditions and aesthetic values.

13.1.2 Protection of the Environment is any actions, measures, and works that are aimed at the prevention of the degradation of the Environment or its reinstatement, maintenance or improvement.

13.2 Environmental Requirements

13.2.1 The Concessionaire shall, during the Concession Period, fully comply with the Environmental Requirements and shall ensure that the Works proposed to be undertaken as set out in each Approved Master Plan and each Approved Refurbishment Development Plan submitted in accordance with this Agreement fully comply with the Environmental Requirements and that in each case it has the required Environmental Permits prior to commencing the relevant Works. With respect to the application of Article 41.3, the Environmental Requirements in force thirty (30) days before the Concession Tender Date will be the relevant laws.

13.2.2 The Concessionaire is obliged to:

- (a) establish an Environmental Management Plan;
- (b) compile, throughout the Concession Period, an annual report on environmental strategy, which shall be submitted to the State within three (3) months of the Concession Commencement Date and each anniversary thereof; and
- (c) create and maintain an internet site where the aforementioned report shall be published.

13.2.3 The Concessionaire shall submit the environmental impact studies prepared by the Concessionaire to the Ministry of Environment and to the HCAA for the purpose of the issuance of the Environmental Requirements. The HCAA shall submit any comments it may have to the Ministry of Environment within twenty (20) days of the submission of the environmental impact studies.

13.2.4

- (a) If there are no Valid Environmental Terms for any Regional Airport fifteen (15) days before the Concession Tender Date, then the State shall be liable for any relevant and reasonable costs incurred by the Concessionaire in connection with complying with any requirements of the first Environmental Terms issued after the Concession Tender Date in relation to such Regional Airport (the **First Approved Environmental Terms**). The State shall be liable for these costs only if and to the extent that the requirements under the First Approved Environmental Terms were not included either in the previously approved Environmental Terms or in the environmental impact assessment studies included in the Disclosure Bundle.
- (b) The Concessionaire shall use all reasonable endeavours, so far as it is practicable, to minimise such costs. As soon as practicable after the State has received a notice from the Concessionaire stating that the Concessionaire is entitled to compensation pursuant to Article 13.2.4(a), the Grantor, the State and the Concessionaire shall discuss and seek to agree the compliance requirements and the costs of the Concessionaire in connection with complying with any requirements of the First Approved Environmental Terms and the ways in which the Concessionaire could mitigate such costs. If the Grantor, the State and the Concessionaire come to an agreement, then the State shall indemnify the Concessionaire for the agreed relevant and reasonable costs. If compensation is payable by the State to the Concessionaire pursuant to Article 13.2.4(a) and Article 13.2.4(b), the Concessionaire may, but is not obliged to,

as an alternative to receiving payment of such compensation, elect for the Concession Fee to be adjusted so as to leave the Concessionaire in a no better and no worse position than it would have been in had the compensation been paid in accordance with Article 13.2.4(a) and Article 13.2.4(b).

13.3 Prevention

The Concessionaire shall ensure that it, its subcontractors, the Contractor and each of their subcontractors, within the framework of the Environmental Requirements use appropriate effective technologies to prevent (where possible) and otherwise to minimise any pollution which may be caused to the Environment and to ensure that the storage, treatment, discharge and disposal of all substances generated at any time during the upgrade, maintenance and/or the operation of the Concession, or otherwise on the Concession Sites are such as to prevent (where possible) and otherwise to minimise any pollution which may be caused to the Environment or to man or to any other living organism by such substances.

13.4 Existing Contamination

13.4.1 The State shall be responsible for any damages directly arising out of an Existing Contamination and all baseline noise insulation in accordance with Article 8.1.1 and agrees to indemnify the Concessionaire and hold the Concessionaire harmless from and against any liability suffered or incurred by the Concessionaire as a direct result of the effects of any Existing Contamination and all baseline noise insulation in accordance with Article 8.1.1 and of remediation of any such Existing Contamination and all baseline noise insulation in accordance with Article 8.1.1 and shall indemnify the Concessionaire against all Losses incurred by the Concessionaire as a direct result of such Existing Contamination and all baseline noise insulation in accordance with Article 8.1.1 and its effects.

13.4.2 The State's obligation to indemnify the Concessionaire under Article 13.4.1 shall only apply to the extent that:

- (a) the Concessionaire submits a claim for recovery of all costs, expenses, losses, damages, penalties and fines incurred within thirty six (36) months of the Concession Commencement Date;
- (b) the Concessionaire provides evidence to the reasonable satisfaction of the State in relation to the damages arising out of an Existing Contamination and all baseline noise insulation in accordance with Article 8.1.1 and all Losses incurred;

- (c) the Losses incurred (including any amount specified under Article 13.4.1) exceed in aggregate an amount of one million Euro (€1,000,000) which threshold shall in all cases be borne by the Concessionaire;
- (d) the Concessionaire and its agents, servants or employees and contractors have mitigated all Losses arising as a result of the Existing Contamination and all baseline noise insulation in accordance with Article 8.1.1 and the indemnity shall not apply to the extent that Concessionaire and its agents, servants or employees and contractors fail to take such action.

If the Concessionaire receives notice of any claim relating to any Existing Contamination and all baseline noise insulation in accordance with Article 8.1.1, it must give notice to the State and the Grantor twenty one (21) days from receipt of the notice of such claim.

- 13.4.3 If there is a delay in or an increase in the cost of the execution of the Imminent Works as a consequence of an Existing Contamination and provided that the Existing Contamination materially adversely affects (or has already materially adversely affected) the progress of the Works for a duration which in the aggregate is longer than 90 days as against the Imminent Works End Date, as such may have been varied and/or revised in accordance with this Agreement, then such event shall constitute an Event of Delay, which shall be compensated by the State in accordance with Article 30.1 (*Events of Delay - Works Period Compensations*), except if (i) such compensation constitutes a cost, expense, loss, damage, penalty or fine already compensated under Article 13.4.2 or (ii) the threshold specified under Article 13.4.2(c) has not been reached.

14 Concession Sites

14.1 Delivery of the Concession Sites

- 14.1.1 Subject to the rights of the relevant parties under each of the Contracts and subject to Article 14.1.5, the State shall, either on or just before the Concession Commencement Date or within a period of two (2) months following Concession Commencement Date, make available to the Concessionaire, in the manner and at the time set out in this Article, Vacant Possession of the Concession Sites and the relevant Rights of Way to and from it, as well as any other right reasonably deemed by the State (after consultation with the Concessionaire and taking into account the Concessionaire's reasonable requests) as necessary for the implementation of the Concession, without any relevant payment or other charge becoming payable by the Concessionaire to the State or to any Competent Authority or third party other than as set out in this Agreement.

- 14.1.2 The State's obligations pursuant to Article 14.1.1 shall be subject to the compliance by the Concessionaire with Article 6.2.1(b).
- 14.1.3 The State's unreasonable refusal to execute or any delay in executing the protocol in accordance with Article 14.1.4 constitutes an Event of Delay and a State Responsible Event.
- 14.1.4 The delivery by the State to the Concessionaire of the Vacant Possession of the Concession Sites and Rights of Way is subject to the submission of a request in writing by the Concessionaire together with a plan containing details of the delivery (the **Delivery Plan**), which shall be submitted by the Concessionaire to the State the earliest of six (6) months after the Effective Date and two (2) months prior to the Concession Commencement Date and which shall be recorded in a special protocol executed by the State and the Concessionaire. The Concessionaire and the State shall complete the process of delivering Vacant Possession of the Concession Sites and Rights of Way to the Concessionaire in accordance with the Delivery Plan, such Delivery Plan to foresee delivery either on or just before the Concession Commencement Date or within a period of two (2) months following Concession Commencement Date, unless otherwise agreed between the Concessionaire and the State.
- 14.1.5 If any Airport Contract is terminated by the State at the request of the Concessionaire pursuant to Article 4.9.2, the State shall have a period of three (3) months to comply with the requirements of this Article 14 (*Concession Sites*) as regards the third parties to such Airport Contracts failing which an Event of Delay and/or a State Responsible Event shall have occurred.
- 14.1.6 Subject to the rights of the relevant parties under the Contracts, the State undertakes the obligation to maintain throughout the Concession Period the Vacant Possession by the Concessionaire of the Concession Sites, as well as the relevant Rights of Way to and from such sites. The Concession Sites shall not be used by the Concessionaire for any reason other than for the implementation of the Concession Operations.
- 14.1.7
- (a) All land expropriations necessary:
 - (i) for the grant of an Aerodrome Certificate to the Concessionaire; or
 - (ii) where an Aerodrome Certificate does not or ceases to allow the Concessionaire to conduct the Concession Operations as such were

envisaged in the Business Plan at the Concession Commencement Date and in accordance with the Financial Model;

shall, in each case, be carried out under the provision, responsibility and at the expense of the State;

- (b) If an Approved Master Plan confirms that Supplementary Land is required for the development of the Regional Airports and provided that the relevant plan was accompanied by the Concessionaire's proposal with respect to the Supplementary Land, the relevant survey and the environmental impact assessment study together with all supporting documentation including that documentation specified in paragraph (d) below and any other documentation that the State may reasonably require including a cost-benefit analysis, the State shall at its own cost procure or expropriate such Supplementary Land;
- (c) Any land expropriated pursuant to this Article 14.1.7 shall thereafter be included as part of the Concession Sites;
- (d) Any expropriations under this Article 14.1.7 shall be undertaken by the State within the deadlines set out below commencing on the latest date between the date of approval of the relevant Master Plan and the date of issue of the Approved Environmental Terms and the submission by the Concessionaire of the cadastre and complete dossier:
 - (i) for expropriations outside city plan: twenty four (24) months; and
 - (ii) for expropriations within city plan: thirty three (33) months.

14.1.8

- (a) Upon receipt by the Concessionaire of a notice by the State to be delivered to the Concessionaire by no later than fifteen (15) days from the commencement of the applicable deadline as per Article 14.1.7 (d) and providing details about the cost of an expropriation to be conducted pursuant to Article 14.1.7, the Parties shall discuss and seek to agree, such agreement to be reached within sixty (60) days from receipt of such notice, that part or all of the cost of any expropriation conducted by the State pursuant to an Approved Master Plan in accordance with the provisions of this Agreement be undertaken by the Concessionaire by setting off its payment obligations towards the Grantor and/or the State under this Agreement as per sub-paragraphs (i) and (ii) below. The Parties will determine within the above 60-day deadline the amount of expropriation cost to be undertaken by the Concessionaire and the

corresponding calculation of the amount of payment obligations of the Concessionaire that will be deducted by way of set off, taking also into account the cost of money for the Concessionaire subject to appropriate evidence for the period between the disbursement of the expropriation cost by the Concessionaire until the time of payment of its reduced payment obligations towards the Grantor and/ or the State , as well as the timing of such payment and deduction. Any provision of a Law or of this Agreement restricting any set off rights of the Concessionaire against the Grantor and/or the State, as well as any deduction or withholding of its payment obligations towards the Grantor and/ or the State, including, for the avoidance of doubt, the provisions of Article 44 (*Set Off*), shall not apply in this respect.

- (i) The Concessionaire shall pay the cost of an expropriation that it has agreed to cover as above, when this becomes due and payable, and shall deduct by way of set off such amount from the amounts of the Levy and/or the Annual Concession Fee that are due and payable in accordance with this Agreement for the Concession Year to which the payment of the expropriation costs by the Concessionaire relates;
 - (ii) to the extent that the cost of an expropriation that the Concessionaire has agreed to cover is not fully covered by the amounts of the Levy and/or the Annual Concession Fee as per sub-paragraph (i) above, the Concessionaire may deduct by way of set off the uncovered amount of the expropriation cost from the amount of the Variable Concession Fee that is due and payable in accordance with this Agreement for the Concession Year to which the payment of the expropriation costs by the Concessionaire relates.
- (b) To the extent that any part of the expropriation cost that has been agreed to be covered by the Concessionaire has not been fully covered through the deduction by way of set off and with the order of priority between payment obligations as per paragraph (a) above with respect to the Concession Year to which such expropriation cost relates, the deduction by way of set off of payment obligations in the same order of priority as per paragraph (a) above shall apply also to the subsequent Concession Years, until such expropriation cost is fully covered.
- (c) For the avoidance of doubt:
- (i) the discussions that may be held between the Parties as per paragraph (a) above and the outcome thereof shall not affect, in any manner

whatsoever, the obligation of the State to immediately commence as well as to duly and timely effect the relevant expropriations as per Article 14.1.7 as well as, in case no agreement is reached between the Parties within the 60-day deadline as per paragraph (a) above, the obligation of the State to procure the relevant expropriation at its own cost;

- (ii) the amounts of the Levy, the Annual Concession Fee and the Variable Concession Fee that are not set off with the cost of an expropriation that the Concessionaire has agreed to cover as per paragraph (a) above shall continue to be due and payable by the Concessionaire to the State or the Grantor (as applicable) in accordance with the terms of this Agreement.

14.1.9 The Concessionaire shall deposit the agreed amounts as per Article 14.1.8(a) above to a special account of the State notified to it, designated solely for the payment by the State of the costs of expropriations conducted pursuant to this Agreement. For the avoidance of doubt, the State shall procure that the use of any amounts deposited in such account for any further purpose other than the one designated in this Article 14.1.9 shall be strictly prohibited.

14.1.10 A State Responsible Event shall occur if the State fails to effect expropriations that are required pursuant to Article 14.1.7 within the prescribed time limits.

14.2 Delay in Delivery of the Concession Site

The delay in the delivery by the State of any part of the Concession Sites, under the terms and within the deadlines set in this Article 14 (*Concession Sites*) shall, subject to the exceptions contained in such definitions, constitute an Event of Delay and/or a State Responsible Event respectively.

14.3 Handback of the Concession Site

Upon the expiry of the Concession Period or following the termination of this Agreement, the Concessionaire shall handback to the State the Concession Sites free of any charge and possession and, as the case may be, in accordance with Articles 33.3 (*Results of Termination by the State and/or the Grantor*) and 34.2 (*Results of Termination by the Concessionaire*) or Article 32 (*Handback of Concession to the State*).

15 Antiquities

15.1 The Concessionaire shall if any infrastructure or building works are to be constructed at any of the Regional Airports perform in the area where such work is to be undertaken Archaeological Test Excavations or use other suitable means to investigate the data collected to determine the existence or otherwise of Antiquities. The cost of performance of Archaeological Test

Excavations and/or for the performance of geophysical surveys shall be for the account of the Concessionaire. Any other expense for additional Archaeological Test Excavations or for archaeological investigations and for the monitoring of the related works and excavations shall be borne by the State in accordance with the applicable legislation. The carrying out by the Concessionaire of any Archaeological Test Excavations in addition to those envisaged in this Article shall be certified by the Independent Engineer and shall be compensated for by applying *mutatis mutandis* the provisions on Variations. At least four (4) days prior to any Archaeological Test Excavations the Concessionaire shall notify each of the Competent Authority responsible for supervising such tests, the Independent Engineer and the State who may each attend such Archaeological Test Excavations. The State shall use its best efforts to assist the Concessionaire in all its works, surveys, and investigations related to Archaeological Test Excavations as well as in the monitoring associated with such works, surveys and investigations.

- 15.2** The Concessionaire shall, upon ascertaining the existence of Antiquities during any of the Works, notify the Competent Authority, the Independent Engineer and the Archaeological Service and suspend immediately all Works in the area of the Antiquities, and at the same time take all necessary measures for the preservation and safekeeping of such Antiquities until the Competent Authority takes responsibility for such in accordance with the applicable Laws.
- 15.3** After evaluation of the Antiquities by the Competent Authority, instructions shall be issued to the Concessionaire either for the continuation of the Works, or for their suspension for the performance of archaeological investigations by the Competent Authority, or for the temporary suspension of the Works in the area where Antiquities were discovered for the time period during which the Archaeological Service will conduct archaeological investigations by its own means and at the expense of the State.
- 15.4** An aggregate delay of more than two (2) months to the Works due to works related to Antiquities discovered during the Works shall constitute an Event of Delay or a State Responsible Event.
- 15.5** Every Antiquity is the exclusive property of the State.

16 Design - Construction Contract

- 16.1** With respect to the Imminent Works, the Concessionaire shall enter into the Design - Construction Contract(s) with the Contractor(s) to implement the Imminent Works and will enter into Design - Construction Contract(s) with Contractors for Future Works, such contracts to be on arm's length terms and conditions substantially similar to those in the Design - Construction Contract(s) set out in Appendix 28 (*Design - Construction Contract(s) and/or Design-Construction Contract Template for Imminent Works*). The appointment of any Contractor after

the Concession Commencement Date shall be subject to the provisions of Article 22 (*Concessionaire's Subcontractors*).

- 16.2** Subject to Article 37.1.6, a Contractor may be replaced by the Concessionaire at any time, provided that the terms of any replacement Design - Construction Contract(s) may not be amended or replaced, nor may the contracting parties waive any rights therein without the prior written consent of the State, such consent not to be unreasonably withheld or delayed.
- 16.3** The Concessionaire has the right to allow a Contractor to assign to subcontractors the fulfilment of its obligations under the Design - Construction Contract(s), subject to the terms of this Agreement and in the case of subcontracts for a value in excess of one million Euro (€1,000,000) under the following conditions:
- 16.3.1 that the subcontractor shall comply with the requirements of the relevant Design - Construction Contract(s);
- 16.3.2 that the award of the subcontract will not impair the ability of the Contractor to fulfil its obligations under the Design - Construction Contract(s) and/or the ability of the Concessionaire to fulfil its obligations under this Agreement;
- 16.3.3 that the Concessionaire provides the names and particulars of each relevant subcontractor (or subcontractors) in writing (to the State and the Independent Engineer) and simultaneously supplies a copy of each relevant subcontractor agreement (or agreements) within seven (7) days from the date of execution of such agreement; and
- 16.3.4 that the Contractor remains liable for the obligations set out in the Design - Construction Contract(s) and is not, by reason of part of its obligations being carried out by a subcontractor, relieved of any of its commitments, obligations and responsibilities thereunder.
- 16.4** The Concessionaire shall not be relieved of any of its commitments, obligations and responsibilities under this Agreement by reason of some or all of those obligations being carried out by a subcontractor of the Contractor, and the State and the Grantor will not in any way be liable to the Contractor or any of its subcontractors, nor will they be bound in any way by the terms of the Design - Construction Contract(s) or any subcontractor agreement thereunder.
- 16.5** The State's written approval of any amendment to the Design - Construction Contract(s) or waiver thereof, will not relieve the Concessionaire of any of its commitments, obligations and responsibilities under this Agreement, nor will it render the State and/or the Grantor liable to any of these entities, nor will the State and/or the Grantor be bound in any way by the terms of such contract or subcontract.

16.6 The Concessionaire has sole responsibility for payments to the Contractor. The State and the Grantor will have no responsibility for such payments.

16.7 All contracts entered into by the Concessionaire with the Contractor or by the Contractor with any of its subcontractors will provide step-in rights for the State, without prejudice to any Lenders' rights as these rights are defined in the Designated Loan Agreements (if any).

17 Permits

17.1 Transfer and Conversion of Existing Aerodrome Certificates

17.1.1 The State has provided, as part of the Disclosure Bundle, Aerodrome Certificates for each Certified Regional Airport together with any existing Aerodrome Manual and other supporting material relevant to aerodrome certification at such Regional Airports and a list of Certified Regional Airports for which an Aerodrome Certificate has been issued on the basis of the national legislation prior to 31 December 2014.

17.1.2 The Concessionaire shall prior to the Concession Commencement Date submit a draft Aerodrome Manual to the HCAA and within the time limits set out in the Aerodromes Regulation 2014 undertakes to apply for the initiation of the conversion in accordance with article 6 of the Aerodromes Regulation 2014.

17.2 Application for Aerodrome Certification for Non-Certified Regional Airports

17.2.1 The HCAA shall on or before the Effective Date provide to the Concessionaire a set of operating conditions for each Non-Certified Regional Airport. The Concessionaire and the HCAA shall prior to the Concession Commencement Date consult with each other in good faith to agree the operating conditions to apply to each Non-Certified Regional Airport as of the Concession Commencement Date.

17.2.2 The Concessionaire shall prior to the Concession Commencement Date apply to the HCAA for the initiation of the certification process for each of the Non-Certified Regional Airports in accordance with Article 17.3.1.

17.3 General

17.3.1 No more than ten (10) days after receipt of the application by the Concessionaire in accordance with Article 17.1 (*Transfer and Conversion of Existing Aerodrome Certificates*) and no more than one (1) month after receipt of the application by the Concessionaire in accordance with Article 17.2 (*Application for Aerodrome Certification for Non-Certified Regional Airports*) the HCAA shall confirm to the Concessionaire receipt of the applications and shall propose a date for a first meeting with the Concessionaire to determine the conversion and/or certification process, as

applicable. Such first meeting shall take place no more than one (1) month after the submission of the application by the Concessionaire in accordance with Article 17.1 (*Transfer and Conversion of Existing Aerodrome Certificates*) and 17.2 (*Application for Aerodrome Certification for Non-Certified Regional Airports*).

- 17.3.2 The Concessionaire shall comply with the conversion and/or certification process, as applicable, determined pursuant to Article 17.3.1.
- 17.3.3 The State undertakes that until the completion of the relevant certification process for the relevant Non-Certified Regional Airports under Article 17.3.1, and provided that the Concessionaire complies with such certification process or that any non-compliance with such certification process is not attributable to the Concessionaire under the terms of this Agreement:
- (a) the State, the Grantor, the HCAA and/or any other Government Authority, Government Service and/or Competent Authority shall not challenge in any manner whatsoever the operation of any of the Non-Certified Regional Airports by the Concessionaire due to existing infrastructure as long as the Concessionaire is not in breach of this Agreement;
 - (b) if the Concessionaire is not able to obtain insurance of any of the risks required to be insured under this Agreement in relation to any Non-Certified Regional Airport, the State shall act as insurer of last resort in accordance with the procedure set out in Articles 24.12 *et seqq.* for any such risks that are not insured; and
 - (c) notwithstanding Article 17.4 (*Cost for Aerodrome Certification*), the State shall indemnify and keep indemnified the Concessionaire against any Loss incurred by the Concessionaire due to the existing infrastructure and/or any non-availability of necessary land for the certification of the Non-Certified Regional Airports.
- 17.3.4 For the avoidance of doubt, the HCAA shall provide the certification for the Non-Certified Regional Airports without reducing the current runway declared distances or declared capacities at the relevant Non-Certified Regional Airports.
- 17.3.5 Aerodrome Certificates for each Certified Regional Airport with deviations, and for each Non Certified Regional Airport which will be issued in accordance with Articles 17.2.2 and 17.3 (*General*) with deviations, shall continue to be certified by HCAA at the future renewals and/or conversions with the same deviations as were in place prior to renewal and/or conversion, to the extent that this is permitted by the relevant

EASA Certification Specifications in force at the time of the renewal and/or conversion.

17.4 Cost for Aerodrome Certification

- 17.4.1 The Concessionaire shall be responsible for the design, construction, completion, commissioning and testing of the works that are required by the State in order to achieve the initial certification based on the Aerodromes Regulation 2014 for Non-Certified Regional Airports. The Concessionaire shall ensure that the design, construction, completion, commissioning and testing of such works will be carried out in accordance with the terms of this Agreement, Good Industry Practice, all relevant Permits and all relevant Laws in force. The provisions of Appendix 19 (*Variations*) shall apply for the determination of the cost of such works. The State shall be responsible for all new infrastructural, capital investments and/or other costs required in order to achieve the initial certification based on the Aerodromes Regulation 2014 for Non-Certified Regional Airports.
- 17.4.2 The Concessionaire shall be responsible for all new infrastructural, capital investments and/or other costs required in order to achieve conversion of the existing Aerodrome Certificates in accordance with Article 17.1 (*Transfer and Conversion of Existing Aerodrome Certificates*) for Certified Regional Airports.
- 17.4.3 The Concessionaire shall be responsible for procuring all subsequent renewals of each of the Aerodrome Certificates.

17.5 Upgrade Operation and Exploitation Permit

The State hereby grants to the Concessionaire a general permit to upgrade, maintain, manage, operate and exploit the Regional Airports, according to the terms and conditions of this Agreement (the **Concession Implementation Permit**). The granting of the Concession Implementation Permit does not relieve the Concessionaire from the obligation to acquire all partial or special Permits required under this Agreement or by any applicable Law.

17.6 State Permits and Responsibilities

17.6.1

- (a) Unless expressly provided otherwise in this Agreement, the State is responsible for obtaining and transferring to the Concessionaire, where required, the State Permits on the Concession Commencement Date.
- (b) Any Existing Works Construction Permits and Existing Operational Permits which are required but have not been issued shall be deemed to have been

granted through ratification by the Hellenic Parliament upon the Ratification Law Effective Date.

17.6.2 Upon receiving a written request from the Concessionaire pursuant to Article 17.7 (*Concessionaire Permits and Responsibilities*) within a reasonable period before the deadline for issuing or renewing a Concessionaire Permit, or such shorter time period as is practicable, the HCAA and/or the State (as the case may be according to pertinent legislation) shall use its best efforts to assist the Concessionaire to obtain and/or maintain any Concessionaire Permit during the Concession Period, provided that the Concessionaire must:

- (a) prior to making such request, have done all things reasonably necessary to obtain and or maintain any Permits which are the subject of such request;
- (b) continue diligently to pursue the grant or maintenance of any Permits that are the subject of such request;
- (c) provide the HCAA and/or the State with any information that it may reasonably request in connection with the Concessionaire's request; and
- (d) bear all costs relating to the obtaining and/or maintaining of any such Permits.

17.6.3 Failure by the HCAA or the State (as the case may be) to comply with its obligations under this Article 17.6 (*State Permits and Responsibilities*) shall be an Event of Delay and/or a State Responsible Event.

17.7 Concessionaire Permits and Responsibilities

17.7.1 Unless expressly provided otherwise in this Agreement, the Concessionaire is responsible throughout the Concession Period for obtaining and maintaining all the Concessionaire Permits (and all renewals or extensions) provided that any failure to issue, renew or extend a Concessionaire Permit by any Government Authority or Competent Authority without a valid reason shall be an Event of Delay and/or a State Responsible Event.

17.7.2 The Concessionaire shall ensure that the Regional Airports are operated with valid Concessionaire Permits at all times and shall apply promptly and in the appropriate form to the HCAA, the Competent Authorities and the PUOs for the issue of all Concessionaire Permits and shall give the HCAA written and prompt notice of submission of each such application. Each application will be filed in accordance with applicable Laws and shall be accompanied by all necessary supporting documentation. An application shall be deemed complete unless within ten (10) days

from submission of such application the authority granting the Concessionaire Permit notifies the Concessionaire in writing that the supporting documentation is incomplete.

- 17.7.3 For the purposes of this Article, the submission of an application for the issue of a Concessionaire Permit is deemed to be prompt if it was submitted by such a date, in advance of the date that a permit is required for the commencement of the relevant Concession Operations, that allows a period for its issue that is equal to or longer than the time period for its issue set out in the legislation in force and in any case is a period of not less than sixty (60) days.
- 17.7.4 The State within the framework of its interest for the timely completion of the Works shall ensure that the PUO will conduct the necessary designs required and related to the relocation of their networks and any relevant installations and implement the necessary works at their own cost, without obstructing (to the extent possible) the Concessionaire's ability to meet the Planned Completion Dates in respect of the Works. Concurrently the Concessionaire shall provide to the PUO involved not later than three (3) months prior to the date upon which the relevant network relocation is required, the necessary information so as to enable the PUO to schedule the relevant works.
- 17.7.5 Subject to Article 17.6.1(a), the Concessionaire must use all reasonable endeavours to assist the State to obtain the State Permits on or prior to the Concession Commencement Date and maintain the State Permits during the Concession Period.
- 17.7.6 For the avoidance of doubt, the HCAA shall continue to be the Competent Authority for issuing any Permits required for the execution of Works within the Concession Sites in accordance with the ministerial decision No. Γ2/B/26970/1469/10.8.1998.

17.8 Deemed Issuance

- 17.8.1 If notwithstanding the fulfilment by the Concessionaire of the conditions for the issue of a Concessionaire Permit, the State or other Government Authority, Competent Authority or PUO delays the issue of any Concessionaire Permit beyond the lawful time limit, or if there is no such limit, beyond sixty (60) days from the submission of the relevant application, such Concessionaire Permit, excluding any Environmental Permit, shall be deemed to be issued by operation of law upon the expiry of such time limit. The deemed issuance of the Concessionaire Permit, pursuant to this Article, will be evidenced by the issuance of a declaratory act issued by the HCAA, Department of Monitoring and Implementation of the concession agreement (case c of par. 1, article 9 of the Presidential Decree 52/2012) following confirmation by the Independent Engineer.

17.8.2 Any declaratory act issued pursuant to Article 17.8.1 will state that it is issued pursuant to Article 17.8.1 and replaces a Concessionaire Permit that would otherwise be necessary for the Works.

17.8.3 Any declaratory act issued pursuant to and in accordance with this Article 17.8 (*Deemed Issuance*) shall have the same force and effect as the relevant Concessionaire Permit would have had once issued.

17.9 Public Utility Companies or Organisations

17.9.1 The Concessionaire shall ensure, at its own cost, that the supply of electricity, of the necessary power and voltage and in adequate positions, is available throughout the Concession Period. The State shall provide the Concessionaire with any reasonable support that it may require for the provision of such supplies from the PUOs.

17.9.2 The terms of the previous paragraph apply *mutatis mutandis* for the supply of telephone lines and water for the Concession Operations.

17.9.3 The State undertakes to facilitate the timely transfer of all contracts for electricity, telephone and water supply connections to the Regional Airports to the Concessionaire on or prior to the Concession Commencement Date, so as to allow from such date, the exercise by the Concessionaire of any of the rights and obligations arising with respect to such. The Concessionaire shall not be responsible for any obligations or any liabilities incurred under contracts for electricity, telephone and water supply connections to the Regional Airports for the period prior to the delivery of Vacant Possession of the Concession Sites in accordance with Article 14.1.4.

18 Works

18.1 Concessionaire's Obligations

18.1.1 The Concessionaire will bear responsibility for the Designs, construction and commissioning of the Works.

18.1.2 The Concessionaire shall ensure that the Designs, construction, completion, commissioning and testing of the Imminent Works and any Future Works will be carried out in accordance with the terms of this Agreement and more specifically so as to comply with:

- (a) the initial Approved Master Plan and the Imminent Works Implementation Time Schedule and any other approved time schedule;

- (b) each Approved Refurbishment Development Plan so as to ensure the remedy of any matters identified in each Facilities Condition Assessment;
- (c) each Approved Master Plan to ensure the ongoing provision of the Required Level of Service and sufficient capacity at each Regional Airport; and
- (d) the Performance Standards for the Designated Airport Services;
- (e) each of the following:
 - (i) the applicable requirements pursuant to the Certification Regulations;
 - (ii) the Approved Environmental Terms;
 - (iii) the Standards and Specifications, Works Requirements and Maintenance Requirements;
 - (iv) the quality manuals regarding the development and the control of Designs and construction;
 - (v) Good Industry Practice;
 - (vi) all relevant Permits; and
 - (vii) all relevant Laws in force.

18.1.3 The Concessionaire declares that all Works and each separate section thereof will be appropriate for the purpose for which they are intended, as this is determined or reasonably results from the Standards and Specifications and the Works Requirements.

18.1.4 The Independent Engineer shall, in relation to the Supervised Works, perform each of the duties as more particularly set out in this Agreement.

18.2 Designs

18.2.1 The Concessionaire shall ensure that the Designers will carry out the Designs for the Supervised Works to the level and detail reasonably determined by the Independent Engineer, so that the latter is able to check and approve the Supervised Works and determine to what extent the quality of the Designs, the Supervised Works, the functionality, the systems, the facilities, the specifications and/or the finishings of the Supervised Works comply in all respects with the Standards and Specifications and the Works Requirements.

18.2.2 Each Design shall include the main dimensions and all technical characteristics of and the relevant calculations relating to the Supervised Works and will be presented so that it is possible to assess it with relation to the functionality, the safety, the environment and the finishings.

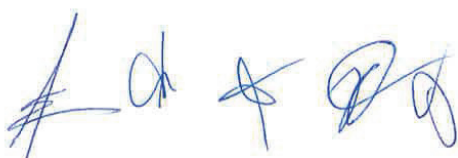
18.2.3 The Concessionaire shall submit to the Independent Engineer, with a copy to the State, each Design in as many copies as the Independent Engineer may require immediately following the completion of the Design.

18.3 Design Check

18.3.1 The Independent Engineer shall check and approve the Designs for all Supervised Works according to this Agreement and its Appendices and the Independent Engineer Agreement, and it shall be responsible for:

- (a) reviewing and checking the extent to which such Designs meet the Standards and Specifications and the Works Requirements and ordering any supplementary design necessary for the compliance of the Designs to such requirements;
- (b) approving the schedule of investigations and tests at the Concession Sites, checking their adequacy and sufficiency for design purposes and providing a copy of this approved schedule to the Concessionaire and the State;
- (c) auditing, checking and approving the quality control manuals and design quality assurance ordering modifications or additions (as required) and monitoring their implementation;
- (d) compiling and providing to the Concessionaire and the State monthly progress reports, covering the activities of the previous period and the problems encountered and presenting the programme of activities for the following period with reference to all tests to be performed; and
- (e) imposing any necessary measurements of structural behaviour and reviewing their results.

18.3.2 Within a month from the Concession Commencement Date, the Concessionaire and the Independent Engineer shall agree in writing any details of matters referred to in Independent Engineer's Agreement, regarding the way in which relevant Designs shall be submitted to the Independent Engineer and the time limits within which the Independent Engineer will be obliged to issue the Design Approval Certificate.



18.4 Design Approval Certificate

- 18.4.1 Within the deadline that shall be agreed between the Concessionaire and the Independent Engineer pursuant to Article 18.3.2, the Independent Engineer shall issue and deliver to the Concessionaire a Design Approval Certificate with a copy to the State and the HCAA and, in the case of the HCAA, it will attach a complete set of copies of the approved Designs in question at the level of a "detailed design" according to PD 696/74, as well as of any other related documents in its possession and inform the HCAA of the process for commenting on the Designs as set out in this Article 18.4 (*Design Approval Certificate*). The copy delivered to the HCAA will be accompanied by the check sheet of the approved Design. As of the date of issuance of the Design Approval Certificate by the Independent Engineer, the approved Designs are considered to be "good for construction" and the Concessionaire may immediately commence the relevant Works.
- 18.4.2 Within thirty (30) days from the date of receipt of the above-mentioned approved Designs, the HCAA may inform the Independent Engineer (with notice to the Concessionaire and the State) of any comments or objections as to the extent that the Designs conform with the Standards and Specifications and Works Requirements and/or any inconsistency with any previously approved Designs, stating the reasons for its opinion.
- 18.4.3 Within seven (7) days from the date of receipt of such notice from the HCAA, the Independent Engineer shall inform the HCAA and the Concessionaire whether it agrees or rejects the comments and/or objections. The decision of the Independent Engineer shall be final and binding unless and until it is reversed by the Technical Disputes Resolution Panel, should the State or the Concessionaire refer the matter to it in accordance with Article 18.4.4.
- 18.4.4 If the HCAA or the Concessionaire disputes the decision of the Independent Engineer to uphold or reject the HCAA's comments or objections, the State or the Concessionaire may refer the matter to the Technical Disputes Resolution Panel, within ten (10) days from receipt of such decision.
- 18.4.5 If either the Independent Engineer or the Technical Disputes Resolution Panel upholds the HCAA's comments or objections, the Independent Engineer will give the necessary instructions to the Concessionaire so that it will re-apply for a new Design Approval Certificate, and the provisions of this Article 18.4 (*Design Approval Certificate*) will apply to such resubmission. Comments or objections that were brought up in the first submission may not be raised again.

- 18.4.6 If the Independent Engineer has approved the submitted Design, and the Concessionaire or the HCAA have not submitted any objections to such approval within the time limits of this Article 18.4 (*Design Approval Certificate*) or if the Technical Disputes Resolution Panel decides that such approval should be issued, the relevant Design Approval Certificate is final and binding.

18.5 Design Change

No approved Design (or section thereof) approved according to the procedures set out in this Article 18 (*Works*) may be changed, modified, or departed from, other than pursuant to a written proposal for a change, modification or departure being submitted to the Independent Engineer for approval in accordance with the procedures set out in Article 18.3 (*Design Check*).

18.6 Commencement of Supervised Works

- 18.6.1 Subject to Article 18.6.2, the Concessionaire may not commence any Supervised Works until a Design Approval Certificate has been issued by the Independent Engineer in accordance with Article 18.4.1.
- 18.6.2 If the Concessionaire commences any Supervised Works prior to such Design Approval Certificate becoming final and binding in accordance with Article 18.4.6, the Independent Engineer shall have no liability to the Concessionaire for such Supervised Works.

18.7 Concessionaire's Responsibility

- 18.7.1 The submission of any Design or document pursuant to this Article, its approval or disapproval, the issue of any Design Approval Certificate, the submission of comments or objections by the State or any reference of any matter to the Technical Disputes Resolution Panel pursuant to this Article or any recourse to Arbitration shall not relieve the Concessionaire in any way from any of its obligations, liabilities and responsibilities under this Article or otherwise.
- 18.7.2 Any breach by the Independent Engineer of any of its obligations under the Independent Engineer's Agreement or any delay by, or caused by, the Independent Engineer in connection with the performance or delayed performance of its obligations under the Independent Engineer's Agreement, or any dispute between the Independent Engineer and the Concessionaire regarding the performance of the Independent Engineer's obligations or otherwise, will not relieve the Concessionaire in any way from any of its obligations, liabilities or responsibilities under or pursuant to this Agreement.

18.7.3 If this Agreement is terminated pursuant to Article 33.2 (*State and/or Grantor Termination*), the State may step-in to the Independent Engineer's Agreement in the place of the Concessionaire.

18.8 Term of Works

The Concessionaire shall perform and complete all Imminent Works within the time periods set out for the relevant Works in the Imminent Works Implementation Time Schedule and in any event shall perform and complete:

18.8.1 the Imminent Refurbishment Works within twenty (20) months from the Concession Commencement Date;

18.8.2 the Imminent New or Expansion Works within forty eight (48) months from the Concession Commencement Date;

in each case, in accordance with the provisions of this Agreement, the Standards and Specifications, the Works Requirements and Good Industry Practices in order to ensure that the Works and any part thereof shall be suitable for their purpose as identified in or can reasonably be inferred from the specifications.

18.9 The issuance of the Final Completion Certificate for each of the Regional Airports in respect of the Imminent Works shall be deemed to be the Imminent Works End Date for such Regional Airport in accordance with Article 18.12 (*Completion Certificate Issuance Procedure*).

18.10 If any of the time periods referred to in Article 18.8 (*Term of Works*) are exceeded in aggregate by more than 30% and except if such delay occurs following an Event of Delay or a State Responsible Event, then a Concessionaire Event of Default shall have occurred.

18.11 Work Completion Certificate

18.11.1 All the Completion Certificates are to be issued by the Independent Engineer, in accordance with the provisions of this Article.

18.11.2 The issuance of a Completion Certificate shall apply in the following cases:

- (a) when the Imminent Works at any Regional Airport have been completed in accordance with the terms of this Agreement, the Approved Imminent Refurbishment Development Plan, the Approved Master Plan, the Approved Designs and the Imminent Works Implementation Time Schedule;
- (b) when any Future Material Works at any Regional Airport have been completed in accordance with the relevant Approved Refurbishment Development Plan

and/or Approved Master Plan and/or the Approved Designs as the case may be; and

- (c) additional Completion Certificates may be issued by the Independent Engineer if any Works as a result of a Variation which are Supervised Works have been completed.

18.11.3 At any time during the construction of the Works, the Concessionaire and the Contractors shall, subject to receiving reasonable notice, give access to the site of the Works to the HCAA for the purpose of inspecting such Works.

18.12 Completion Certificate Issuance Procedure

18.12.1 Generality

This process for the issuance of the Substantial Completion Certificate shall be implemented separately in each of the Regional Airports.

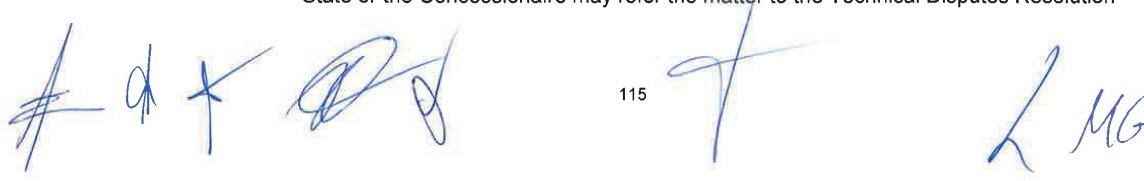
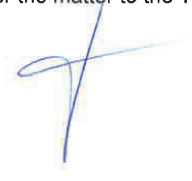

18.12.2 Pre-Substantial Completion Inspections

The Concessionaire shall give the Independent Engineer not less than twenty (20) days and not more than thirty (30) days' notice of the date on which the Concessionaire (acting reasonably) considers that the relevant Supervised Works in respect of any Regional Airport will be Substantially Complete inviting it to inspect the relevant Supervised Works for the purpose of ascertaining their completion.

18.12.3 Within the above twenty (20) day to thirty (30) day period, the Independent Engineer, the Concessionaire and the HCAA will inspect, in the presence of the Contractor, the relevant Supervised Works for which the Substantial Completion Certificate has been requested by the Concessionaire, to check that such works are Substantially Complete (in accordance with the Specifications and other provisions of this Agreement) and that the relevant Works are ready for operation and comply with applicable Standards and Specifications and the Works Requirements. The HCAA may request from the Contractor qualitative and quantitative data for the respective Supervised Works. The Concessionaire and/or the Contractor may carry out minor works during this procedure.

18.12.4 The Independent Engineer's decision will be final and binding, unless and until reversed by the Technical Disputes Resolution Panel.

18.12.5 If either the HCAA or the Concessionaire disagrees with the decision of the Independent Engineer, it will immediately inform the Independent Engineer, and the State or the Concessionaire may refer the matter to the Technical Disputes Resolution

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Panel, within seven (7) days of receipt of the Independent Engineer's decision. The Technical Disputes Resolution Panel will issue a decision within fourteen (14) days from the date on which the dispute was referred to it.

18.12.6

- (a) If the Independent Engineer decides that the relevant Works have been completed and are in compliance with the Specifications and Designs and, the HCAA and/or the Concessionaire have not submitted any objections thereto, or if any objection has been submitted by the HCAA and/or the Concessionaire and referred to the Technical Disputes Resolution Panel by the State or the Concessionaire, the Technical Disputes Resolution Panel decides that the relevant Works have been completed and are in compliance with the Specifications and Designs, the Independent Engineer will promptly issue the relevant Completion Certificate to the Concessionaire and deliver a certified copy to the HCAA and the State.
- (b) If the Independent Engineer or the Technical Disputes Resolution Panel decides that the relevant Works have not been completed or are not in compliance with the Specifications and/or the Designs then, the Independent Engineer will instruct the Concessionaire to complete the remaining or remedial works in question. On completion of the remaining or remedial works, the provisions of this Article 18 (*Works*) shall apply.

18.12.7 *Substantial Completion Matters*

The Independent Engineer shall, within ten (10) days after any inspection made pursuant to Article 18.12.2 (*Pre-Substantial Completion Inspections*) notify and provide details to the Concessionaire, the HCAA, and the State of any outstanding matters which require to be attended to before the relevant Supervised Works will be considered Substantially Complete. The Concessionaire shall attend to such matters as soon as reasonably practicable. When the outstanding matters have been addressed the Concessionaire shall notify the Independent Engineer and a further inspection by the Independent Engineer shall be arranged to determine whether the relevant Works are Substantially Complete. If the outstanding matters have not been addressed this procedure shall be repeated until the relevant Works are Substantially Complete.

18.12.8 *Substantial Completion Certificates*

- (a) The Independent Engineer when satisfied (acting reasonably) that the relevant Supervised Works are Substantially Complete shall issue a Substantial

Completion Certificate for such Works stating the date upon which, in the Independent Engineer's opinion, such Works became Substantially Complete;

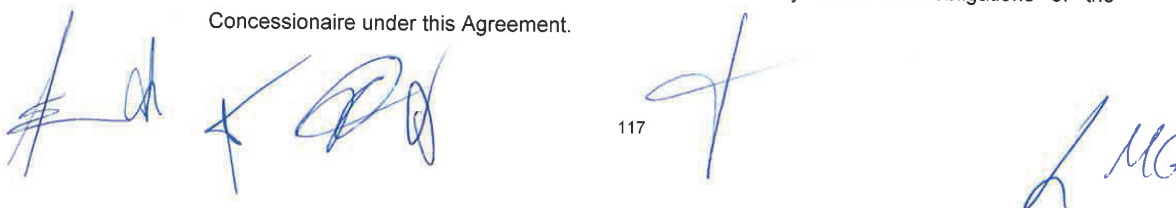
- (b) The Independent Engineer shall issue the Substantial Completion Certificate for the relevant Supervised Works, notwithstanding the fact that there are Snagging Matters. Where there are Snagging Matters, the Independent Engineer and the Concessionaire shall schedule such matters at the time of the inspection and the Independent Engineer and the Concessionaire shall sign the Substantial Completion Snagging Schedule as a record of the agreed Snagging Matters for such Works within seven (7) days after the date of the issuance of the relevant Substantial Completion Certificate;
- (c) Following the issue of the Substantial Completion Snagging Schedule pursuant to paragraph (b) above, the Concessionaire shall, in consultation with the Independent Engineer and in such manner as to cause as little disruption as reasonably practicable to the use of the relevant Regional Airport, attend to all Snagging Matters set out in the Substantial Completion Snagging Schedule as soon as reasonably practicable after the relevant Regional Airport is Substantially Complete; and
- (d) The Concessionaire shall in such manner as to cause as little disruption as reasonably practicable, rectify all Snagging Matters within one hundred and twenty (120) days after the issue of the Substantial Completion Certificate or as soon as reasonably practicable thereafter having regard to the nature of the Snagging Matters.

18.13 Final Completion Certificate

18.13.1 The Concessionaire shall give the Independent Engineer not less than twenty (20) days and not more than thirty (30) days' notice of the date on which the Concessionaire (acting reasonably) considers that the relevant Snagging Matters have been rectified. The Independent Engineer shall inspect the relevant Works no sooner than five (5) days before the date upon which the Concessionaire considers that such Snagging Matters have been rectified.

18.13.2 The Independent Engineer when satisfied (acting reasonably) that the relevant Works are complete shall issue a Final Completion Certificate in respect of the relevant Regional Airport stating the date upon which, in the Independent Engineer's opinion, such Works became complete.

18.14 The issue of a Completion Certificate shall in no way affect the obligations of the Concessionaire under this Agreement.



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19 State Works**19.1 General**

- 19.1.1 The State shall procure that all State Works are performed and completed and that the State Works Completion Certificate, the Temporary Acceptance Protocol and the Final Acceptance Protocol are issued with respect to the relevant State Works in each case in accordance with the standards and specifications included in the relevant State Works Contract and the relevant State Works legislation.
- 19.1.2 At any time during the construction of the State Works, the State and its contractors shall, subject to reasonable notice, give access to the site of the State Works to the Independent Engineer and the Concessionaire for the purpose of inspecting such works. In addition, the State shall update the Concessionaire on the development of the State Works whenever there is an incident causing a delay in the handover of the State Works by the State.
- 19.1.3 The State undertakes to handover the State Works to the Concessionaire within the relevant time periods set out in Appendix 11 (*State Works Contracts*). Failure to handover the State Works within the relevant time periods shall be a State Responsible Event and an Event of Delay.

19.2 Handover of State Works

- 19.2.1 The handover of the State Works shall be conducted as follows:
- (a) The State shall notify the Independent Engineer and the Concessionaire that a State Works Completion Certificate has been issued in respect of the relevant State Works, inviting the Independent Engineer and the Concessionaire to inspect the relevant State Works to determine whether such works are Ready for Handover;
 - (b) Following such notification the Independent Engineer, the Concessionaire and the State will inspect, in the presence of the State's contractor (if the contractor so requires), the relevant State Works for which the State Works Completion Certificate has been issued. The Concessionaire and the Independent Engineer may request all qualitative and quantitative data for the respective State Works, that is or should be available to the State at such time in accordance with the State Works Contract;
 - (c) The Independent Engineer shall, within ten (10) days of an inspection made pursuant to paragraph (b) above notify the Concessionaire and the State that:

- (i) such State Works are Ready for Handover in which case the State shall deliver, and the Concessionaire shall accept, the relevant State Works; or
 - (ii) there are outstanding matters, substantial in scope and importance, which the Independent Engineer determines to be necessary before the relevant State Works will be determined to be Ready for Handover;
- (d) Either the State or the Concessionaire may dispute a determination of the Independent Engineer made in accordance with paragraph (c) above by referring the matter to the Technical Disputes Resolution Panel within fifteen (15) days following the notification of such determination. The determination of the Independent Engineer will be binding on the Parties if the matter is not referred within the applicable time period and, in any event, until the Technical Disputes Resolution Panel decides otherwise; and
- (e) If the Independent Engineer determines that the State Works are not Ready for Handover and such determination is not referred to the Technical Disputes Resolution Panel, or the Technical Disputes Resolution Panel confirms that the State Works are not Ready for Handover, the State shall procure that all works that are necessary in order for the relevant State Works to be Ready for Handover are undertaken and completed. On completion of such works the process set out in paragraphs (a) to (d) above shall be repeated.

19.3 Snagging Matters

- 19.3.1 The State shall notify the Independent Engineer and the Concessionaire that a Temporary Acceptance Protocol has been issued in respect of the relevant State Works as soon as the same becomes available and in any event not more than seven (7) months after the issuance of a State Works Completion Certificate. A notification pursuant to this Article 19.3.1 shall include a copy of the Temporary Acceptance Protocol, the State Works log and the State Works Snagging Matters list and shall invite the Independent Engineer and the Concessionaire to inspect the relevant State Works for the purpose of ascertaining its completion.
- 19.3.2 Following such notification the Independent Engineer, the Concessionaire and the State will inspect, in the presence of the State's contractor (if the contractor so requires), the relevant State Works for which the Temporary Acceptance Protocol has been issued. The Concessionaire and the Independent Engineer may request all qualitative and quantitative data for the respective State Works, that is or should be available to the State at such time in accordance with the relevant State Works Contract.

19.3.3 The Independent Engineer shall, within ten (10) days of an inspection made pursuant to Article 19.3.2 above, notify the Concessionaire and the State:

- (a) if handover of the State Works has occurred in accordance with Article 19.2.1(c)(i) above, of his determination that the State Works are substantially complete in accordance with the relevant State Works Contract and describing any items that have been omitted from the State Works Snagging Matters list in order for the State Works to be completed in accordance with the State Works Contract (the **Additional State Works Snagging Matters**); or
- (b) if handover of the State Works has not occurred;
 - (i) of any matters to be addressed in accordance with Article 19.2.1(c)(ii) above, in which case the provisions of Article 19.2 (*Handover of State Works*) shall apply; and
 - (ii) of any Additional State Works Snagging Matters.

19.3.4 Either the State or the Concessionaire may dispute the above mentioned determination of the Independent Engineer as regards Additional State Works Snagging Matters by referring the matter to the Technical Disputes Resolution Panel within fifteen (15) days following the notification of such determination. The determination of the Independent Engineer will be binding on the Parties if the matter is not referred within the applicable time period and in any event, until the Technical Disputes Resolution Panel decides otherwise.

19.3.5

- (a) Notwithstanding any recourse to the Technical Disputes Resolution Panel, the State shall have six (6) months to rectify the Additional State Works Snagging Matters. In addition, the State shall procure that any State Works Snagging Matters specified in the Temporary Acceptance Protocol are rectified within six (6) months from the date of the Temporary Acceptance Protocol and in this respect relevant provisions will be included in such Temporary Acceptance Protocol; and
- (b) If handover of the State Works to the Concessionaire has occurred, the Concessionaire shall, subject to reasonable notice and in any case before the expiry of the time periods specified in paragraph (a) above or such longer period as maybe agreed, between the Concessionaire and the State, give access to the site of the State Works to the State and its contractor for the

purpose of rectifying any State Works Snagging Matters and/or any Additional State Works Snagging Matters.

19.3.6 If the State fails to rectify:

- (a) the State Works Snagging Matters;
- (b) any of the Additional State Works Snagging Matters which are not disputed by the State; or
- (c) any relevant matters determined by the Technical Disputes Resolution Panel, as being for the account of the State;

within, in each case, the applicable time period, the Concessionaire may undertake the rectification of the relevant State Works in accordance with Article 4.3.3 and in such circumstances the consent of the State shall be deemed to have been given.

19.3.7 The State shall notify the Independent Engineer when all State Works Snagging Matters identified in the Temporary Acceptance Protocol and/or Additional State Works Snagging Matters have been attended to and a further inspection by the Independent Engineer shall be arranged. If the Independent Engineer determines that not all matters have been rectified, the State shall procure that such matters are promptly attended to or, if more than six (6) months have elapsed since the date of issue of the Temporary Acceptance Protocol or, in the case of Additional State Works Snagging Matters, six (6) months have elapsed from the relevant Independent Engineer determination or the period indicated in the determination by the Technical Disputes Resolution Panel, then the Concessionaire may undertake the rectification of such State Works in accordance with Article 4.3.3 and in such circumstances the consent of the State shall be deemed to have been given.

19.3.8 The State shall be responsible for any latent defects (in accordance with applicable State Works legislation and the relevant State Works Contract) identified in the State Works on or prior to the issuance of the Final Acceptance Protocol. The Concessionaire shall notify the State and the Independent Engineer of any such latent defects.

19.3.9 The Independent Engineer shall, within fifteen (15) days of being notified of a latent defect by the Concessionaire, inspect the relevant State Works to determine whether there are any latent defects and shall, within ten (10) days of such inspection notify the Concessionaire and the State of his determination in this regard.

19.3.10 Either the State or the Concessionaire may dispute the above mentioned determination of the Independent Engineer by referring the matter to the Technical

Disputes Resolution Panel within fifteen (15) days following the notification of such determination. The determination of the Independent Engineer will be binding on the Parties if the matter is not referred within the applicable time period and in any event, until the Technical Disputes Resolution Panel decides otherwise.

19.3.11

- (a) Notwithstanding any recourse to the Technical Disputes Resolution Panel, the State shall have four (4) months to rectify latent defects; and
- (b) If handover of the State Works to the Concessionaire has occurred, the Concessionaire shall, subject to reasonable notice and only for four (4) months or such longer period as may be agreed between the Concessionaire and the State, give access to the site of the State Works to the State and its contractor for the purpose of rectifying any latent defects.

19.3.12 If the State fails to rectify the latent defects within four (4) months of the determination of the Independent Engineer or within the period indicated by the Technical Disputes Resolution Panel (as applicable), the Concessionaire may undertake the rectification of the relevant State Works in accordance with Article 4.3.3 and in such circumstances the consent of the State shall be deemed to have been given.

19.3.13 Any costs that may be incurred in respect of the State Works during the obligatory warranty period provided by the relevant State Works Contract and the applicable State Works legislation shall be for the account of the State to the extent that such costs are not attributable to the use of the State Works by the Concessionaire or any of its sub-contractors or any Airport Right Holder.

20 New or Expansion Works and Refurbishment Works

20.1 Master Plan

20.1.1 Within five (5) months of the Concession Commencement Date, the Concessionaire shall compile the Master Plan for each Regional Airport which plan shall set out all Imminent New or Expansion Works and Future New or Expansion Works and the relevant expropriations required to enable such Works to be undertaken. The Concessionaire shall update the Master Plan on the fifth anniversary of the Concession Commencement Date and every five (5) years thereafter to incorporate any increase in the capacity of the aprons and/or Passengers terminals that may be required at the Relevant Airport to satisfy the existing and forecasted air traffic numbers.

- 20.1.2 The Concessionaire shall submit all Master Plans together with, in the case of the Imminent Works, the Imminent Works Implementation Time Schedule to the Independent Engineer. If the Independent Engineer determines that the relevant Master Plan is fit for purpose it shall submit such plan to the HCAA for approval in accordance with Article 20.3 (*Review and Approval of Rectification Plans and Master Plans*).

20.2 Capacity Assessment

- 20.2.1 The Concessionaire shall ensure that there is sufficient capacity in respect of the civil aprons and Passengers terminals to accommodate with the Required Level of Service air traffic demand at all times and shall undertake New or Expansion Works so as to ensure that the Airport Services are provided in accordance with the Standards and Specifications, the Performance Standards, the Service Quality Standards and the capacity requirements each as set out in Appendix 6 (*Performance Measurement*).

- 20.2.2 An Initial Capacity Assessment shall be prepared as soon as possible after the Effective Date and in any case prior to the date falling three (3) months after the Concession Commencement Date and shall be in respect of the most recent Peak Period. Thereafter, Capacity Assessments shall be performed by the Capacity Assessment Provider at each Regional Airport as follows:

- (a) at any Regional Airport that is Capacity Critical, in the Peak Period in the subsequent Concession Year and, if an Expansion Trigger occurs as a result of such Capacity Assessment, in the Peak Period in the Concession Year falling five (5) years after the Imminent Works End Date of such Regional Airport and annually thereafter until a Capacity Assessment demonstrates that such Regional Airport has ceased to be Capacity Critical;
- (b) at any Regional Airport that is Potentially Capacity Critical, in the Peak Period in the Concession Year falling three (3) years after the previous Capacity Assessment and every three (3) years thereafter until a Capacity Assessment demonstrates that such Regional Airport has ceased to be Potentially Capacity Critical; and
- (c) thereafter, and in all other cases, five (5) years after the previous Capacity Assessment.

20.2.3

- (a) Deficiency Points in respect of any Regional Airport that is Capacity Critical shall accrue in accordance with Appendix 6 (*Performance Measurement*); and

- (b) Notwithstanding any other provision of this Agreement, if the Concessionaire incurs Deficiency Points as a result of having been determined to be Capacity Critical, the Concessionaire may request an additional Capacity Assessment in the Peak Period of the Concession Year following such determination and annually thereafter.

- 20.2.4 The results of each Capacity Assessment (other than the Initial Capacity Assessment) shall be submitted to the HCAA as part of the Annual Performance Report no later than 1 March in the calendar year following the most recent Peak Period.
- 20.2.5 Each Capacity Assessment shall indicate, based on an analysis of the data in accordance with the provisions of paragraph 3 (*Passenger Terminal and Apron Capacity Assessment*) of Appendix 6 (*Performance Measurement*), whether any Regional Airport is Capacity Critical.
- 20.2.6 If any Regional Airport is determined by the Initial Capacity Assessment to be Materially Capacity Critical, and the initial Master Plan submitted pursuant to Article 20.1.1 does not, in the reasonable opinion of the HCAA, address such under-capacity, the Concessionaire shall update its Master Plan to include such Imminent New or Expansion Works as may be required in the reasonable opinion of the HCAA for the construction and/or expansion to the civil aprons and/or Passengers terminals.
- 20.2.7 Subject to Article 20.2.6 if any Regional Airport is determined to be Capacity Critical, the Concessionaire shall prepare, and submit to the HCAA for its approval, a Rectification Plan which may include plans to rearrange and/or expand the existing facilities and/or to construct new facilities.
- 20.2.8 If any Regional Airport continues to be Apron Capacity Critical for two (2) consecutive years, an Expansion Trigger shall occur and the Concessionaire shall prepare an updated Master Plan for Future New or Expansion Works for the construction and expansion to the civil aprons and the creation of additional aircraft parking positions.
- 20.2.9 If any Regional Airport continues to be Terminal Capacity Critical for two (2) consecutive years, an Expansion Trigger shall occur and the Concessionaire shall prepare an updated Master Plan for Future New or Expansion Works for the construction of an expansion to the Passengers terminals or for the construction of a new Passengers terminals.
- 20.2.10 The Concessionaire shall submit an Annual Performance Report to the HCAA.

20.3 Review and Approval of Rectification Plans and Master Plans

20.3.1

- (a) The Independent Engineer will review any submitted Rectification Plan and/or Master Plans (together the **Plans**) and if satisfied that such Plans are fit for purpose in that the Plan provides airside, landside and Passengers terminals capacity required to service forecasted air traffic levels for at least the following ten (10) years shall, within twenty one (21) days of receipt submit the same to the HCAA for approval. The HCAA will, subject to this Article 20.3 (*Review and Approval of Rectification Plans and Master Plans*), review and approve the Master Plans and in the case of Imminent Works, the Imminent Works Implementation Time Schedule, within forty five (45) days from its submission. The relevant approval shall be notified to the State, the Independent Engineer and the Concessionaire.
- (b) In case the Concessionaire proves to the Independent Engineer that it is technically impossible to comply with Article 18.8 (*Term of Works*) of the Concession Agreement in respect with the Imminent New or Expansion Works without expropriating and, due to the non-availability of land, without implementing solutions that would be more onerous to the Concessionaires than those provided in the Standards and Specifications as per a determination of the Independent Engineer, then the requirements for the size and scope of the Imminent New or Expansion Works would be appropriately adjusted by the Independent Engineer and the Master Plan, the Imminent Works Implementation Time Schedule, as well as the Standards and Specifications and the Works Requirements will be accordingly amended so that the relevant works that cannot be implemented due to the reasons stated above are no longer included in the size and scope of the Imminent New or Expansion Works.
- 20.3.2 Within fourteen (14) days from the submission of the relevant Plans, the HCAA may notify the Independent Engineer and the Concessionaire with any comments or objections it may have.
- 20.3.3 If either the Independent Engineer or the Concessionaire dispute the comments and/or the objections of the HCAA, the State or the Concessionaire may within ten (10) days from receipt of such comments or objections refer the matter to the Technical Disputes Resolution Panel.
- 20.3.4 If the Independent Engineer determines that any Plans are not fit for purpose or if the Independent Engineer and the Concessionaire or the Technical Disputes Resolution Panel upholds the comments or objections of the HCAA, the Concessionaire shall resubmit the amended Plan for approval, in which case the above paragraphs shall apply *mutatis mutandis* for this new submission.



- 20.3.5 Once approved the relevant Plan will be referred to as the **Approved Master Plan** or the **Approved Rectification Plan** (as appropriate) and the Concessionaire shall promptly comply with the proposals set out in the Approved Master Plan or the Approved Rectification Plan (as appropriate) including any time periods for the completion of Works and in accordance with the terms of this Agreement.

20.4 Refurbishment Works - Facilities Condition Assessment

- 20.4.1 The Independent Engineer will, in accordance with the provisions of this Agreement and the Independent Engineer Agreement, be responsible for performing and preparing the First Facilities Condition Assessment as soon as possible and, in any event, within three (3) months of the Concession Commencement Date and thereafter an annual Facilities Condition Assessment, evaluating in each case all major facilities and systems as set out in paragraph 4.1 (*Future Works - Future Refurbishment Works*) of Appendix 12 (*Works*). The Independent Engineer shall submit copies of the First Facilities Condition Assessment and each subsequent Facilities Condition Assessment to the HCAA and to the Concessionaire together with a summary of the key issues identified therein within ten (10) days of its preparation.
- 20.4.2 The Concessionaire shall:
- (a) within three (3) months of receipt of the First Facilities Condition Assessment prepare and submit to the Independent Engineer for approval an Imminent Refurbishment Development Plan which plan shall be prepared in accordance with paragraph 4.1(d) (*Refurbishment Development Plan*) of Appendix 12 (*Works*) and shall describe in detail all Imminent Refurbishment Works which the Concessionaire shall undertake in order to ensure that the existing facilities operate with no or minor deficiencies and to address any shortfall in the performance of the facilities as identified in the First Facilities Condition Assessment; and
 - (b) within two (2) months of receipt of each other Facilities Condition Assessment if such Facilities Condition Assessment indicates that the facilities at any Regional Airport are in category fair or below as categorised in paragraph 4.1(c) (*Facilities Condition Assessment*) of Appendix 12 (*Works*) prepare and submit to the Independent Engineer for approval a revised Refurbishment Development Plan (the **Revised Refurbishment Development Plan**) which plan shall include all details as required pursuant to Appendix 12 (*Works*) and shall outline all near, intermediate and long-term Future Refurbishment Works which the Concessionaire shall undertake in order to address any shortfall in

the standards of the facilities as identified in the relevant Facilities Condition Assessment.

20.5 Review and Approval of Refurbishment Development Plan

- 20.5.1 The proposals set out in each Refurbishment Development Plan prepared in accordance with Article 20.4 (*Refurbishment Works – Facilities Condition Assessment*) shall be submitted to the Independent Engineer for approval.
- 20.5.2 Within twenty one (21) days from the date of submission of each Refurbishment Development Plan, the Independent Engineer shall notify the Concessionaire, the State and the HCAA of its decision on the approval or disapproval of the proposals.
- 20.5.3 Within fourteen (14) days from the notification of the above decision of the Independent Engineer, the HCAA and/or the Concessionaire may submit their comments to the Independent Engineer. In this case, the Independent Engineer shall within ten (10) days from the last notification either accept the comments or confirm its initial decision to the Concessionaire, the State and the HCAA.
- 20.5.4 The decision of the Independent Engineer is final and binding, unless it is reversed by the Technical Disputes Resolution Panel, following the challenge of this decision by either the State or by the Concessionaire within seven (7) days from the date of notification of the decision.
- 20.5.5 If the Independent Engineer does not approve the proposals and the HCAA or the Concessionaire have not submitted objections to this decision or if the Technical Disputes Resolution Panel finds that the proposals do not meet the conditions of approval, the Independent Engineer shall submit its observations in the form of a list of deficiencies to the Concessionaire, and notify the HCAA and the State thereof, and instruct the Concessionaire to amend the relevant Refurbishment Development Plan.
- 20.5.6 Following the amendment of the relevant Refurbishment Development Plan, the Concessionaire may re-submit the proposals for approval, in which case the provisions of this Article will apply again.
- 20.5.7 Once approved the relevant Refurbishment Development Plan will be referred to as the Approved Refurbishment Development Plan and the Concessionaire shall comply with the proposals set out in the Approved Refurbishment Development Plan including any time periods for the completion of Works and in accordance with the terms of this Agreement.



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20.6 Business Plans

- 20.6.1 On or before the Concession Commencement Date, the Concessionaire shall prepare and submit to the HCAA the Business Plan. The Business Plan shall include the Financial Model for the Concession Period.
- 20.6.2 The Concessionaire shall update the Business Plans every five (5) years in the case of Regional Airports which process less than one (1) million Passengers per annum and every three (3) years in the case of all other Regional Airports.

21 Independent Engineer**21.1 General**

- 21.1.1 The Concessionaire has agreed with the State and the Independent Engineer, who is independent and of international reputation, specializing in the design, design checking and supervision of similar projects, the template of the Independent Engineer's Agreement³ which will be executed prior to the Concession Commencement Date in accordance with Article 6.2.1(b)(xviii), the key terms of which are set out in this Article 21 (*Independent Engineer*).
- 21.1.2 All Supervised Works will be supervised by the Independent Engineer in accordance with the terms of this Agreement and the Independent Engineer's Agreement.
- 21.1.3 The State agrees and accepts pursuant to this Agreement that, as from the Concession Commencement Date, the Supervision of the Works and the monitoring of compliance with the Standards and Specifications and the Works Requirements shall be performed by the Independent Engineer, in accordance with the terms of this Agreement and the Independent Engineer's Agreement. If there is a conflict between any term of this Agreement and the terms of the Independent Engineer Agreement, the provisions of this Agreement will apply unless and to the extent that the Independent Engineer's Agreement includes additional duties and/or responsibilities of the Independent Engineer in which case such terms will prevail.
- 21.1.4 The Independent Engineer may not be replaced prior to the Imminent Works End Date without the prior approval of the State and thereafter the Independent Engineer may not be replaced and the terms of the Independent Engineer Agreement may not be amended, modified or varied (or waived in any material respect) without the prior written approval of the State, such consent not to be unreasonably withheld or delayed. It shall not be unreasonable of the State to withhold its consent whilst any

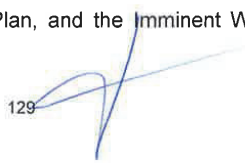
³ To be in full form but for the Independent Engineer's remuneration.

Works that the current Independent Engineer is supervising remain outstanding. The State may at all times during the Concession Period require the Concessionaire to replace the Independent Engineer for reasons of national security and the Concessionaire shall promptly terminate the Independent Engineer's Agreement pursuant to this Article.

- 21.1.5 If the State, acting reasonably, ascertains that the Independent Engineer no longer has the capacity, ability and/or knowledge to perform its obligations under this Agreement and the Independent Engineer's Agreement and/or has materially breached its contractual obligations and such breach is not remedied, following notice of such breach by the Concessionaire to the Independent Engineer, in accordance with the terms of the Independent Engineer's Agreement, it may request in writing that the Concessionaire shall (and the Concessionaire will) terminate the Independent Engineer's Agreement and replace the Independent Engineer.
- 21.1.6 The Concessionaire shall comply with the terms of the Independent Engineer's Agreement and if applicable the instructions of the Independent Engineer (provided that such instructions are given in accordance with the Independent Engineer's rights pursuant to the Independent Engineer's Agreement).
- 21.1.7 The Independent Engineer will owe a duty of care to, and will be responsible to, the State as well as the Concessionaire in accordance with the provisions of the Independent Engineer's Agreement.
- 21.1.8 The Independent Engineer's Agreement will provide step-in rights for the State in case this Agreement is terminated.

21.2 Supervision

- 21.2.1 The Independent Engineer will, in accordance with the provisions of this Agreement and the Independent Engineer's Agreement, be responsible for amongst other things the matters set out in this Article 21 (*Independent Engineer*).
- 21.2.2 The Independent Engineer shall:
- (a) supervise the Supervised Works in accordance with the provisions of this Agreement and the Independent Engineer's Agreement;
 - (b) review and confirm that each Master Plan and the Imminent Works Implementation Time Schedule are each fit for purpose or verify and approve the lack of the necessary Supplementary Land required for the Imminent New and Expansion Works for the purposes of Article 20.3.1(b) and adjust accordingly the Master Plan, and the Imminent Works Implementation Time



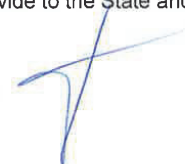
Schedules well as the Standards, the Specifications and the Works Requirements;

- (c) perform the Facilities Conditions Assessment in accordance with Appendix 12 (*Works*);
- (d) review and approve the Refurbishment Development Plans;
- (e) provide services in relation to State Works in accordance with Article 19 (*State Works*);
- (f) in relation to the Supervised Works perform the following duties (in all relevant cases considering the implications for quality, time and costs):
 - (i) any investigations it considers reasonably necessary;
 - (ii) check and approve all Designs in accordance with Article 18.3 (*Design Check*);
 - (iii) issue the Design Approval Certificates in accordance with Article 18.4 (*Design Approval Certificate*);
 - (iv) inspect the Works and ensure compliance of the construction work, materials, workmanship and the quality of the Works with this Agreement, the Standards and Specifications, the Works Requirements and the Designs (including any agreed amendment thereto);
 - (v) monitor the application of the Approved Environmental Terms and the compliance by the Concessionaire with the Environmental Requirements;
 - (vi) check that the progress of the Works complies with the construction works program and approve alterations by the Contractor to the detailed program and/or milestone program and/or to the arrangements and methods which the Contractor proposes to adopt for the execution of the Works; and
 - (vii) certify any additional archaeological test excavation. The Concessionaire will be compensated for any such excavation in accordance with Article 15.1;
- (g) give confirmations or make determinations in connection with a delay or suspension of the Supervised Works, or an application for an extension of time or increase in compensation in accordance with Article 30.1 (*Events of Delay - Works Period Compensations*);

- (h) check compatibility of the payment schedule in the Design-Construction Contract(s) with the funds available;
- (i) ensure that the Contractor establishes and maintains an effective quality assurance procedure for the Supervised Works and reports on its operation;
- (j) assist in all aspects of completion testing and taking over of the Supervised Works, including (without limitation) certifying whether the tests on completion and other required tests have been satisfied, issuing the Substantial Completion Certificate, assisting the Concessionaire in issuing the Substantial Completion Certificate and in taking-over the completed Works;
- (k) prepare a list of Snagging Matters existing at the date of issue of a Substantial Completion Certificate in accordance with Article 18.12.8 (*Substantial Completion Certificates*);
- (l) verify and approve applications for payment submitted by the Contractor within ten (10) days after acceptance of a copy of the Contractor's invoice;
- (m) advise on any variations and adjustments required under the Design-Construction Contract(s);
- (n) report on the progress of the Works and spending levels in comparison to the related cash flow forecasts to ensure completion of the Works within the time and the costs budgets established in accordance with the Design-Construction Contract(s);
- (o) keep full and proper records of all meetings and discussions conducted by the Independent Engineer;
- (p) prepare reports for presentation to the Concessionaire and the State (such reports to include details as to quality, time and costs of the Works);
- (q) attend and supervise the factory acceptance tests;
- (r) issue the Completion Certificates in accordance with the provisions of Article 18.12 (*Completion Certificate Issuance Procedure*); and
- (s) provide such additional services as may be agreed between the Parties.

21.2.3 The Independent Engineer shall verify the compliance with the Handback Requirements during the last years of the Concession Period.

21.2.4 The Independent Engineer shall provide to the State and to the Concessionaire:



- (a) at the end of each month during Design and construction of any Supervised Work, Progress Reports in connection with the Works in accordance with Article 27.3 (*Progress Reports*);
- (b) during the Concession Guarantee Period, reports as required and at the end of each year as part of the Facilities Condition Assessment; and
- (c) from time to time at the reasonable request of the State, the HCAA or the Concessionaire, specific reports in relation to the Works.

21.2.5 The Independent Engineer shall provide services and data as may be required in a dispute resolution from time to time in accordance with this Agreement.

21.3 Independent Engineer's Fees

21.3.1 Subject to Articles 30.1 (*Events of Delay - Works Period Compensations*) and 30.3 (*Event of Delay Make-up*) the Concessionaire will be responsible for the payment of the fees and other costs and expenses of the Independent Engineer, and the State shall have no responsibility for such fees, costs and expenses.

21.3.2 The supervision of any Works as a result of a Variation, shall be performed in accordance with the provisions of this Article 21 (*Independent Engineer*). The cost of any additional fee payable to the Independent Engineer for supervision of such Works (if applicable) shall be for the account of the State.

22 Concessionaire's Subcontractors

22.1 The Concessionaire shall, if so requested by the State from time to time, promptly provide details of all of its subcontractors. The State may at all times during the Concession Period require the Concessionaire to terminate any subcontract and/or replace any subcontractor for reasons of national security and the Concessionaire shall promptly terminate the relevant subcontract and/or replace the relevant subcontractor pursuant to this Article 22 (*Concessionaire's Subcontractors*).

22.2 The Concessionaire may not delegate the implementation of a material part of its contractual obligations for a value in excess of five million Euro (€5,000,000) per annum or an aggregate amount of ten million Euro (€10,000,000) to subcontractors, without the prior written consent of the State. The State's consent is not required for subcontractors:

- (a) that have been nominated in the Offer;

- (b) whose subcontracts were included as Completion Documents, provided that no material change in relation to the purpose of the subcontract is effected including a change to the ownership status of the Contractor;
- (c) that have been selected following a public tender; or
- (d) that are Affiliates of the Concessionaire.

22.3 If the Concessionaire wishes to delegate a material part of its contractual obligations to a subcontractor it shall provide the State with all the necessary particulars of the proposed subcontractor, such as experience, personnel who will be involved in such subcontract, and financial data, as well as the particular duties to be assigned to such subcontractor. The State shall reply to the application within thirty (30) days.

22.4 If the State does not reply within the above time period, its consent shall be deemed to have been given.

22.5 The Concessionaire remains liable and will not be relieved of any of its obligations, liabilities or responsibilities under this Agreement by reason of its obligations being carried out by any subcontractor.

22.6 Moreover, the Concessionaire will procure that the subcontractor agreement provides that:

22.6.1 All of the rights of the State and the Grantor under this Agreement are binding on the subcontractor and that the obligations of the Concessionaire constitute the subcontractor's obligations as well;

22.6.2 The subcontractor agreement does not give rise to any right against the State or the Grantor by any of the contracting parties therein;

22.6.3 The State has step-in rights;

22.6.4 If there is an early termination of this Agreement for any reason:

- (a) the State may, in its absolute discretion, continue with the implementation of the subcontractor agreement in respect of any part that has not yet been implemented by the subcontractor, by substituting itself for the Concessionaire, under the same or, following an agreement with the subcontractor, more favourable terms. If the State elects not to continue with the implementation of the subcontractor agreement, it shall not be responsible for nor liable to the subcontractor, nor have any financial or other obligation towards him;
- (b) the State is not responsible for or liable to, nor will it have any financial or other obligation arising from the implementation, by the subcontractor, of any part of

the subcontractor agreement, such responsibility and liability remaining with the Concessionaire; and

- (c) upon the State's request, the Concessionaire and the subcontractor shall provide the State with all information relating to the status of the subcontractor agreement.

22.7 The State shall not intervene in the arrangements between the Concessionaire and subcontractor unless:

22.7.1 any provision of this Agreement is materially breached by the subcontractor provided that the State has prior to such intervention given notification to the Concessionaire requesting that such breach be remedied within a reasonable time period and the subcontractor has failed to remedy such material breach within the relevant time period; or

22.7.2 pursuant to Article 23 (*State Intervention*).

A State intervention in accordance with Article 23 (*State Intervention*) can extend to a demand for immediate replacement of the subcontractor. The intervention or otherwise of the State does not release or reduce the responsibilities or liabilities of the Concessionaire that arise pursuant to this Agreement.

22.8 The Concessionaire shall submit to the State certified copies of all the contracts that it executes for the exploitation of the Concession Operations for a value in excess of five million Euro (€5,000,000) per annum or an aggregate amount of ten million Euro (€10,000,000) or for any other exploitation permitted pursuant to this Agreement within thirty (30) days of the execution of such contracts.

23 State Intervention

23.1 Obligations of the State

Except as otherwise contemplated in this Agreement and subject to Article 23.2 (*Permissible Intervention*) during the Concession Period, the State shall not and shall procure that no other Competent Authority or Government Authority will do anything which interferes with and/or interrupts the upgrade, finance, maintenance, management, operation and exploitation of the Concession Operations. Subject to Article 33.1 (*Concessionaire Events of Default*) any breach by the State of this Article 23.1 (*Obligations of the State*) will constitute an Event of Delay and/or a State Responsible Event.


23.2 Permissible Intervention

The State may intervene in or interrupt the design, upgrade, maintenance, management, operation and exploitation of the Concession Operations and the Concessionaire shall accept such intervention and/or interruption from the State:

23.2.1 immediately, in the event of an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, mobilisation owing to external danger or blockade, embargo, revolution, riot, insurrection, civil commotion, sabotage or terrorism or the threat of any of the same in each case within, involving or directly affecting the Hellenic Republic or of imminent threat to public order and/or State security or defence;

23.2.2 If:

- (a) the State (and in the case of paragraph (ii) below, the HCAA) having assessed all the relevant factors and conditions reasonably considers that:
 - (i) the Concessionaire is in breach of an obligation under this Agreement in such a manner as to create an immediate and serious risk to the safety of Passengers and/or Users; or
 - (ii) as a result of an act or omission by the Concessionaire (whether or not in breach of an obligation under this Agreement), material damage or disturbance has occurred (or there is a serious risk that it will occur) to the Environment or there is a serious and present danger to the safety of the Passengers, the Users, the staff working at the Regional Airports or third parties and, in the opinion of the State, the HCAA or the Competent Authority, the level of seriousness of such damage or disturbance justifies such State, the HCAA or Competent Authority intervention or interruption;
- (b) such breach or situation is capable of remedy or rectification by the Concessionaire and the State gives notice to the Concessionaire instructing it to remedy or rectify (if possible) such breach or situation within the time period specified in such notice (to be reasonably determined having regard to the seriousness of the situation) and/or to take steps to neutralise the danger or rectify the damage or disturbance; and
- (c) although such notice is given by the State, the Concessionaire fails to remedy or rectify such breach within the period specified in the notice.



- 23.2.3 If the Concessionaire abandons or substantially abandons the Works for a continuous period of more than three (3) months other than as a result of an Event of Delay or a State Responsible Event.
- 23.2.4 If the Concessionaire suspends the operations of any of the Regional Airports and/or the provision of Airport Services for more than two (2) consecutive days, other than as a result of an Event of Delay, a State Responsible Event, emergency work to be undertaken, scheduled maintenance (in accordance with the Maintenance Plan) or an Emergency Exercise.
- 23.2.5 To the extent permitted by and in accordance with the HAF Cooperation Framework.
- 23.2.6 While any Force Majeure Event is continuing but only if either:
- (a) the Concessionaire requests the intervention of the State; or
 - (b) any of the Regional Airports or a substantial part of any of them remains closed or cannot be used to a material degree for more than seventy two (72) consecutive hours.

23.3 Action by the State

- 23.3.1 Upon the occurrence of any of the events specified in Article 23.2 (*Permissible Intervention*), the State may place the Regional Airports or any of them or any affected part thereof under its direct control or management and (if relevant) may itself or through any third party take any necessary measure to remedy the conditions leading to such interruption or intervention.
- 23.3.2 No interruption or intervention will be made for a duration or greater extent than is necessary having regard to the circumstances giving rise to the requirement to interrupt or intervene.

23.4 Compensation for Costs and Expenses

If any interruption or intervention by the State:

- (i) is a result of an event specified in Articles 23.2.1 or 23.2.5, then the provisions of Article 25 (*Force Majeure*), shall apply, unless the intervention or interruption is in respect of a breach by the Concessionaire;
- (ii) is a result of a breach of contract committed by action of or omission by the Concessionaire (including an event specified in Articles 23.2.2, 23.2.3 and 23.2.4), the Concessionaire shall, within thirty (30) days from a written demand by the State

supported by particulars of the costs and expenses, reimburse the State for any costs and expenses incurred in connection with such intervention or interruption.

23.5 Dispute

If there is a dispute as to the reasons for interruption or intervention in accordance with this Article, the Concessionaire may refer the matter to the Technical Disputes Resolution Panel within seven (7) Business Days of the interruption or intervention by the State. If the Technical Disputes Resolution Panel finds in favour of the Concessionaire, and subject to the relevant conditions of Article 30.1 (*Events of Delay – Works Period Compensations*) being fulfilled, the State intervention will constitute a State Responsible Event. If the matter is not referred to the Technical Disputes Resolution Panel within this seven (7) Business Day period, the Concessionaire will be deemed to have accepted that the interruption or intervention was permitted and that it is not entitled to any such compensation. Notwithstanding any referral to the Technical Disputes Resolution Panel, the State will be entitled to exercise its rights until the Technical Disputes Resolution Panel renders its Findings.

24 Insurance

24.1 The Concessionaire will at its own expense maintain in force, from the Concession Commencement Date (or such later date that may be agreed between the State and the Concessionaire) until the expiry of this Agreement, any insurance that is mandatory under the relevant law as well as any insurance required under this Agreement, in accordance with Appendix 16 to this Agreement (*Minimum Insurance Requirements*).

24.2 Each of the insurances the Concessionaire is obliged to effect shall be effected substantially against the relevant risks and liabilities and maintained in at least the relevant amounts specified in Appendix 16 to this Agreement (*Minimum Insurance Requirements*). Further, it is agreed that limits of indemnity, whether as a sum insured or with reference to a required extension are minimum limits and are intended to represent the current estimate of the maximum foreseeable loss. The limits shall be periodically reviewed and, as appropriate, increased in line with the maximum foreseeable loss or maintained in line with such limits as would be insured against by an operator exercising that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced entity acting in good faith and carrying out the same type of activity under the same or equivalent circumstances and conditions and acting generally in accordance with applicable law.

24.3 The insurance cover, terms, conditions and exclusions are to be as set out in Appendix 16 (*Minimum Insurance Requirements*) and as customarily insured by reasonable and prudent airport operating companies.



- 24.4** The sums insured for each of the insurance policies are to be expressed in Euro using current exchange rates at the time that the insurance cover is placed.
- 24.5** Unless otherwise provided in this Agreement, the insurances do not relieve the Concessionaire from, or reduce in any way its obligations and responsibilities under this Agreement.
- 24.6** All insurance policies shall be concluded in writing and shall be subject to approval by the State, such approval not to be unreasonably withheld or delayed, in order to allow the State to check and confirm that such insurances adequately comply with the terms of this Agreement.
- 24.7** The Concessionaire shall ensure that the insurance provided for in this Agreement is placed through brokers or other insurance intermediaries and with acknowledged insurers or reinsurers that will be notified to the State and shall be subject to the State's approval, which will not be unreasonably withheld or delayed. The Concessionaire is obliged to provide any data or other information that the State may request regarding the insurers, the reinsurers or the intermediaries.
- 24.8** The Concessionaire will promptly provide any information that the State reasonably requests regarding the insurances and shall ensure that there will be no deterioration or limitations to the agreed insurance cover.
- 24.9** The Concessionaire must:
- 24.9.1 take into consideration and comply with all legal provisions relative to insurance;
 - 24.9.2 fully comply with all insurance duties under the law and the insurance policies;
 - 24.9.3 ensure that insurers have been provided and shall continue to be provided with all such information that is required in order to avoid any doubt regarding the validity of the insurance cover;
 - 24.9.4 avoid any action or omission that would or may jeopardise the validity of the insurance policies, in whole or in part; and
 - 24.9.5 comply with all agreed suggestions or terms of the insurers.
- 24.10** The insurance policies shall be submitted to the State promptly and in any case not later than thirty (30) days prior to the Concession Commencement Date (and thereafter prior to the renewal of the insurance cover) and shall be subject to the State's approval, which will not be unreasonably delayed or withheld. Upon such submission, the insurance contract may be in the form of a signed binding cover note, but in any case the full insurance policy must be submitted to the State for final approval within a reasonable time before its inception date.

- 24.11** On the Concession Commencement Date (and thereafter in any case not later than thirty (30) days prior to the renewal), the Concessionaire must procure and furnish to the Grantor a letter of undertaking, in the form of the specimen letter of undertaking contained in Part 3 of Appendix 16 (*Minimum Insurance Requirements*), addressed to the State and signed by an independent internationally recognised insurance broker appointed by the Concessionaire in connection with the procurement of the insurances specified in Part 1 of Appendix 16 (*Minimum Insurance Requirements*). The Concessionaire must similarly procure and furnish to the State such a letter of undertaking from each replacement broker who procures an insurance as such broker is appointed by the Concessionaire during the Concession Period.
- 24.12** If during the term of this Agreement there is a material change in the international insurance market regarding the insurance of the risks required to be insured by the Concessionaire under this Agreement, in such a way that either the cost of insurance becomes 'excessive' or the cover becomes 'unavailable', then the State is entitled either to pay the additional amount of premium, commissions or other amount so as to maintain the insurance cover in force if applicable or act as insurer of last resort and if neither of these options are exercised by the State then the Concessionaire shall be released from its obligation to insure such risk in whole or in part. If the State acts as insurer of last resort and the risk then occurs, it shall pay an amount equal to the insurance proceeds that would have been payable had the insurance been available or terminate this Agreement and pay compensation equivalent to the amount payable pursuant to Article 35 (*Compensation on Extensive Force Majeure*). If neither of these options are exercised by the State then the Concessionaire shall be released from its obligation to insure such risk in whole or in part.
- 24.13** For the purposes of the previous paragraph:
- 24.13.1 an insurance cover is deemed 'unavailable' if this is not provided by recognised insurers active within the European Union and rated by Standard & Poor's not lower than A- (or its equivalent under A.M Best), on terms (including indicatively the scope, limits, deductibles and exclusions) substantially similar to the terms maintained by the Concessionaire until such time and approved by the State or, if the cover is not yet in place, on terms substantially similar to the insurance terms required under this Agreement;
- 24.13.2 the cost of insurance is deemed 'excessive' if it is available from recognised insurers active within the European Union and rated by Standard & Poor not lower than A- (or its equivalent under A.M Best) at a premium which is at least double the Indexed price included in the Financial Model, as the same is updated, so that it represents the premium actually paid by the Concessionaire per risk. The cost comparison will be made on insurance cover or terms (including indicatively the scope, limits, deductibles

and exclusions) substantially similar to the terms maintained by the Concessionaire until that time and approved by the State.

24.14 If there is a disagreement as to whether cover is 'unavailable' and to what degree, as well as whether the cost of cover is 'excessive', the Parties shall appoint an independent international insurance broker with experience in the insurance of major concession projects, who will give an opinion on the matter on which the disagreement arose. The Party that wishes to engage to the insurance broker will notify the other Party of that intention, in order to agree together which company to engage and if there is no agreement, the insurance broker shall be appointed by the President of Lloyd's of London. The insurance broker company shall give an opinion as an independent expert and not as an arbitrator. The content of the experts' opinion shall be applied by the Parties until resolution of the issue in accordance with the procedure of Article 39 (*Dispute Resolution*), if any Party wishes to refer the matter to a Technical Disputes Resolution Procedure. The cost of the expert's opinion shall be borne equally by the State and the Concessionaire.

24.15 The Concessionaire shall confirm in writing to the State the renewal or extension (as the case may be) of the insurance policies, at least thirty (30) days before their expiry date, advise the State of any amendments to the expiring cover and submit for approval the renewal insurance policy or the extension endorsement respectively, as early as possible before, and in any case not later than thirty (30) days before, the inception date of the cover provided thereunder. The State shall not unreasonably withhold or delay its approval.

24.16 If the State has notified the Concessionaire of its intention to effect the insurance in question or pay the premiums in question in accordance with Article 24.12 and has granted to the Concessionaire a time period of fourteen (14) days to do the same:

24.16.1 and either the State finds at any time that any of the insurances provided for herein have not been effected or have ceased to be in force, in whole or in part, or have not been effected in compliance with the provisions of this Agreement, and proceeds to effect the respective insurance policies, as it is entitled to do, by paying the respective insurance premiums;

24.16.2 or for any reason the Concessionaire neglects to pay the insurance premiums due, and the State proceeds with paying the insurers on behalf of the Concessionaire as it is entitled to do, so that the insurance cover is not jeopardised;

then the Concessionaire shall pay to the State the amounts of such insurance premiums as well as any relevant, reasonable and justified expenses of the State, within thirty (30) days of the relevant notification. If the Concessionaire does not comply with its obligation under this Article 24.16, the Grantor may, subject to the State Direct Agreement (if any, in accordance with Article

37.1.8), collect such amounts by full or partial forfeiture of any of the Performance Bond(s) submitted by the Concessionaire.

24.17 Subject to Article 24.12, the Concessionaire may not undertake any activity regarding the implementation of the Concession, without such activity being covered by an insurance policy that has been approved by the State.

24.18 The Concessionaire shall notify the State of the occurrence of any insured damage of an amount exceeding or estimated to exceed two hundred thousand Euro (€200,000) and shall keep the State continuously updated on the developments of the case, until the relevant file is closed by the insurer.

24.19 Indemnity by the Concessionaire

24.19.1 The Concessionaire shall indemnify the Grantor and the State, the Competent Authority and their respective agents, servants and employees in full against all Losses deriving from or in connection with any act or omission of the Concessionaire or its agents, servants or employees in connection with this Agreement or breach thereof or breach of the Concessionaire's obligations under any State Service Level Agreement, or arising out of or resulting from the Works or the Concession Operations, or the presence on the Concession Sites of the Concessionaire or its agents, servants or employees including, inter alia, any such Losses suffered or incurred in respect of:

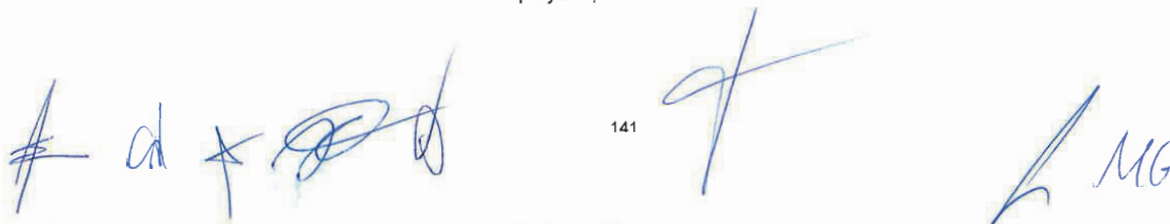
- (a) death or personal injury;
- (b) any loss of or damage to any immovable or movable property of the State or the Grantor, any Competent Authority and their respective agents, servants or employees; and
- (c) any breach of statutory duty.

The State will use its reasonable endeavours, so far as is practicable (but without unreasonable expenses or inconvenience), to minimise and/or mitigate against Losses in this Article 24.19.1.

24.19.2 The indemnity in Article 24.19.1 will not apply to:

- (a) any of the matters listed in Article 24.19.1 which arose as a consequence of the Concessionaire properly acting on the written instructions of the Grantor and/or the State or any Government Authority and their respective agents, servants and employees;

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- (b) any injury, loss, damage, cost and expense caused by the negligence or wilful misconduct of the State, the Grantor or any Government Authority and their respective agents, servants and employees or by a breach of this Agreement by the State or any Government Authority;
- (c) any matter which is the subject of a State Responsible Event or Force Majeure Event;
- (d) indirect losses except where such losses are covered by insurance;
- (e) risks or losses that are uninsurable to the extent of the amount of any claim in excess of two hundred thousand Euro (€200,000); or
- (f) if and to the extent that the State, the Grantor or the Government Authority has an alternative remedy under this Agreement.

24.19.3 The aggregate liability of the Concessionaire during the Concession Period in respect of environmental liability (other than adverse environmental impact, pollution or adverse health consequences caused directly by the acts, omissions or negligence of the Concessionaire) will not exceed ten million Euro (€10,000,000), except where any of the above circumstances are caused by fraud, wilful misconduct or breach of any applicable law by the Concessionaire, including this Agreement, unless such breach is as a result of a State Responsible Event.

24.20 State indemnity

- 24.20.1 The State will indemnify the Concessionaire or its agents, servants or employees for any loss suffered by the Concessionaire or its agents, servants or employees in relation to any claim by any third party relating to the Regional Airports arising out of circumstances that have arisen before the Effective Date other than where such circumstances are caused by the acts or omissions of the Concessionaire or its subcontractors.
- 24.20.2 The Concessionaire will use all reasonable endeavours, so far as is practicable (but without unreasonable expenses or inconvenience), to minimise and/or mitigate against such loss or damage.
- 24.20.3 The State shall indemnify the Concessionaire for any claims of the HCAA's employees directly resulting from the transfer of the operation of the Regional Airports to the Concessionaire under this Agreement, including without limitation accrued claims for salaries of employees and social security contributions and compensations for termination of employment, provided that such claims have been approved by a

final and unappealable court decision and that the Concessionaire has paid for these claims and provided evidence to the State of such court decision and payment.

24.20.4 The State shall indemnify the Concessionaire for any Loss it suffers as a result of the existence of any provision of the Hellenic Duty Free Contracts that is different from the ones represented by the State in Article 5.2.1(k) or any other provisions which adversely affect the Concession Operations.

25 Force Majeure

25.1 Occurrence of Force Majeure Events

25.1.1 If either the State or the Concessionaire claims to have been prevented from, or delayed in, performing any of its obligations under this Agreement by a Force Majeure Event, such Party will give notice (a **Force Majeure Notice**) to the other Party and if any Supervised Works are continuing to the Independent Engineer as well, as soon as reasonably practicable, but in any event no later than five (5) days after becoming aware of the occurrence of the Force Majeure Event. The Force Majeure Notice will specify the circumstances resulting in the Force Majeure Event, and the anticipated delay and effect (to the extent reasonably ascertainable) that such an event may have on the affected Party's obligations, the performance of which is delayed or prevented by the Force Majeure Event. The Concessionaire shall not incur any Deficiency Points or Performance Deductions in respect of those obligations under this Agreement the performance of which has been prevented by the Force Majeure Event.

25.1.2 If the recipient of the Force Majeure Notice disputes the occurrence or the effects of a Force Majeure Event, it shall give notice of such dispute (a **Dispute Notice**) to the other Party and to the Grantor and to the Independent Engineer within seven (7) days of receipt of the Force Majeure Notice, stating the grounds on which the occurrence and/or effects of the Force Majeure Event are disputed.

25.1.3 If neither the Force Majeure Notice nor the Dispute Notice has been withdrawn within seven (7) days from the date of receipt of the Dispute Notice, the State or the Concessionaire shall, within twenty one (21) days of the Force Majeure Notice, have the right to refer the dispute for resolution pursuant to Article 39 (*Dispute Resolution*).

25.1.4 If the Force Majeure Notice is not contested and as soon as reasonably possible thereafter, the Grantor, the State and the Concessionaire will meet to discuss the Force Majeure Event and its effects and, to the extent possible, to determine the most effective way of proceeding with the Works or the Airport Services using their best endeavours to minimise the adverse effects of the Force Majeure Event on the Concession Operations.

- 25.1.5 If it cannot be immediately determined whether the Force Majeure Event will become an Extensive Force Majeure Event (as defined in Article 25.4 (*Extensive Force Majeure Events*)), the Grantor, the State and the Concessionaire will take every reasonable step in order to continue with the Concession Operations, with the use of insurance compensations and any compensation due from the State.

25.2 Concessionaire Financial Responsibility

Subject to Article 25.4 (*Extensive Force Majeure Events*):

- (a) to the extent that the Concessionaire, in accordance with Article 24 (*Insurance*), has insured the Concession Operations against the consequences of a Force Majeure Event, then the Concessionaire will bear the financial consequences of such Force Majeure Event up to the amounts payable under the insurance contracts, taking into account any deductibles provided for therein. Additionally if the Force Majeure Event has an adverse effect on the ability of the Concessionaire to meet any of the agreed deadlines, the Concessionaire will be entitled to an extension of the affected time-limit, in accordance with Article 30.1.1(a); and
- (b) the Concessionaire shall bear the financial consequences of any Force Majeure Event, if the effect of such event on the Concession Operations was as a result of the failure of the Concessionaire to comply with the Specifications.

25.3 State Financial Responsibility

Subject to Article 25.4 (*Extensive Force Majeure Events*), all Force Majeure Events, other than those that are, pursuant to Article 25.2 (*Concessionaire Financial Responsibility*), borne by the Concessionaire (and only to the extent that they are borne by it), that:

- (a) have an adverse effect on the ability of the Concessionaire to meet any agreed deadlines for the Works, are considered as Events of Delay and the State will compensate the Concessionaire in accordance with Article 30.1 (*Events of Delay – Works Period Compensations*);
- (b) have an adverse effect on the ability of the Concessionaire to perform the Airport Services, are considered as State Responsible Events and the State will compensate the Concessionaire in accordance with Article 30.4 (*State Responsible Events – Concession Operations Compensation*).

25.4 Extensive Force Majeure Events

- 25.4.1 **Extensive Force Majeure Event** means a Force Majeure Event that occurs:

- (a) while Imminent Works are continuing and:
 - (i) subsists for longer than six (6) months in the case where the Concessionaire is insured against the consequences of such an event; or
 - (ii) subsists for longer than three (3) months in the case where the Concessionaire is not insured against the consequences of such an event; and
- (b) while the Airport Services are continuing and:
 - (i) subsists for more than six (6) months in the case where the Concessionaire is insured against the consequences of such an event; or
 - (ii) subsists for longer than three (3) months in the case where the Concessionaire is not insured against the consequences of such an event.

25.4.2 If an Extensive Force Majeure Event occurs, the State and the Concessionaire, shall within ten (10) days from the expiry of the corresponding period of the 3 or 6 months, set out in Article 25.4.1, meet in order to decide to what extent, depending on the effects of the Force Majeure Event at that point in time and their views regarding the foreseeable consequences, they can agree additional measures for dealing with the Force Majeure Event and the continuation of this Agreement. If the State and the Concessionaire fail to reach an agreement within thirty (30) days of the end of the relevant period or such longer period as they may agree between them the following shall apply:

- (a) an Extensive Force Majeure Event which has an adverse effect on the Concession Operations as a result of the failure of the Concessionaire to comply with its obligations under this Agreement (other than failure as a result of such Force Majeure Event) shall be treated as a Concessionaire Event of Default; and
- (b) an Extensive Force Majeure Event not falling within paragraph (a) above which has an adverse effect on the Concession Operations shall be treated as a State Event of Default.

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26 Concession Operation**26.1 Obligations of the Concessionaire in relation to the Concession Operations**

26.1.1 The Concessionaire shall throughout the Concession Period observe the minimum requirements of operation and maintenance included in this Agreement, including in accordance with the Specifications, the Maintenance Requirements, and Maintenance Plan and any other applicable Laws and the Aerodrome Manuals and take all appropriate measures in order to ensure:

- (a) the operation of (i) the Certified Regional Airports in compliance with the Certification Regulations and in accordance with the respective Aerodrome Certificate and its terms and conditions, and (ii) Non-Certified Regional Airports in accordance with the draft operating conditions agreed in accordance with Article 17.2.1;
- (b) the provision of safe, consistent and high standard of service for the Passengers and Users; and
- (c) the prompt and efficient response in the event of any incident or emergency.

26.1.2 The Concessionaire shall act in such a way throughout the Concession Period so that it ensures:

- (a) the safety of all persons at the Regional Airports or in the area of the Regional Airports, under normal circumstances (prevention) as well as in the case of an incident including the appointment of a Safety Manager in accordance with the Standards and Specifications;
- (b) the compliance of the operation and maintenance system with all safety regulations that are in force from time to time; and
- (c) the safety and durability of the Regional Airports at all times in accordance with the Standards and Specifications.

26.1.3 The Concessionaire shall if there is any emergency at any Regional Airport, including:

- (a) an accident or any other emergency situation, that requires an immediate reaction;
- (b) the detection of imminent danger of an accident or a terrorist act;
- (c) dangerous deformations of the airfield pavements at the Regional Airports; or

- (d) any situation that jeopardises the safety of the Passengers, Users or the staff of the Regional Airports;

take all necessary measures and provide any assistance to the Competent Authorities in the performance of their duties, even if this has an adverse effect on Airport Charges, so that safe conditions are ensured for the Passengers and Users, the Regional Airports and third parties.

26.1.4 The Concessionaire will compile an explanatory report within a reasonable period on the occurrence of any material incident or accident occurring in the Regional Airports. This report shall within one month of its compilation and in any event not more than forty five (45) days from the date of the incident be sent to the State, the HCAA, the Safety Manager and the Emergency Services. If an official investigation report has been drawn up analysing the circumstances of the incident or accident or the conclusions that can be drawn from it, the Concessionaire shall within one month from the date that it receives such report forward this report to the State, the Safety Manager and the Emergency Services.

26.1.5 The Concessionaire shall on or prior to the Concession Commencement Date appoint a Safety Manager. The Safety Manager's duties shall include the duties listed in EU Regulation 216/2008 and its Implementing Rules and the EU Regulation 139/2014 and its Annexes I to IV and shall also include inter alia the following:

- (a) supervision of all the measures for the protection of the Passengers and Users and Regional Airport personnel;
- (b) the development of emergency services and action plans;
- (c) development, application and evaluation of emergency measures;
- (d) participation in determining action plans and of the application of any new specifications to the infrastructure installations;
- (e) training of the operational personnel; and
- (f) supervision of the maintenance and repairs of the installations and equipment at the Regional Airports.

26.1.6 The Safety Manager may be an employee of the Concessionaire but shall be independent in all issues relating to the Regional Airport's safety.

26.1.7 The State, the HCAA or any person authorised by the State, of whom the Concessionaire has advance notice, has the right to perform regular inspections in

order to ensure that the Regional Airports comply with the requirements of this Agreement. The interval between two successive inspections shall not be longer than three (3) years. An Emergency Exercise may be performed at each inspection on the instructions of the Concessionaire or the State.

- 26.1.8 The Concessionaire acting through the Safety Manager shall, at regular intervals that shall be set out in the Aerodrome Manual, perform Emergency Exercises in the Regional Airports. The Emergency Exercises shall be performed with the participation of the Emergency Services and the relevant Concessionaire's personnel and must, to the extent possible, be performed at such time so as to minimise the inconvenience to the Passengers and Users at the relevant Regional Airport. For the purpose of performing the above Emergency Exercises, the Concessionaire may interrupt the Concession Operations for the time period that is set out in the Aerodrome Manual.

26.2 Availability of the Concession Operations

- 26.2.1 The Concessionaire will at all times comply with the Aerodrome Manual, the Maintenance Plan and the Standards and Specifications. It shall maintain, keep in good operational condition and renew, replace and upgrade to the extent reasonably necessary, the Regional Airports, their buildings, equipment, systems and facilities, the Movable Property and any part of such that is susceptible to deterioration.
- 26.2.2 If any scheduled maintenance, repair or other works necessitates interrupting or suspending the use of all or part of the Regional Airports, or the closure of any of them, for any period of time, the Concessionaire will give the HCAA, the State, the Grantor and Users (if applicable) prior notice. The Imminent New or Expansion Works that are set out in the Master Plan are deemed to be scheduled and notice is hereby deemed to be given. If any works result from extraordinary incidents, the Concessionaire will give notice to the HCAA, the State, the Grantor and Users (if applicable) as quickly as possible and provide as far as possible an accurate indication regarding the extent and duration of such works.
- 26.2.3 To the extent not undertaken by the State in accordance with Article 4 (*Contractual Object - operation, exploitation and maintenance*), the Concessionaire shall maintain and keep in constant operation all aerodrome equipment and installations for safety and security that are necessary for the operation of the Regional Airports in order to comply with the safety and security standards as defined in the Aerodrome Manuals.
- 26.2.4 Subject to the provisions of the HAF Cooperation Framework and to the extent possible the Concessionaire will schedule closure of parts of the Regional Airports during such periods so as to cause minimum inconvenience to Passengers and Users and so that the part of the relevant Regional Airport that remains open has sufficient

capacity to service the expected volume of aircraft landing and taking off during such period. In particular:

- (a) Closure of runways or other similar restrictions of the carriageway for maintenance or for other purposes must be limited to the minimum and shall, if during Operating Hours and for a period of more than ten (10) hours, be effected only with the prior approval of the HCAA, such approval not to be unreasonably withheld or delayed and which approval shall be deemed granted if the HCAA fails to respond within five (5) days from the submission of the relevant request. The Concessionaire shall use all reasonable endeavours to obtain approvals required pursuant to this Article within the applicable time period. Such approval is not required in the case of emergencies, but the HCAA and the Users must be notified as soon as possible and in accordance with the Aerodrome Manual;
- (b) The Concessionaire shall co-operate with and provide assistance to police authorities and the HCAA for the control of air traffic and Passengers during emergencies and other incidents;
- (c) The Concessionaire shall develop in collaboration with and under the directive of the State, contingency plans dealing with emergencies at the Regional Airports or other emergencies requiring immediate reaction during the Concession Period, such as:
 - (i) the shut down of the Regional Airports or any part of any of them;
 - (ii) fire breakout in the Regional Airports; and/or
 - (iii) any other situation that the State reasonably considers should be dealt with for the safety of Passengers and Users and/or the Protection of the Environment.

26.2.5 The Concessionaire shall provide the State and the HCAA with such access as may be reasonably required so that the State and/or the HCAA may perform inspections on all material issues relating to the Regional Airport's operation and maintenance during the Concession Period, including monitoring and checking the Concessionaire's performance with respect to its obligations under this Article.

26.3 Maintenance Plan

26.3.1 The Concessionaire shall within three (3) months from the Concession Commencement Date prepare the Maintenance Plan.

26.3.2 The Concessionaire will annually update the Maintenance Plan on the basis of:

- (a) each Facilities Condition Assessment and its recommendations;
- (b) the previous years' record of all malfunctions, technical problems and repairs;
- (c) any New or Expansion Works scheduled for the subsequent year;
- (d) any Refurbishment Works scheduled for the subsequent year; and
- (e) the overall airport maintenance programme, in accordance with the applicable EASA requirements for aerodrome operations.

26.4 Responsibility during the Concession Guarantee Period

The Concessionaire guarantees that at the beginning of the Concession Guarantee Period the Regional Airports are in good condition and all facilities have a minimum residual life as set out in Appendix 15 (*Handback Requirements*). The Concessionaire will have an obligation to reinstate at its own cost any malfunction of the Regional Airports which derives from the condition of the Regional Airports at the beginning of the Concession Guarantee Period or will be charged with the reinstatement cost in connection therewith, in accordance with this Agreement and the Maintenance Requirements. The Concessionaire will be responsible for damages resulting from the structural components and its equipment as long as such components and equipment were not modified after the beginning of the Concession Guarantee Period. The Parties agree that the Concessionaire will in no event be responsible for any damages that were caused by Force Majeure Events, fair wear and tear or due to the fault or negligence of or any failure to properly maintain by the State (as required pursuant to the Handback Requirements).

27 Airport Services and Performance

27.1 General

The Concessionaire, the HCAA and/or the State (as appropriate) shall provide (or procure the provision of) the Airport Services to the standards imposed upon it by Article 27.2 (*Performance Standard and Deductions for Poor Performance*) and in accordance with the terms of this Agreement.

27.2 Performance Standards and Deductions for Poor Performance

27.2.1 The Concessionaire shall provide (or procure the provision of) the Airport Services to the standard of a Reasonable and Prudent Operator at all times during the Concession Period in accordance with the terms of this Agreement.

27.2.2 In addition to the obligation in Article 27.2.1, and subject to Article 27.2.3 the Concessionaire shall:

- (a) provide or procure the provision of the Designated Airport Services at each Regional Airport in accordance with the Performance Measurement and the Service Quality Standards, as provided for in the Service Quality Measurement, from the Performance Measurement Commencement Date up to and including the last day of the Concession Period; and
- (b) procure that all agents and subcontractors and its or their subcontractors and its or their employees and any other persons for whom it is responsible, comply with the provisions of this Article 27 (*Airport Services and Performance*) and Appendix 6 (*Performance Measurement*) in carrying out the Concession Operations.

27.2.3

- (a) Any Third Party Controlled Services provided pursuant to the Transferred Airport Contracts shall not be subject to the Performance Measurement and the Service Quality Standards in accordance with the Service Quality Measurement until such Airport Contracts are replaced or renewed, provided that the Concessionaire has complied with its obligations set out in paragraph (b) below;

- (b) The Concessionaire shall negotiate with the relevant Airport Contract Party and shall use all reasonable endeavours (taking into consideration standard market terms) to ensure that the relevant Transferred Airport Contract provides for the compliance by the relevant Airport Contract Party with the applicable Third Party Controlled Standards within nine (9) months of the Concession Commencement Date;
 - (c) If the Concessionaire, having used all reasonable endeavours in accordance with paragraph (b) above, is unable to agree with any Airport Right Holder the inclusion in any Transferred Airport Contract of the relevant provisions regarding compliance with the Third Party Controlled Standards it shall be relieved from compliance with the relevant Third Party Controlled Standard until the expiry of such Transferred Airport Contract (ignoring, for the purpose of determining the expiry, any renewal thereof) and no Performance Deductions will be incurred by the Concessionaire provided that the Concessionaire demonstrates to the State and the Grantor (to their satisfaction) that it is not possible in the market to satisfy the relevant Third Party Controlled Standards and to negotiate such terms into the relevant Transferred Airport Contract;
 - (d) Furthermore, no Performance Deductions will be incurred by the Concessionaire, provided that the Concessionaire demonstrates to the State (to the State's satisfaction) that it is not possible in the market to satisfy the relevant Third Party Controlled Standards through negotiating and enforcing such terms into the relevant contract with the relevant third party. If no Performance Deductions will be incurred by the Concessionaire further to this Article 27.2.3(d), then the first column of Table 11 of Appendix 6 (*Performance Measurement*) shall be modified in accordance with paragraph 5.3 of Appendix 6 (*Performance Measurement*);
 - (e) Any Duty Free Contract is excluded from the provisions of this Article 27.2 (*Performance Standards and Deductions for Poor Performance*).
- 27.2.4 The Concessionaire is responsible for monitoring its performance of this Agreement from the Concession Commencement Date for the duration of the Concession Period, in the manner and at the frequencies set out in Appendix 6 (*Performance Measurement*).
- 27.2.5 The Concessionaire must prior to the Imminent Works End Date of each Regional Airport provide to the HCAA for approval a description of the methodology to be

adopted for monitoring performance in accordance with the provisions set out in Appendix 6 (*Performance Measurement*).

27.2.6 The Concessionaire must provide the HCAA with any modification of such methodology which modification shall be in accordance with the provisions set out in Appendix 6 (*Performance Measurement*).

27.2.7 The Concessionaire must provide to the HCAA particulars of any aspects of its performance which fail to meet the requirements of this Agreement. The HCAA may at all reasonable times observe, inspect and satisfy itself or appoint an independent third party to observe, inspect and report to the HCAA as to the adequacy of the monitoring procedures (including without limitation carrying out sample checks) in accordance with Appendix 6 (*Performance Measurement*).

27.3 Progress Reports

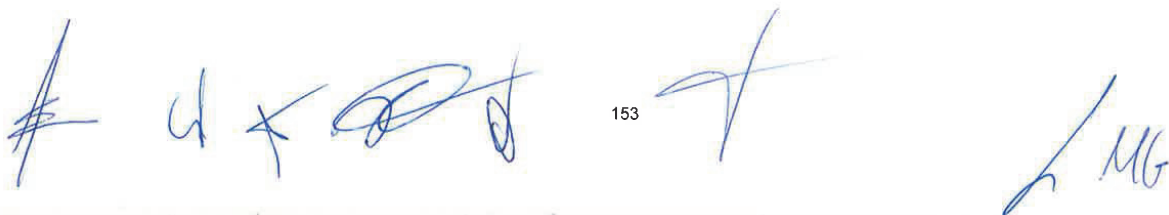
27.3.1 The Concessionaire shall compile and submit to the State and the HCAA Quarterly Progress Reports within thirty (30) days from the end of each Quarterly Period, such reports to commence from and including the first Quarterly Period ending after:

- (a) the Concession Commencement Date setting out such details relating to the Concession Operations as the State and the HCAA may reasonably require;
- (b) the Performance Measurement Commencement Date subject to Article 27.3.3 setting out, in such detail as the HCAA shall reasonably require, the results of the measurements of the Performance Standards and Service Quality Standards that the Concessionaire is obliged to comply with or procure compliance with in accordance with Article 27.2 (*Performance Standard and Deductions for Poor Performance*).

27.3.2 Any results set out in the Quarterly Progress Reports prepared pursuant to Article 27.3.1 shall be set out and calculated in accordance with the methodology which has been approved by the HCAA prior to the Performance Measurement Commencement Date in accordance with Appendix 6 (*Performance measurement*).

27.3.3 The Concessionaire shall only be obliged to demonstrate:

- (a) compliance with Performance Standards numbered 15 and 16 in the Annual Performance Report; and
- (b) compliance with the Third Party Controlled Standards from the date on which the Concessionaire is obliged to comply with Article 27.2.3 in respect of the



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provision of Airport Services to which such Transferred Airport Contract relates.

- 27.3.4 The Concessionaire shall compile and submit to the State and the HCAA no later than 1 March in the calendar year following the first Peak Period falling after the Concession Commencement Date and annually thereafter an Annual Performance Report. The Annual Performance Report shall set out in such detail as the HCAA acting reasonably shall require the results of the monitoring that the Concessionaire is obliged to perform or procure in accordance with Appendix 6 (*Performance Measurement*)
- 27.3.5 The Independent Engineer shall compile and submit to the State and the HCAA Monthly Progress Reports, within ten (10) days from the end of each calendar month and the obligation for submission of reports remains until the Concessionaire has completed all Imminent Works and during any period that any Supervised Works are continuing including any that are reported as pending in the relevant Substantial Completion Certificate.
- 27.3.6 The content of the Monthly Progress Reports and/or the Quarterly Progress Reports may be modified following an agreement between the State or the HCAA, the Concessionaire and the Independent Engineer.
- 27.3.7 The Independent Engineer shall submit such other reports as the State or the HCAA may reasonably request from time to time. A copy of such reports shall always be provided to the Concessionaire.

28 Airport Charges

28.1 General

No person (other than the Concessionaire, any Airport Right Holder granted a relevant Airport Right, a Government User or as otherwise provided in this Agreement) may levy any charge or fee in respect of the:

- 28.1.1 provision at the Regional Airports of any facilities and/or services which are included within Airport Services; and
- 28.1.2 movement of Passengers, cargo or air traffic within the Regional Airports or the Concession Sites.

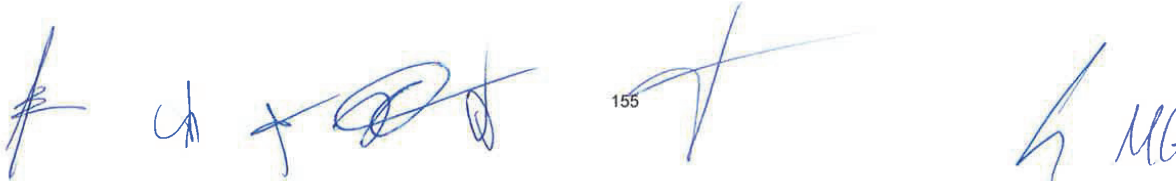
28.2 State Aircraft

Aircraft using any Regional Airport for non-commercial purposes and owned or used by or on behalf of the State, the military, the police, customs or any other agency of the State or any other state (which, for the avoidance of doubt, shall not include state owned or part-owned commercial aircraft operators), the North Atlantic Treaty Organisation, the United Nations, the Red Cross or the Red Crescent shall be exempt from Aeronautical Charges provided that, other than in the case of an emergency, such aircraft shall not unreasonably interfere with the normal revenue earning operations of the Concessionaire at the relevant Regional Airport.

28.3 Return on Capital

28.3.1 Subject to Article 28.4 (*Fixed Tariff Cap with Growth Index*), Aeronautical Charges for each financial period shall be set at such a level which the Concessionaire reasonably believes:

- (a) will cover:
 - (i) all Operational Expenditure during such period which are allocated to Air Activities in accordance with Article 28.3.2;
 - (ii) the proportion of all overheads (including general administration costs and payments of fees to the Grantor and the State) for such period allocated to Air Activities in accordance with Article 28.3.2;
 - (iii) depreciation in such period of all assets, which the Concessionaire treats in its accounts as depreciable (including for the avoidance of doubt the Upfront Concession Fee), allocated to Air Activities in accordance with Article 28.3.2, such depreciation being in respect of each relevant asset on a straight line basis over the projected life of the relevant asset as reasonably determined by the Concessionaire;
 - (iv) the interest paid during such period on the proportion of the Concessionaire indebtedness (excluding, for the avoidance of doubt, Subordinated Debt, but including all financing expenses such as payments under financial derivatives) allocated to Air Activities in accordance with Article 28.3.2;
 - (v) income taxes paid during such period allocated to Air Activities in accordance with Article 28.3.2;
 - (vi) the Concession Fee of the relevant financial period; and



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- (b) will provide a return on Air Activities Capital, such return not to exceed a compounded cumulative return of fifteen percent (15%) per annum provided that:
 - (i) if Aeronautical Charges received after deducting any Concession Fee pursuant to Article 29.1.2 paid in the relevant Concession Year and taking into account all Operational Expenditure and the payments under the Designated Loan Agreements (if any), result in the Shareholders making a return on Air Activities Capital which in three (3) out of four (4) consecutive Concession Years, exceeds such a compounded cumulative return, the Concessionaire shall be obliged to pay any excess over such compounded cumulative return to the Grantor within forty five (45) days of the end of the fourth (4th) Concession Year; and
 - (ii) if the Concessionaire is obliged to pay any such excess to the Grantor pursuant to Article 28.3.1(b)(i), it shall, within forty five (45) days of the end of each subsequent Concession Year at the end of which the compounded cumulative return on Air Activities Capital exceeds the compounded cumulative rate of fifteen percent (15%), pay the excess to the Grantor until such time as the compounded cumulative return at the end of a Concession Year is equal to or less than fifteen percent (15%), whereupon the provisions of Article 28.3.1 shall once again apply.





28.3.2 For the purposes of Article 28.3.1(b):

- (a) Operational Expenditure incurred in any financial period solely in respect of any Air Activities shall be allocated to Air Activities including any Levy payable, in each case, in the relevant period;
- (b) Operational Expenditure incurred in any financial period in respect of activities which include both Air Activities and other activities shall be allocated between the Air Activities and such other activities on a fair and equitable basis;
- (c) assets of the Concessionaire, including the full amount of the Upfront Concession Fee, which the Concessionaire treats in its accounts as depreciable which are employed solely in respect of any Air Activities (including, without limitation, all runways and taxiways) shall be allocated to Air Activities;
- (d) assets of the Concessionaire, which the Concessionaire treats in its accounts as depreciable which are employed in respect of any activities which include

both Air Activities and other activities shall be allocated between the Air Activities and such other activities as follows:

- (i) in relation to any building, the portion allocated to Air Activities shall be such percentage of the gross floor area of the building as is equal to the proportion, expressed as a percentage, which the floor area of that building on which Air Activities are carried on bears to the gross floor area of that building;
 - (ii) in relation to all such other assets, on a fair and equitable basis; and
- (e) such part of the interest paid by the Concessionaire during such period in respect of (a) any indebtedness (excluding Subordinated Debt) for borrowed money incurred in respect of the provision, acquisition, construction, maintenance, repair, renewal and operation of the assets allocated to Air Activities pursuant to Article 28.3.2(c) or (b) net indebtedness (excluding Subordinated Debt) incurred in funding the proportion of the Concessionaire's general overheads allocated to Air Activities pursuant to Article 28.3.2(f), shall be allocated to Air Activities provided that any interest paid on or as a result of the prepayment or acceleration of any indebtedness shall not be taken into account at the time of prepayment or acceleration to the extent that such interest exceeds the amount thereof which would have been payable but for such prepayment or acceleration but instead shall be carried forward and taken into account when, and to the extent that, interest would have been payable on such indebtedness but for such prepayment or acceleration;
- (f) such percentage of the Concessionaire's general overheads as is equal to the percentage borne by the Concessionaire's assets allocated to Air Activities pursuant to Article 28.3.2(c) to the Concessionaire's total assets (whether such assets are treated in the Concessionaire's accounts as depreciable or otherwise) shall be allocated to Air Activities;
- (g) income taxes paid by the Concessionaire during such period shall be allocated between Air Activities and other activities on a fair and equitable basis;
- (h) any dispute relating to any allocation pursuant to Article 28.3 shall be referred by either the Grantor, the HCAA or the Concessionaire to the Technical Disputes Resolution Panel, who shall make their decision on the basis of Article 28.3 and whose decision shall be final.

28.4 Fixed Tariff Cap with Growth Index

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28.4.1 No Regulated Aeronautical Charges may be fixed or levied by the Concessionaire at the Regional Airports unless they are in accordance with the provisions of this Article 28 (*Airport Charges*), Appendix 7 (*Airport Charges*), articles 107 to 109 of the Treaty on the Functioning of the European Union (the European State Aid rules) and applicable Laws. The Concessionaire shall be entitled to fix and levy different levels of Aeronautical Charges at each Regional Airport provided that the level of Aeronautical Charges at each Regional Airport fully complies with Article 28 (*Airport Charges*), Appendix 7 (*Airport Charges*), articles 107 to 109 of the Treaty on the Functioning of the European Union (the European State Aid rules) and applicable Laws, including ICAO principles and policies outlined in ICAO Documents 9562 and 9082. In addition the Concessionaire shall be free to define different categories of aircraft weight or different categories of Passenger tariffs as long as the total revenue from the Regulated Aeronautical Charges divided by the number of departing Passengers does not exceed the Maximum Average Yield per Departing Passenger as defined in this Article 28.4 (*Fixed Tariff Cap with Growth Index*).

28.4.2 *Maximum Average Yield per Departing Passenger resulting from all Regulated Aeronautical Charges at each Regional Airport as of Concession Commencement Date until the Imminent Works End Date at that Regional Airport*

- (a) Subject to Article 28.4.1, as of the Concession Commencement Date until the Imminent Works End Date at a Regional Airport, the Concessionaire shall fix or levy Regulated Aeronautical Charges at that Regional Airport in accordance with this Article 28.4.2 and Table B below until the Imminent Works End Date at that Regional Airport has occurred.

Table B – Maximum Average Yield per Departing Passenger as of Concession Commencement Date until the Imminent Works End Date at that Regional Airport (Charges in Euro) shall not exceed €13

Landing charge	
Aircraft up to 10 tons MTOW	Not regulated
Aircraft above 10 tons MTOW per ton	Regulated and taken into account in Maximum Average Yield per Departing Passenger calculation
Parking charge	
Aircraft up to 10 tons MTOW per ton	Not regulated
One to five hours after "on-blocks"	Regulated and taken into account in Maximum Average Yield per Departing Passenger calculation
More than five hours after "on-blocks"	Not regulated
Lighting charge	

Table B – Maximum Average Yield per Departing Passenger as of Concession Commencement Date until the Imminent Works End Date at that Regional Airport (Charges in Euro) shall not exceed €13

Aircraft up to 10 tons MTOW	Not regulated
Aircraft above 10 tons MTOW per aircraft movement	Regulated and taken into account in Maximum Average Yield per Departing Passenger calculation
Passenger charge	
Passenger charge per departing Passenger	Regulated and taken into account in Maximum Average Yield per Departing Passenger calculation
ADF per departing Passenger	Regulated and taken into account in Maximum Average Yield per Departing Passenger calculation

(b)

- (i) Following the Concession Commencement Date, on each 1 November thereafter (with the first one falling immediately after the first anniversary of the Concession Commencement Date, if the Concession Commencement Date falls on any month other than November or December, or 1 November falling immediately after the Concession Commencement Date, if the Concession Commencement Date falls on a month of November or December) until the Imminent Works End Date at that Regional Airport, the Concessionaire shall Index Maximum Average Yield per Departing Passenger in Table B above and the Indexation Date for the purpose of this Article 28.4.2(b)(i) shall be 1 January 2013. The Concessionaire shall submit the results of the above calculations to the HCAA for approval in accordance with Article 28.4.5(b) – (e).
- (ii) The HCAA shall, either on or prior to the Concession Commencement Date, provide approval of the Tariff Cap for the Maximum Average Yield per Departing Passenger in accordance with Article 28.4.2(a) including its Table B, which shall not exceed thirteen Euro (€13) as per clause 6.2.1(a)(viii). For the avoidance of doubt, the Tariff Cap for the Maximum Average Yield per Departing Passenger applicable for each Regional Airport as of the Concession Commencement Date pursuant to this Article 28.4.2(b)(ii) shall be valid for that Regional Airport up to 1 November thereafter (with the first one falling immediately after the first anniversary of the Concession Commencement Date, if the Concession Commencement Date falls on any month other than November or December, or 1 November falling immediately after the Concession Commencement Date,

if the Concession Commencement Date falls on a month of November or December).

28.4.3 *Maximum Average Yield per Departing Passenger as of the Imminent Works End Date at each Regional Airport until 1 November falling immediately after the completion of the Imminent Works at all Regional Airports*

- (a) Subject to Article 28.4.1, as of the Imminent Works End Date at a Regional Airport until 1 November falling immediately after the completion of the Imminent Works at a Regional Airport, the Concessionaire shall fix or levy Regulated Aeronautical Charges at that Regional Airport in accordance with this Article 28.4.3 and Table C below.

Table C – Maximum Average Yield per Departing Passenger as of the Imminent Works End Date at each Regional Airport until 1 November falling immediately after the completion of the Imminent Works at all Regional Airports (Charges in Euro) shall not exceed €18.50

Landing charge	
Aircraft up to 10 tons MTOW	Not regulated
Aircraft above 10 tons MTOW	Regulated and taken into account in Maximum Average Yield per Departing Passenger calculation
Parking charge	
Aircraft up to 10 tons MTOW per ton	Not regulated
One to five hours after "on-blocks"	Regulated and taken into account in Maximum Average Yield per Departing Passenger calculation
More than five hours after "on-blocks"	Not regulated
Lighting charge	
Aircraft up to 10 tons MTOW	Not regulated
Aircraft above 10 tons MTOW per aircraft movement	Regulated and taken into account in Maximum Average Yield per Departing Passenger calculation
Passenger charge	
Passenger charge per departing Passenger	Regulated and taken into account in Maximum Average Yield per Departing Passenger calculation
ADF per departing Passenger	Regulated and taken into account in Maximum Average Yield per Departing Passenger calculation

(b)

- (i) On the Imminent Works End Date at a Regional Airport, the Concessionaire shall Index the Maximum Average Yield per Departing Passenger in Table C above used at that Regional Airport and the Indexation Date for the purpose of this Article 28.4.3(b)(i) shall be 1 January 2013. The Concessionaire shall submit the results of the above calculations to the HCAA for approval in accordance with Article 28.4.5(b) – (e).
 - (ii) The Tariff Cap for the Maximum Average Yield per Departing Passenger for that Regional Airport calculated in accordance with Article 28.4.3(b)(i) above shall be effective immediately from the date on which the approval of the calculations of the Tariff Cap for the Maximum Average Yield per Departing Passenger is received by the Concessionaire in accordance with Article 28.4.5(b) – (e) until:
 - (A) 1 November falling immediately after the first anniversary of the Imminent Works End Date for that Regional Airport, if the Imminent Works End Date for that Regional Airport falls on any month other than November or December; or
 - (B) 1 November falling immediately after the Imminent Works End Date for that Regional Airport, if the Imminent Works End Date for that Regional Airport falls on a month of November or December.
 - (iii) For the avoidance of doubt, the Tariff Cap for Maximum Average Yield per Departing Passenger applicable at the time of submission by the Concessionaire to the HCAA of the Tariff Cap calculation results as per Article 28.4.3(b)(i) shall be valid at that Regional Airport up to the date on which the approval of the calculations of the Tariff Cap for the Maximum Average Yield per Departing Passenger is received by the Concessionaire in accordance with Article 28.4.5(b) – (e).
- (c)
- (i) On the 1 November falling immediately after the 1 November in Article 28.4.3(b)(ii)(A) or (B) above, as applicable, and on each anniversary thereof until 1 November falling immediately after the completion of the Imminent Works at all Regional Airports, the Concessionaire shall Index Maximum Average Yield per Departing Passenger in Table C above used at that Regional Airport and the Indexation Date for the purpose of this Article 28.4.3(c)(i) shall be 1 January 2013. The Concessionaire shall

submit the results of the above calculations to the HCAA for approval in accordance with Article 28.4.5(b) – (e).

- (ii) The Tariff Cap for each Maximum Average Yield per Departing Passenger for that Regional Airport calculated in accordance with Article 28.4.3(c)(i) above shall be effective immediately from the date on which the approval of the calculations of the Tariff Cap for each Maximum Average Yield per Departing Passenger is received by the Concessionaire in accordance with Article 28.4.5(b) – (e) until the subsequent 1 November.
- (iii) For the avoidance of doubt, the Tariff Cap for each Maximum Average Yield per Departing Passenger applicable at the time of submission by the Concessionaire to the HCAA of the Tariff Cap calculation results as per Article 28.4.3(c)(i) shall be valid at that Regional Airport up to the date on which the approval of the calculations of the Tariff Cap for each Maximum Average Yield per Departing Passenger is received by the Concessionaire in accordance with Article 28.4.5(b) – (e).

28.4.4 *Maximum Average Yield per Departing Passenger as of 1 November falling immediately after the completion of the Imminent Works at all Regional Airports until the expiry of the Concession Period*

- (a) Subject to Article 28.4.1, as of 1 November falling immediately after the completion of the Imminent Works at all Regional Airports until the expiry of the Concession Period, the Concessionaire shall fix or levy Regulated Aeronautical Charges at each Regional Airport in accordance with this Article 28.4.4 and Table D below.

Table D – Maximum Average Yield per Departing Passenger as of 1 November falling immediately after the completion of the Imminent Works at each and every Regional Airport until the expiry of the Concession Period (Charges in Euro) shall not exceed €18.50

Landing charge	
Aircraft up to 10 tons MTOW	Not regulated
Aircraft above 10 tons MTOW	Regulated and taken into account in Maximum Average Yield per Departing Passenger calculation
Parking charge	
Aircraft up to 10 tons MTOW per ton	Not regulated
One to five hours after "on-blocks"	Regulated and taken into account in Maximum Average Yield per Departing Passenger calculation
More than five hours after "on-blocks"	Not regulated

Table D – Maximum Average Yield per Departing Passenger as of 1 November falling immediately after the completion of the Imminent Works at each and every Regional Airport until the expiry of the Concession Period (Charges in Euro) shall not exceed €18.50

Lighting charge	
Aircraft up to 10 tons MTOW	Not regulated
Aircraft above 10 tons MTOW per aircraft movement	Regulated and taken into account in Maximum Average Yield per Departing Passenger calculation
Passenger charge	
Passenger charge per departing Passenger	Regulated and taken into account in Maximum Average Yield per Departing Passenger calculation
ADF per departing Passenger	Regulated and taken into account in Maximum Average Yield per Departing Passenger calculation

(b)

- (i) On 1 November falling immediately after the completion of the Imminent Works at all Regional Airports and on each anniversary thereof until the expiry of the Concession Period, the Concessionaire shall multiply the then current Tariff Cap for the Maximum Average Yield per Departing Passenger (which shall exclude any adjustments made to it pursuant to Article 28.4.4(b)(ii) and Article 28.4.5(a) below, if applicable) by the Indexation Efficiency Factor in order to calculate the relevant Tariff Cap for the Maximum Average Yield per Departing Passenger to be effective at all Regional Airports for the period from the date on which the approval of each calculation of the Tariff Cap for the Maximum Average Yield per Departing Passenger is received by the Concessionaire in accordance with Article 28.4.5(b) - (e) or following, as applicable, the process as set out in paragraph 1.6 (*Cap on Regulated Aeronautical Charges*) of Appendix 7 (*Airport Charges*), a determination pursuant to the Disputes Resolution Procedure, until the subsequent 1 November (**Tariff Cap Deactivation End Date**). The Concessionaire shall submit the results of the above calculations to the HCAA for approval in accordance with Article 28.4.5(b) - (e).
- (ii) After the Concessionaire has submitted the results of the calculations to the HCAA for approval in accordance with Article 28.4.4(b)(i) above, either the HCAA or the Concessionaire may enter into negotiations with each other in accordance with paragraph 1.6 (*Cap on Regulated Aeronautical Charges*) of Appendix 7 (*Airport Charges*) in order to adjust the calculation at all Regional Airports. The Concessionaire and the HCAA shall follow the process as set out

in paragraph 1.6 (*Cap on Regulated Aeronautical Charges*) of Appendix 7 (*Airport Charges*) in order to adjust the calculation of the Maximum Average Yield per Departing Passenger applicable at all Regional Airports.

- (iii) For the avoidance of doubt, the Tariff Cap for each Maximum Average Yield per Departing Passenger applicable for the Regional Airports at the time of submission by the Concessionaire to the HCAA of the Tariff Cap calculation results as per Article 28.4.4(b)(i) shall be valid for that Regional Airport up to the date on which the approval of the calculations of the Tariff Cap for each Maximum Average Yield per Departing Passenger is received by the Concessionaire in accordance with Article 28.4.5(b) – (e) or following, as applicable, the process as set out in paragraph 1.6 (*Cap on Regulated Aeronautical Charges*) of Appendix 7 (*Airport Charges*), a determination pursuant to the Disputes Resolution Procedure.

28.4.5 *Deactivation of Tariff Cap – Tariff Growth Index approval by the HCAA*

- (a) After all adjustments have been agreed between the Concessionaire and the HCAA in accordance with Article 28.4.4(b)(ii) above and paragraph 1.6 (*Cap on Regulated Aeronautical Charges*) of Appendix 7 (*Airport Charges*), the Concessionaire may request from the HCAA an exemption of the applicability of a Tariff Cap for the Maximum Average Yield per Departing Passenger at all Regional Airports, for the period from 1 November as determined in accordance with Article 28.4.4(b)(i) above until the relevant Tariff Cap Deactivation End Date, as long as and only to the extent that such Tariff Cap for the Maximum Average Yield per Departing Passenger at all Regional Airports, for the period from 1 November as determined in accordance with Article 28.4.4(b)(i) above until the relevant Tariff Cap Deactivation End Date, does not allow the Concessionaire to recover through Aeronautical Revenues over the Concession Period:
 - (A) all Operational Expenditure of the Concessionaire which are directly allocated to operating the landing, parking or taking-off of aircraft and the supply of fuel (excluding for the avoidance of doubt the sale of fuel); and the handling of Passengers (including in-flight catering), baggage, cargo or mail at all stages while on any Regional Airport premises (including the transfer of Passengers baggage, cargo or mail to and from aircraft) including, for the avoidance of any doubt, all reasonable marginal costs incurred by the Concessionaire in relation to any airline's activities at that Regional Airport, any corporate income tax and any other taxes in respect of Air Activities, interests and fees as well as repayments under

the Designated Loan Agreements (if any), and all capital expenditure for Works that relate to Air Activities (**Air Activities CAPEX**); and

- (B) a reasonable profit margin, calculated on the basis of cashflows remaining after the deduction from Aeronautical Revenues of the sum of the amounts of paragraph (A) above, to achieve a minimum targeted nominal IRR of 7.5% over the Concession Period.

With its request to the HCAA, the Concessionaire shall submit the results of the above calculations to the HCAA for approval in accordance with Article 28.4.5(b).

- (b) The Concessionaire shall submit the result of the calculations pursuant to Article 28.4 (*Fixed Tariff Cap with Growth Index*), other than for Article 28.4.4(b)(ii) for which a separate process is set out in paragraph 1.6 (*Cap on Regulated Aeronautical Charges*) of Appendix 7 (*Airport Charges*), to the HCAA for approval within ten (10) days of the calculations. The HCAA shall within twenty (20) days from the date of submission verify the correctness of the data used and the calculations made and whether, in each case, they conform to the provisions of Article 28.4 (*Fixed Tariff Cap with Growth Index*). In the absence of a decision from the HCAA within the aforementioned twenty (20) days, the calculation shall be deemed to be approved by the HCAA.
- (c) If the HCAA does not approve the calculations submitted pursuant to Article 28.4.5(b) above, then the Concessionaire may amend and resubmit such calculations in which case the HCAA shall have twenty (20) days in which to approve such revised calculations. In the absence of a decision from the HCAA within the aforementioned twenty (20) days, the calculation shall be deemed to be approved by the HCAA.
- (d) If the HCAA does not approve the calculations pursuant to (c) above, the Concessionaire shall implement the HCAA proposal as regards the applicable Tariff Cap but shall have the right to refer the matter for resolution in accordance with the Disputes Resolution Procedure.
- (e) Once approved by the HCAA, implemented in accordance with the HCAA proposal pursuant to paragraph (d) above, or determined pursuant to the Disputes Resolution Procedure, the Concessionaire may publish the revised Regulated Aeronautical Charges.
- (f) For each calendar year following the Concession Commencement Date the Concessionaire must prove to the HCAA that the Maximum Average Yield per



Departing Passenger is not exceeded. The relevant calculation must be submitted to the HCAA no later than end of February of the following year. In case the Maximum Average Yield per Departing Passenger is exceeded by more than 3% in any calendar year the Concessionaire has to pay the amount exceeding the Maximum Average Yield per Departing Passenger multiplied by the actual number of departing Passengers to the State. In addition, a penalty of 25% of the relevant amount shall be paid to the State. In case the Maximum Average Yield per Departing Passenger is exceeded by less or by exactly 3% in any calendar year, the Concessionaire shall count the amount exceeding the Maximum Average Yield per Departing Passenger multiplied by the actual number of departing Passengers in next year's Regulated Aeronautical Revenues calculation of the actual yield per departing Passenger.

- (g) Notwithstanding any other provision of this Article 28.4, the Concessionaire may levy a Security Charge at the Regional Airports in accordance with the provisions of Appendix 7 (*Airport Charges*).

28.5 The Concessionaire shall be free to set any Non-Aeronautical Charges and any Non-Regulated Aeronautical Charges. The State and the Grantor shall procure that no Government User, no Government Authority and no Competent Authority shall interfere with the Concessionaire's ability to set any Aeronautical Charges or Non-Aeronautical Charges as permitted by this Article 28 and Appendix 7 (*Airport Charges*) and in recognition that Article 28.1 (*General*) grants a degree of discretion to the Concessionaire and the Airports Rights Holders in relation to the setting of fees and charges relating to the Regional Airports. The State and the Grantor shall ensure that no Government User, no Government Authority and no Competent Authority will levy any charge or fee of any kind in relation to those activities and services for which the Concessionaire or an Airport Rights Holder is entitled to charge nor if this would be a duplication of a similar charge which the Concessionaire has set or may be entitled to set under this Article 28 or Appendix 7 (*Airport Charges*) (unless it has been expressly permitted to do so by the Concessionaire).

28.6 Subject at all times to complying with the provisions of this Article 28 (*Airport Charges*) and Appendix 7 (*Airport Charges*), articles 107 to 109 of the Treaty on the Functioning of the European Union (the European State Aid rules) and applicable Laws, the Concessionaire is to determine or permit all charges and fees (including Airport Charges) to be levied in respect of the facilities and services provided at the Regional Airports.

28.7 When fixing and/or levying Aeronautical Charges the Concessionaire must act in a manner which is consistent with the EU regulations and guidelines, and in accordance with article 15 of the Chicago Convention and the relevant ICAO's policies.

- 28.8** Subject to Article 28.6, in determining Airport Charges, the following principles are to be applied:
- 28.8.1 the aircraft operators which use the Regional Airports must ultimately bear their full and fair share of the cost of providing all the facilities and services which are included within Air Activities;
- 28.8.2 Airport Charges should not be imposed in such a way as to discourage the use of facilities and services required for aviation safety and security;
- 28.8.3 in general, aircraft operators, cargo operators and Passengers should not be charged for facilities and services they do not use or that are not required for the provision of the Airport Services; and
- 28.8.4 the Regulated Aeronautical Charges may never exceed the Maximum Average Yield per Departing Passenger calculated from time to time in accordance with Article 28 (*Airport Charges*), Appendix 7 (*Airport Charges*), articles 107 to 109 of the Treaty on the Functioning of the European Union (the European State Aid rules) and applicable Laws.
- 28.9** For each Concession Year ending after (a) the Concession Commencement Date and up to 1 November 2024, an amount corresponding to eight point five percent (8.5%) of the ADF received by the Concessionaire after such date in any Concession Year pursuant to Article 28.10 below and after (b) 1 November 2024, thirty five percent (35%) of the ADF received by the Concessionaire after such date in any Concession Year pursuant to Article 28.10 below shall be paid to the State as the Levy to fund in part (i) the HCAA in its role as airport regulator, (ii) the deficit incurred by the operation of the airports retained by the State and (iii) the PSO routes.
- 28.10** The Concessionaire shall be entitled to the full amount of the ADF that is levied on the departing Passengers. The amount of the ADF for each month shall be available to the Concessionaire immediately upon its collection and deposited to the special account kept with the Bank of Greece for each of the Regional Airports in accordance with the procedure provided under law 2065/1992 and relevant legislative acts. The State undertakes that the full amount of the ADF shall be available to the Concessionaire free and clear from any restriction or condition, deduction or withholding or set off or counterclaim or otherwise at all times during the Concession Period.
- 28.11** All Airport Charges are to be denominated in Euro.
- 28.12** The Concessionaire has the right to request the HCAA to detain any aircraft of any person or entity due to the non-payment of Aeronautical Charges and the State undertakes to issue necessary ministerial decisions to enable this. Furthermore, the Concessionaire has the right,

except in the case of emergency, not to accept the landing and takeoff of oversized aircrafts with actual aircraft classification number (ACN) higher than the published pavement classification number (PCN) of the airside pavements.

- 28.13** The Concessionaire (on behalf of itself or of any Airport Right Holder) must always obtain the prior written consent of the HCAA for any new Regulated Aeronautical Charge (which for the purpose of this Article 28.13 shall include any new Regulated Aeronautical Charge that is regulated by the HCAA on behalf of the State and which relates to the aeronautical activities of aircraft, airports or air navigation facilities even if such new Regulated Aeronautical Charge is not contained in Appendix 7 (*Airport Charges*)) to be levied at the Regional Airports.

29 Payments

29.1 Concession Fees

29.1.1 In consideration of the rights granted by the Grantor to the Concessionaire under this Agreement, the Concessionaire shall pay to the Grantor:

- (a) the Upfront Concession Fee on or before the Concession Commencement Date; and
- (b) the Concession Fee calculated pursuant to Article 29.1.2 and in accordance with the terms of this Agreement and payable in accordance with Article 29.2 (*Calculations and Payment*).

29.1.2 The Concession Fee for each Concession Year of the Concession Period is to be calculated by the Concessionaire as the sum of the following:

- (a) the Annual Concession Fee;
- (b) the Variable Concession Fee; and
- (c) plus or minus any Concession Fee Adjustments as appropriate in the circumstances,

as the same may be deferred in accordance with Article 45 (*Shock Events*).

29.2 Calculations and Payment

29.2.1 Within sixty (60) days of the end of the relevant Concession Year, the Concessionaire shall provide the Grantor and the State with details of the calculation of the relevant Concession Fee and the Levy countersigned by the Concessionaire's auditor and/or the data on EBITDA (in accordance with the provisions of Article 29.3 (*Obligation to Provide Data*)) (as applicable) and it shall deposit the Concession Fee to an account

notified to it by the Grantor and the Levy and any amounts payable pursuant to Article 4.2.1(j) to an account notified by the Grantor at least thirty (30) days prior to the end of the relevant Concession Year, subject to Article 29.2.2, three (3) months after the end of each Concession Year to which it relates.

- 29.2.2 If the Grantor or the State (as applicable) disagrees with the calculations of the Concessionaire with regard to the amount of the Concession Fee, the Levy and/or EBITDA, it shall notify the Concessionaire accordingly within fourteen (14) days from the submission of the calculation and/or data in accordance with Article 29.2.1, and state the amount that the Concessionaire is obliged to pay. If the Concessionaire disputes the Grantor's or the State's (as applicable) calculations, it shall pay the amount that it notified to the Grantor or the State (as applicable) within five (5) days from receipt of the above notification.
- 29.2.3 Any dispute with regard to the amount of the Concession Fee, the Levy or EBITDA, shall be referred within four (4) months from the end of the relevant Concession Year to the Arbitral Tribunal. If this time-limit lapses without any action, the Grantor's or the State's (as applicable) calculation will be deemed to be final and binding.
- 29.2.4 Subject to Article 25 (*Force Majeure*), if the Concessionaire fails to submit the calculation relating to the Concession Fee within the time-limits set out in Article 29.2.1, a Concessionaire Event of Default shall have occurred.
- 29.2.5 If within four (4) months from the end of each Concession Year the Concessionaire has not paid:
- (a) the Concession Fee, and the dispute over non-payment has not been referred to, and is not under consideration by, the Arbitral Tribunal in accordance with Article 29.2.3, the Grantor may collect such amount from the Operation Bond; and/or
 - (b) the Concession Fee, the Levy and/or any amounts payable pursuant to Article 4.2.1(j) such non-payment shall constitute a Concessionaire Event of Default.
- 29.2.6 Unless otherwise expressly stated in this Agreement, each Party is entitled, without prejudice to any other right or remedy, to receive interest on any payment not made when due in accordance with the terms of this Agreement such interest to be calculated from day to day at a rate per annum equal to the Reference Interest Rate from the day after the date on which payment was due up to and including the date of payment. Any payment which is deferred in accordance with Article 25 (*Force Majeure*) or Article 45 (*Shock Events*) shall not be due and payable and shall not bear interest during the period of such deferral.

29.2.7 Notwithstanding the provisions of Article 25 (*Force Majeure*) and subject to the provisions of this Article 29 (*Payments*), for the period during which the effects of a Force Majeure Event are subsisting, the Levy and the Concession Fee shall accrue and the Concessionaire shall be obliged under this Agreement to pay the Levy to the State and the Concession Fee to the Grantor in accordance with this Article 29 (*Payments*), provided that payment of the Levy and, if insufficient the Concession Fee by the Concessionaire pursuant to this Article 29.2 (*Calculations and Payment*) shall:

- (a) be paid after payment in full of (or deduction or satisfaction of) any Operational Expenditure, Capital Expenditure as set out in the latest Financial Model or Tax likely to be payable by the Concessionaire in the period during which the effects of a Force Majeure Event are subsisting;
- (b) be deferred to the extent necessary to ensure that the Concessionaire is able to meet all its financial obligations under the Designated Loan Agreements (if any) in the period during which the effects of a Force Majeure Event are subsisting; and
- (c) if there is any Dispute regarding whether the effects of a Force Majeure Event are subsisting or have ceased then the State or the Concessionaire shall refer the matter to the Technical Disputes Resolution Panel to determine as a question of fact whether the effects of the Force Majeure Event are subsisting or have ceased and if the effects of the Force Majeure Event are subsisting whether this would have a material effect on the Concessionaire's ability to meet any of its financial obligations under the Designated Loan Agreements (if any).

29.2.8 Any Levy and, if applicable Concession Fee payment that is deferred under this Agreement as a result of a Force Majeure Event shall be paid to the State and the Grantor as soon as is reasonably possible after the effects of a Force Majeure Event have ceased provided that payment of the deferred amount will not amount to the Concessionaire being in breach of its obligations under the Designated Loan Agreements (if any).

29.2.9 Unless otherwise expressly stated in this Agreement or agreed between the Parties, all payments to be made by the Parties (whether under an indemnity or otherwise), shall be made to the other Party within sixty (60) days after such payment becoming due and payable.

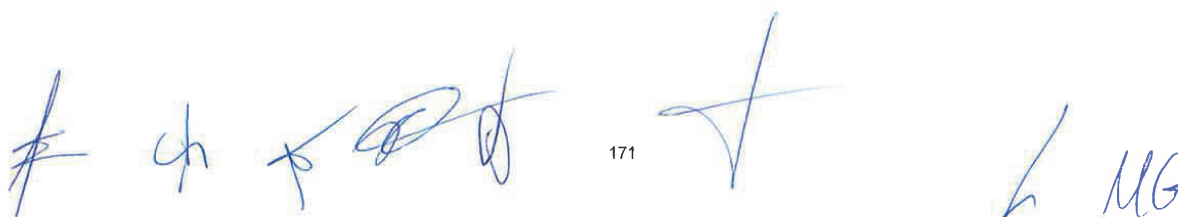
29.3 Obligation to Provide Data

29.3.1 The Concessionaire must provide to the Grantor and the State:

- (a) Within ninety (90) days from the end of each fiscal year (each fiscal year to be aligned to each Concession Year) of the Concessionaire:
 - (i) the annual financial statements thereof and a certificate of the dividend received or to be received by the Shareholders;
 - (ii) the auditor's report on the financial statements as well as the management report of the board of directors for the same fiscal year;
 - (iii) a certificate on the financial sources and use of funds, in the form used by the Concessionaire and which is consistent with the one included in the Updated Financial Model; and
 - (iv) an Updated Financial Model together with a written explanation of the main changes;
- (b) Within seven (7) days from the relevant request delivered by the Grantor or the State, the financial and other information to be provided to the Lenders pursuant to the Designated Loan Agreements (if any);
- (c) Within sixty (60) days from the end of every Concession Year, the following in respect of that Concession Year, as certified by the Concessionaire's auditor:
 - (i) Air Activities Capital related metrics and/or calculations;
 - (ii) Aeronautical Charges levied at each Regional Airport;
 - (iii) the total Revenues;
 - (iv) the total Aeronautical Revenues;
 - (v) the total Regulated Aeronautical Revenues; and
 - (vi) EBITDA.

29.4 Audit of the Financial Accounts of the Concessionaire

Save for its right to carry out tax controls at any time, the Grantor, the State or the HCAA may conduct at their own expense, using independent auditors an audit of the Concessionaire's accounts, provided that such audits shall be conducted no more than once in each twelve (12) month period, and after prior notice has been served on the Concessionaire.



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30 Compensations**30.1 Events of Delay - Works Period Compensations**

30.1.1 If an Event of Delay occurs and subject to the provisions of Article 30.4 (*State Responsible Events - Concession Operations Compensation*) and Article 33 (*State Termination - Consequences*), the State may grant:

- (a) an extension of the relevant deadline equal to the delay in respect of any of the Imminent Works;
- (b) compensation in respect of the Imminent Works for:
 - (i) any expenses or costs relating to the relevant works which are certified by the Independent Engineer to have been reasonably likely to have arisen as a direct consequence of such an Event of Delay and confirmation from the Independent Engineer that such expenses or cost would not have arisen had such an Event of Delay not occurred;
 - (ii) any additional expenses relating to the financing of the items referred to in (i) above, which are certified by the Concessionaire's auditor to have been reasonably likely to have arisen as a direct consequence of such an Event of Delay and confirmation from the Independent Engineer that such expenses would not have arisen had such an Event of Delay not occurred; and/or
 - (iii) any loss or liability that the Concessionaire incurs as a result of an Event of Delay which is a State Responsible Event in accordance with Article 30.4 (*State Responsible Events - Concession Operations Compensation*), including the incurrence of any Performance Deductions incurred solely as a result of such Event of Delay (all the aforementioned without double-counting);

Any compensation due to the Concessionaire pursuant to this Article 30.1.1 shall be paid within sixty (60) days from the receipt by the State of the Concessionaire's written request certified by the Independent Engineer and/or auditor as appropriate together with all documents evidencing the expenses or costs claimed.

30.1.2 If any Event of Delay cumulatively affects one or more deadlines of the Imminent Works in accordance with this Article 30.1 (*Events of Delay - Works Period Compensations*), the State shall pay compensation in respect of each deadline calculated in accordance with Article 30.1.1.

30.1.3 If any Event of Delay affects the deadlines of any Future Works, then no Performance Deductions shall accrue for the duration of the delay as verified by an Independent Engineer in accordance with this Article 30.1 (*Events of Delay - Works Period Compensations*).

30.1.4 If an Event of Delay occurs, the Concessionaire shall provide written details to the State, the HCAA and the Independent Engineer, such details to include:

- (a) the events that constitute the Event of Delay such detail to be provided as soon as reasonably practicable after the Event of Delay;
- (b) the duration of the delay to the relevant deadline;
- (c) the compensation calculated in accordance with this Article; and
- (d) any proposed Event of Delay Make-up and the relevant cost to the Concessionaire for the acceleration of the affected works (the **Acceleration Cost**), in accordance with the provisions of Article 30.3 (*Event of Delay Make-up*).

30.1.5 If within fourteen (14) days from the submission of the documents under Article 30.1.4:

- (a) the duration of the delay and the requested deadline extension are not agreed between the State and the Concessionaire; or
- (b) the State disputes in writing, with a copy to the Independent Engineer, that the delay is due to an Event of Delay or that the relevant completion date is affected;

then these issues shall be determined by the Independent Engineer as soon as possible and in any event no later than fourteen (14) days after the expiry of the above period of fourteen (14) days.

30.1.6 If either the State or the Concessionaire disputes a determination by the Independent Engineer in accordance with Article 30.1.5, they may, within seven (7) days from the receipt of his determination, refer the issue to the Technical Disputes Resolution Panel. The determination of the Independent Engineer shall apply (if applicable) until the resolution of the dispute by the Technical Disputes Resolution Panel.

30.2 Obligation for Mitigation

The Concessionaire must mitigate in every appropriate way the consequences arising from any Events of Delay, if and to the extent possible.

30.3 Event of Delay Make-up

30.3.1 If an Event of Delay occurs, the State may agree, as an alternative to granting the requested extension or part thereof:

- (a) either to accept any proposed measures of Event of Delay Make-up submitted by the Concessionaire, with the proposed Acceleration Cost;
- (b) or, if the Concessionaire has not proposed such measures, to ask the Concessionaire to propose measures for an Event of Delay Make-up together with an Acceleration Cost.

30.3.2 The Acceleration Cost to be paid by the State, including any general expenses and any potential additional fee of the Independent Engineer, cannot exceed fifty percent (50%) of the cost of the affected Works. The VAT on the Acceleration Cost shall be for the account of the State.

30.3.3 The cost of the affected Works is calculated by determining the percentage of the total Works that the affected Works represent and calculating the corresponding percentage of the total cost of such Works. Subject to the above limitation, the amount of the Acceleration Cost and the schedule for its payment shall be established in a separate agreement between the State and the Concessionaire.

30.3.4 The Concessionaire, if so requested by the State, shall accept an Event of Delay Make-up with a duration equal to or less than three (3) months. An Event of Delay Make-up of a longer term may be agreed between the State and the Concessionaire.

30.4 State Responsible Events - Concession Operations Compensation

30.4.1 If during the Concession Period the Concessionaire proves that as a result of a State Responsible Event its Revenues were reduced including as a result of Performance Deductions incurred solely as a result of a State Responsible Event, the State shall compensate the Concessionaire with an amount equal to the difference between the Revenues realized during the Quarterly Period in which such event occurred or in any Quarterly Period during which such event or the consequences thereof continued to occur, on the basis of the Revenue projection in the Financial Model for the same period. However, for the calculation of the compensation to which the Concessionaire may be entitled for the Losses suffered due to a State Responsible Event, the

payments to the Grantor that may result from the implementation of the provisions of Article 29 (*Payments*) for the period for which the compensation is calculated, shall be taken into account and set off.

- 30.4.2 The payment of any compensation pursuant to Article 30.4.1 shall be made within sixty (60) days from the end of the Quarterly Period in which the event occurred and of any Quarterly Period during which such event or the consequences thereof continue to occur.
- 30.4.3 Any reduction in the Concessionaire's costs due to the occurrence of a State Responsible Event, calculated on the basis of the Financial Model or any insurance proceeds received or receivable by the Concessionaire with respect to such State Responsible Event shall be deducted from the compensation amount payable by the State pursuant to this Article 30 (*Compensations*).
- 30.4.4 If during the Concession Period the Concessionaire proves that as a result of the occurrence of a State Responsible Event there was a material increase to the operation, maintenance and exploitation cost of the Concession Operations as compared to the respective Forecasts, the State shall compensate the Concessionaire for the difference calculated in accordance with the Financial Model. The payment of such compensation shall be effected in accordance with Article 30.4.2. Calculations, in accordance with this Article 30.4.4, shall be made on a quarterly basis, unless the Contracting Parties otherwise agree.
- 30.4.5 If the State disputes, either the occurrence of a State Responsible Event, or the data on which the compensation calculation is based, or the amount of the compensation, or it alleges that the actions of the Concessionaire contributed to the reduction in the Revenues or the material increase in its costs, it may refer the matter to a Technical Disputes Resolution Panel. The Concessionaire may then request payment of the compensation amount or, as the case may be the reduction of the Levy payable to the State pursuant to Article 28.9 (*Airport Charges*) and of any amounts payable pursuant to Appendix 20 (*Cooperation Framework between the Hellenic Air Force (HAF), the Hellenic Civil Aviation Authority (HCAA) and the Concessionaire at Joint Use Airports*).
- 30.4.6 Any payments pursuant to an Arbitration Award will be effected within twenty one (21) days from the date of the Arbitration Award. If payment is delayed beyond this time limit, interest is due calculated at the Reference Interest Rate.

- 30.5** If compensation in an aggregate amount equal to or greater than five million Euro (€5,000,000) is payable by the State to the Concessionaire pursuant to this Article 30 (*Compensations*) and remains unpaid on the due date for such payment in accordance with Article 30.1.1 or Article

30.4 (*State Responsible Events – Concession Operations Compensation*), the Concessionaire may, but is not obliged to, as an alternative to receiving payment of such compensation, elect for the Concession Period to be extended for such a period so as to leave the Concessionaire in a no better and no worse position that it would have been in had the compensation been paid in accordance with this Article 30 (*Compensations*).

30.6 The Air Navigation Services Provider shall provide the Required Air Traffic Control Capacity in order to accommodate substantially all flights for which slot requests are made to the HSCA. The obligation by the Air Navigation Services Provider to provide the Required Air Traffic Control Capacity shall be a State Responsible Event.

30.7 If the Required Air Traffic Control Capacity is not achieved for two consecutive Peak Periods, the Concessionaire may purchase for the benefit of the Air Navigation Services Provider the necessary air navigation equipment in order for the Required Air Traffic Control Capacity to be achieved and deduct the cost for such air navigation equipment from the Levy payable in accordance with Article 28.9. In any such purchase, the Concessionaire shall adhere to the specifications defined for the air navigation equipment by the Air Navigation Services Provider. The Air Navigation Services Provider must approve the offer made by the Concessionaire, such approval not to be unreasonably withheld or delayed.

31 Financial Model

31.1 The Financial Model of the Offer, as audited, is attached to this Agreement as Appendix 25 (*Financial Model*).

31.2 The Financial Model will be updated by and at the expense of the Concessionaire and in accordance with the provisions of this Article. Once updated the Financial Model will be referred to in this Agreement as the **Updated Financial Model** and, reference to the Financial Model following its first update will be deemed to be a reference to the Updated Financial Model.

31.3 The updating of the Financial Model may have regard to the following:

31.3.1 The incorporation of historical data, which will be performed on an annual basis, and data in the Financial Model which refers to past periods will be replaced with actual data that is available in relation to the Project;

31.3.2 The incorporation of data that reflects changes that are agreed or derive from the provisions of this Agreement and have a direct impact on the estimation of the future financial standing of the Concessionaire (e.g. extensions and compensation due to Events of Delay), which will be performed on an annual basis;

31.3.3 The incorporation of data that reflects the updating of Forecasts in the Financial Model and includes modifications to the assumptions that are aimed at reflecting the most realistic projection, at such time provided that such update is material either:

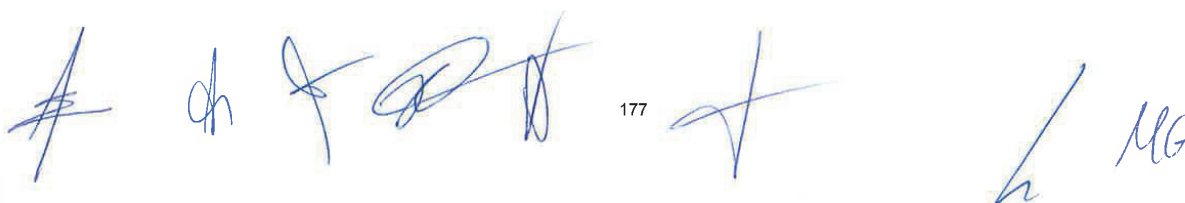
- (a) due to changes to variables that at that point in time have been modified or are expected with a high degree of certainty to be modified, and have a direct impact on the projections of the Concessionaire (including the permitted execution of an agreement, regarding an object included in this Agreement, in accordance with which specific future payments of the Concessionaire to the specific subcontractor are clearly foreseeable, that are different from the relevant existing projections in the Financial Model); or
- (b) due to changes in variables that at that point in time have taken place or are expected with a high degree of certainty to take place, and have an indirect impact on the projections of the Concessionaire (including historical air traffic and revenue data or historical inflation data which necessitates the modification of the relevant projections);

31.3.4 The updating of Forecasts as a result of the occurrence of an Event of Delay or a State's Event of Default which is continuing, shall be effected so that the Financial Model includes:

- (i) the Forecasts under the assumption that the Event of Delay and/or the State's Event of Default had not occurred;
- (ii) the Forecasts after taking into account the consequences from the occurrence of such event(s); and
- (iii) the relevant compensations due pursuant to Article 30 (*Compensations*) as a result of such events.

31.4 A Financial Model that has been updated, pursuant to the provisions of Articles 31.3.3(a), 31.3.3(b) and 31.3.4 shall be submitted to the Grantor and the State for approval, accompanied by a letter from the Lenders in which the Lenders approve all relevant modifications / updates to the Financial Model. The Financial Model shall be submitted to the Grantor and the State in accordance with the provisions of Article 29.3.1(a).

31.5 The updates to the Financial Model that are submitted for approval to the Grantor and the State, shall be accompanied by the respectively modified assumptions book and a detailed note describing the updates that have taken place with reference to the provisions of Articles 31.3.3(a), 31.3.3(b), 31.3.4(i) and 31.3.4(ii).



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31.6 The Grantor and the State may not, in the case of an update to the Financial Model, in accordance with Articles 31.3.3(a) and 31.3.3(b), unreasonably reject or delay the approval of the Updated Financial Model.

31.7 In relation to updates in accordance with Article 31.3.4, the Grantor and/or the State may verify and express its disagreement and/or submit an alternative proposal. Any such refusal by the Grantor and/or the State to accept the proposed updates and/or the submission of alternative proposals by the Grantor and/or the State will be accompanied by a justification of the position and proposals of the Grantor and the State. The Grantor and the State shall reply to the Concessionaire's request within forty five (45) days from the date of submission of the relevant request. If the Grantor and/or the State does not reply within the forty five (45) day period, the Concessionaire's request shall be deemed to have been approved. It is also noted that the Grantor and/or the State has the right to request that the Financial Model be updated for variables in accordance with the provisions of Articles 31.3.3(a), 31.3.3(b) and 31.3.4 (as applicable), if the Concessionaire has failed to do so. If the Grantor, the State and the Concessionaire do not reach an agreement within forty five (45) days from the notification of the Grantor's and/or the State's response to the Concessionaire, the State and/or the Grantor and/or the Concessionaire may have recourse to the Arbitral Tribunal.

32 Handback of Concession to the State

32.1 General

32.1.1 During the last six (6) months of the Concession Period, the Concessionaire will provide training to the personnel to be employed by the State in the operation and maintenance of the Regional Airports. The number of operatives to be trained and the duration and period of training will be agreed between the State and the Concessionaire by a special agreement to be concluded at least two (2) months prior to the commencement of the above six (6) month period.

32.1.2 At the expiry of the Concession Period, the Concessionaire shall transfer any rights it may have under contracts relating to the Concession Operations and will handback the Regional Airports to the State, including all improvements effected pursuant to the Works, in a condition that complies with the Handback Requirements and in accordance with this Article 32 (*Handback of Concession to the State*) and the Maintenance Requirements.

32.2

32.2.1 The process of handback of the Concession Operations will be effected in accordance with the provisions of this Article 32 (*Handback of Concession to the State*). The handback of the Concession Operations from the Concessionaire to the State shall

take place with the execution of the relevant protocol of handback – receipt at the expiry of the Concession Period.

32.2.2 At the expiry of the Concession Period, the Concessionaire shall handback to the State:

- (a) all of the Concession Operations, including the Movable Property and all improvements and modernisations effected by the Concessionaire during the Concession Period;

The spare parts to be included in the Movable Property will be such spare parts that are of a type and quantity equivalent to the average annual spare part usage over the five (5) year period preceding the expiry of the Concession Period;

- (b) the current Aerodrome Manuals, all elements of electronic equipment including computer software and hardware, including the computers, and all records and documents concerning the management, operation and exploitation of the Regional Airports; and
- (c) all other rights and assets of the Concessionaire entered into or used in connection with the upgrade, commissioning, completion, operation and/or maintenance of the Regional Airports or the levying and collection of Airport Charges at the time of the handback.

32.2.3 The Concessionaire shall replace at its expense equipment listed in the Inventory and other inventory books of the Concessionaire which cannot be found.

32.2.4 The handback will be carried out by the authorised representatives of the State, the Concessionaire and the Independent Engineer. If the representatives of the Concessionaire fail to effect the handback this will not suspend the work of the representatives of the State and the Independent Engineer. The representatives of the State and the Concessionaire shall sign the protocol of handback - receipt following the conclusion of the procedure set out in this Article 32 (*Handback of Concession to the State*).

32.2.5 The refusal of the Concessionaire to handback the Concession Operations to the State at the expiry of the Concession Period or to sign the protocol of handback - receipt gives the State the right to expel the Concessionaire at the expiry of the period in question and to substitute itself for the Concessionaire immediately and without further procedure in the operation and exploitation of the Concession.



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32.2.6 The Concession Guarantee Period of the Concession commences at the expiry of the Concession Period and is to continue for two (2) years.

32.2.7 The transfer of risk of the Concession Operations from the Concessionaire to the State takes place at the same time as the handback of the Concession Operations, in accordance with this Article 32 (*Handback of Concession to the State*).

32.3 Final Acceptance of Concession

32.3.1 The final acceptance of the Concession Operations shall take place by the State within four (4) months from the expiry of the Concession Guarantee Period. In all cases the final acceptance will take place following a notice from the Concessionaire.

32.3.2 Notification by the Concessionaire can take place immediately following the expiry of the Concession Guarantee Period.

32.3.3 If the final acceptance does not take place within six (6) months from the notification of the Concessionaire, it is deemed to have taken place.

32.4 Handback Requirements

32.4.1 Upon the expiry of the Concession Period as a result of the effluxion of time, the Concessionaire shall ensure that the Regional Airports comply with the Handback Requirements.

32.4.2 The Renewal Works must be carried out in accordance with the relevant parts of the Works Requirements (as if references to the Works contained therein were references to Renewal Works) and the Handback Requirements.

32.5 Initial Inspection

32.5.1 Not more than thirty six (36) months nor less than thirty (30) months prior to the expiry of the Concession Period as a result of the effluxion of time, the Concessionaire together with the Independent Engineer and the State must conduct a joint inspection of the Regional Airports and all facilities forming part of the Regional Airports (**Initial Inspection**). If no date for the Initial Inspection has been agreed between the Concessionaire, the Independent Engineer and the State, the State and the Independent Engineer may initiate the Initial Inspection during such period by giving at least thirty (30) days' notice to that effect to the Concessionaire and such inspection must be conducted on the date specified in such notice. The cost of the Initial Inspection must be borne by the Concessionaire.

- 32.5.2 The Initial Inspection must establish the extent to which the Regional Airports would comply with the Handback Requirements if no Renewal Programme was carried out, and what renewal works are required to meet the Handback Requirements.

32.6 Renewal Programme

- 32.6.1 Within forty-five (45) days after the completion of the Initial Inspection at all Regional Airports, the Independent Engineer shall provide to the State and the Concessionaire a report on the condition of the Regional Airports and the Facilities and a notice setting out:

- (a) the Independent Engineer's proposals as to the Renewal Works;
- (b) the Independent Engineer's proposals as to the Renewal Programme; and
- (c) the Independent Engineer's estimate of the Renewal Amount.

- 32.6.2 The proposal referred to in Article 32.6.1(a) must be made, amongst other things:

- (a) on the basis of the latest Facilities Condition Assessment;
- (b) on the basis of an assessment of the Residual Life of the relevant element of the Regional Airports in accordance with Appendix 15 (*Handback Requirements*); and
- (c) on the assumption that the Regional Airports are to be maintained in accordance with this Agreement until the expiry of the Concession Period as a result of the effluxion of time but allowing for fair wear and tear.

- 32.6.3 The State and/or the Concessionaire may, within thirty (30) days after receipt of the notice from the Independent Engineer in accordance with Article 32.6.1, by notice to the Independent Engineer object to the proposals in respect of any or all of the Renewal Works, the Renewal Programme and the Renewal Amount as set out in the Independent Engineer's notice provided that the State and/or the Concessionaire may only object to such proposals if the Renewal Works and/or the Renewal Programme if followed, would not result in the relevant Regional Airport complying with the Handback Requirements. The notice from the State and/or the Concessionaire must give details of the grounds for such objection and must give the State's and/or the Concessionaire's proposals in respect of the Renewal Works and Renewal Programme and its estimate of the Renewal Amount.

- 32.6.4 Within twenty (20) days from the date of receipt of such notice from the State and/or the Concessionaire, the Independent Engineer shall inform the State and the

Concessionaire whether it agrees or rejects the comments and/or objections. The decision of the Independent Engineer shall be final and binding (and the Independent Engineer will give the necessary instructions to the Concessionaire so that the Renewal Works are carried out in accordance with the Renewal Programme) unless and until it is reversed by the Technical Disputes Resolution Panel, should the State and/or the Concessionaire refer the matter to it in accordance with Article 32.6.5.

- 32.6.5 If the State and/or the Concessionaire disputes the decision of the Independent Engineer to uphold or reject the State's and/or the Concessionaire's comments or objections, the State and/or the Concessionaire may refer the matter to the Technical Disputes Resolution Panel, within twenty (20) days from receipt of such decision.
- 32.6.6 If either the Independent Engineer or the Technical Disputes Resolution Panel upholds the State's and/or the Concessionaire's comments or objections, the Independent Engineer must accordingly amend the proposal for the Renewal Works, Renewal Programme and Renewal Amount to be in compliance with the previous stated comments. The Independent Engineer will give the necessary instructions to the Concessionaire so that the amended Renewal Works are carried out in accordance with the amended Renewal Programme. For the avoidance of doubt, the Concessionaire must procure, at its own cost, that the Renewal Works are carried out notwithstanding that the actual cost of the Renewal Works may be higher than the Renewal Amount.
- 32.6.7 For the avoidance of doubt, neither the agreement of the State and/or the Independent Engineer to any Renewal Works, Renewal Programme or Renewal Amount, nor the participation of the State and the Independent Engineer in any inspection under this Article 32 (*Handback of Concession to the State*), nor the complete or partial carrying out of the Renewal Works relieves or absolves the Concessionaire from:
- (a) its obligations under Article 32.4 (*Handback Requirements*); or
 - (b) any obligation to conduct any other inspection or perform any other Works in accordance with this Agreement.

32.7 Second Inspection

- 32.7.1 Not more than twelve (12) months nor less than nine (9) months prior to the expiry of the Concession Period as a result of the effluxion of time, the Concessionaire together with the State and the Independent Engineer must conduct a joint inspection of all elements of the Regional Airports, including without limitation, the facilities referred to in Article 32.5.1 and whether or not the Renewal Works in respect of the facilities have

been carried out (the **Second Inspection**). The cost of such Second Inspection must be borne by the Concessionaire.

- 32.7.2 Such inspection must establish the extent to which the Regional Airports would comply with the Handback Requirements if the Renewal Programme, Renewal Works, and Renewal Amount remained as then agreed, and what, if any, revisions would be needed to meet the Handback Requirements.

32.8 Revised Renewal Programme

- 32.8.1 Within thirty (30) days after the completion of the Second Inspection at all Regional Airports, the Independent Engineer must provide to the State and the Concessionaire a report on the condition of the Regional Airports and a notice setting out:

- (a) the Independent Engineer's proposals as to any revisions or additions to the Renewal Works required in order to procure that all elements of the Regional Airports, at the expiry of the Concession Period, satisfy the Handback Requirements;
- (b) the Independent Engineer's proposals as to any revisions to the Renewal Programme as a consequence of such revisions or additions to the Renewal Works; and
- (c) the Independent Engineer's estimate of any changes in the Renewal Amount as a consequence of such revisions or additions to the Renewal Works.

- 32.8.2 The proposals referred to in Article 32.8.1(a) must be made, amongst others, on the basis set out in Article 32.6.2.

- 32.8.3 The State and/or the Concessionaire may, within twenty (20) days after receipt of the notice from the Independent Engineer in accordance with Article 32.8.1, by notice to the Independent Engineer object to any proposed revisions or additions to any or all of the Renewal Works, the Renewal Programme and the Renewal Amount as set out in the Independent Engineer's notice provided that the State and/or the Concessionaire may only object to such proposals if the Renewal Works and/or the Renewal Programme if followed, would not result in the relevant Regional Airport complying with the Handback Requirements. The notice from the State and/or the Concessionaire must give details of the grounds for such objection and must give the State's and/or the Concessionaire's proposals in respect of such matters and its estimate of the Renewal Amount.

- 32.8.4 Within fifteen (15) days from the date of receipt of such notice from the State and/or the Concessionaire, the Independent Engineer shall inform the State and the

Concessionaire whether it agrees or rejects the comments and/or objections. The decision of the Independent Engineer shall be final and binding and the Independent Engineer will give the necessary instructions to the Concessionaire so that the Renewal Works (as so revised or added to) are carried out in accordance with the Renewal Programme (as so revised or added to) unless and until it is reversed by the Technical Disputes Resolution Panel, should the State and/or the Concessionaire refer the matter to it in accordance with Article 32.8.5.

- 32.8.5 If the State and/or the Concessionaire disputes the decision of the Independent Engineer to uphold or reject the State's and/or the Concessionaire's comments or objections, the State and/or the Concessionaire may refer the matter to the Technical Disputes Resolution Panel, within twenty (20) days from receipt of such decision.
- 32.8.6 If either the Independent Engineer or the Technical Disputes Resolution Panel upholds the State's and/or the Concessionaire's comments or objections, the Independent Engineer must accordingly amend the proposal for any revisions or additions to the Renewal Works required to be in compliance with the previous stated comments or objections. The Independent Engineer will give the necessary instructions to the Concessionaire so that the amended Renewal Works (as so revised or added to) are carried out in accordance with the amended Renewal Programme (as so revised). For the avoidance of doubt, the Concessionaire must procure, at its own cost, that the Renewal Works (as so revised) are carried out notwithstanding that the actual cost of the Renewal Works (as so revised) may be higher than the Renewal Amount (as changed in accordance with this Article 32.8 (*Revised Renewal Programme*)).

32.9 Handback Inspection

- 32.9.1 Not later than forty five (45) days after the expiry of the Concession Period as a result of the effluxion of time, the Concessionaire together with the State and the Independent Engineer must conduct a joint inspection of the Airports (the **Handback Inspection**). The Independent Engineer will have only an advisory role. The cost of the Handback Inspection must be borne by the Concessionaire. Such inspection must establish whether the Handback Requirements are met as applicable to each element of the Regional Airports.
- 32.9.2 Within forty five (45) days after the completion of the Handback Inspection, the State must acting reasonably either:
- (a) issue to the Concessionaire a Handback Certificate; or

- (b) subject to Article 32.9.3, notify the Concessionaire of its decision not to issue the Handback Certificate and state the reason for such decision.

32.9.3 The State may only refuse to issue the Handback Certificate if:

- (a) the Concessionaire has failed to complete all of the Renewal Works; or
- (b) any Regional Airport for any reason does not comply with the Handback Requirements in all respects;

and the State must act reasonably and in accordance with this Agreement in respect of any such refusal.

32.9.4 Any notice given by the State in accordance with Article 32.9.2(b) must set out each respect in which the Renewal Works have not been completed or any of the Regional Airports does not comply with the Handback Requirements and must state the State's estimate of the cost of completing such Renewal Works and/or of procuring that the Regional Airports comply in all respects with the Handback Requirements.

32.9.5 The Concessionaire may, within thirty (30) days after receipt of a notice given in accordance with Article 32.9.2(b), by notice to the State object to any matter set out in the State's notice. The notice from the Concessionaire must give details of the grounds for such objection and must give the Concessionaire's proposals in respect of such matters.

32.9.6 Within twenty (20) days from the date of receipt of such notice from the Concessionaire, the State shall inform the Concessionaire whether it agrees or rejects the comments and/or objections. The decision of the State shall be final and binding unless and until it is reversed by the Technical Disputes Resolution Panel, should the Concessionaire refer the matter to it in accordance with Article 32.9.7.

32.9.7 If the Concessionaire disputes the decision of the State to uphold or reject the Concessionaire's comments or objections, the Concessionaire may refer the matter to the Technical Disputes Resolution Panel, within thirty (30) days from receipt of such decision.

32.9.8 If the Technical Disputes Resolution Panel determines that the Concessionaire has not completed the Renewal Works or that the Regional Airports do not comply in all respects with the Handback Requirements, then without prejudice to any other right or remedy of the State, the Concessionaire must pay to the State an amount equal to the estimated cost of completing such Renewal Works or procuring that the Regional Airports comply in all respects with the Handback Requirements, as agreed or determined in accordance with Article 32.9.6 (the **Handback Amount**). Such payment

must be made not later than fourteen (14) days after such estimated cost has been agreed or determined in accordance with this Article 32.9.

32.10 Retention Account

The following provisions of this Article 32.10 (*Retention Account*) do not apply if, not later than the date which is two (2) years prior to the expiry of the Concession Period as a result of the effluxion of time (but shall not, for the avoidance of doubt, apply if this Agreement is terminated for any reason prior to the end of the forty (40) year Concession Period), the Concessionaire procures that a performance guarantee is provided to the State in a form satisfactory to it in respect of the Concessionaire's obligations under this Article 32 (other than this Article 32.10 (*Retention Account*)) by an Acceptable Bank in an amount equal to the Renewal Amount and expiring no earlier than a date twelve (12) months after the expiry of the Concession Period.

32.10.1 The State and the Concessionaire must procure that the Retention Account is established with a bank located in the Hellenic Republic approved by the State (not to be unreasonably withheld or delayed) not later than the date which is two (2) years prior to the expiry of the Concession Period as a result of the effluxion of time. Any interest accrued on any money standing to the credit of the Retention Account must be credited to the Retention Account. All sums standing to the credit of the Retention Account from time to time, including without limitation any accrued interest, must be dealt with only in accordance with the following provisions of this Article 32.10 (*Retention Account*).

32.10.2 Subject to Article 32.10.3, from the date which is two (2) years prior to the expiry of the Concession Period as a result of the effluxion of time, the Concessionaire shall, on such a date and each anniversary thereafter for one (1) further year, pay into the Retention Account an amount equal to a half of the Renewal Amount.

32.10.3 When the amount standing to the credit of the Retention Account (including any accrued interest but less any bank charges and less any deductions required by any Law to be made from such account) is equal to or greater than the Renewal Amount, then subject to Article 32.10.5 the Concessionaire is not required to deposit any further sums in accordance with Article 32.10.2.

32.10.4 If, following the Initial Inspection, it is agreed or determined in accordance with Article 32.6 (*Renewal Programme*) that no Renewal Works are required, then within fourteen (14) days after such agreement or determination the Concessionaire must release to itself all sums standing to the credit of the Retention Account (including any accrued interest but less any bank charges and less any deductions required by any Law to be made from such account), but without prejudice to the provisions of Article 32.10.5.

32.10.5 If, as a result of the Second Inspection:

- (a) the Renewal Amount is increased, then the provisions of Article 32.10.2 apply, until the amount held in the Retention Account equals the increased Renewal Amount; or
- (b) there is a decrease in the Renewal Amount, such that the total amount held in the Retention Account (including accrued interest but less any bank charges and less any deductions required by any Law to be made from such account) exceeds the revised Renewal Amount, then the Concessionaire may, within fourteen (14) days after the agreement or determination of the revised Renewal Amount in accordance with the provisions of Article 32.8 (*Revised Renewal Programme*), remove the amount of such excess from the Retention Account.

32.10.6 Where the Concessionaire must pay for an element of the Renewal Works (**Renewal Works Element**) then it may notify the State that payment for such Renewal Works Element is due and request that it be able to remove monies from the Retention Account to the cost of the Renewal Works Element and the State shall grant such request where the Concessionaire has satisfied the State that payment is due in respect of the relevant element of the Renewal Works and following the grant of the request by the State, the Concessionaire may remove the monies from the Retention Account for payment of the Renewal Works Element of the Renewal Amount up to a maximum set aside for such Renewal Works Element in the determination of the Renewal Amount. Fourteen (14) days after the issue of a Handback Certificate in accordance with Article 32.9 (*Handback Inspection*), the Concessionaire may remove the balance (if any) of the monies standing to the credit of the Retention Account (including any accrued interest but less any bank charges and less any deductions required by any Law to be made from such account).

32.10.7 If the State gives a notice in accordance with Article 32.9.2(b), then pending the agreement or determination by the Technical Disputes Resolution Panel of all matters referred to in that notice, the State and the Concessionaire must retain in the Retention Account an amount equal to the lesser of:

- (a) the amount standing to the credit of the Retention Account (including accrued interest); and
- (b) the amount stated by the State in the notice given in accordance with Article 32.9.2 as its estimate of the cost of completing the Renewal Works and/or of procuring that the Airports comply in all respects with the Handback Requirements;

and the balance (if any) of any amount standing to the credit of the Retention Account (including any accrued interest but less any bank charges and less any deductions required by any Law to be made from such account) may be removed by the Concessionaire in accordance with Article 32.10.6.

32.10.8 If any sum is retained in the Retention Account in accordance with Article 32.10.7, then the State and the Concessionaire must continue to hold such sum in the Retention Account pending the agreement or determination by the Technical Disputes Resolution Panel of all matters raised in the notice given by the State in accordance with Article 32.9.2.

32.10.9 Within fourteen (14) days after the agreement or determination by the Technical Disputes Resolution Panel of the Handback Amount, the Concessionaire must pay out of the Retention Account to the State an amount equal to the Handback Amount or, if the amount standing to the credit of the Retention Account is insufficient to pay the Handback Amount in full, the entire amount (including accrued interest but less any bank charges and less any deductions required by any Law to be made from such account) standing to the credit of the Retention Account. Any remaining sums standing to the credit of the Retention Account (after deducting the amount payable to the State and any bank charges and any deductions required by any Law to be made from such account) may be appropriated by the Concessionaire.

32.10.10 If the amount standing to the credit of the Retention Account is less than the Handback Amount, then the payment of any sum to the State in accordance with Article 32.10.2 in or towards satisfaction of the Handback Amount must not in any way prejudice or affect any other rights or remedies of the State for the purpose of recovering the remainder of the Handback Amount.

32.10.11 Upon termination of this Agreement, other than due to effluxion of time, any sums standing to the credit of the Retention Account shall be deducted from the Liabilities to Lenders in accordance with the provisions of Article 33 (*State Termination - Consequences*) or Article 35 (*Compensation on Extensive Force Majeure*).

32.11 Throughout the period of twelve (12) months prior to the expiry of this Agreement by effluxion of time, the Concessionaire shall provide access and assistance to any incoming concessionaire.

33 State Termination – Consequences

33.1 Concessionaire Events of Default

33.1.1 The following events, unless (if capable of being remedied) remedied to the satisfaction of the State and/or in respect of events set out in paragraphs (a), (b), (e),

(f), (g), (i), (j), (n), (o) and (p) of this Article 33.1.1, the Grantor (as the case may be) within fourteen (14) days as of the delivery of notice from the State to the Concessionaire unless the occurrence of such events is due to an Event of Delay, a State Responsible Event or a State's Event of Default, shall constitute the Concessionaire Events of Default:

- (a) The bankruptcy, liquidation, special liquidation, cessation of business or payments, compulsory administration, submission to creditors' administration, bankruptcy settlement of the Concessionaire and any other insolvency procedure according to law 3588/2007, or the commencement of any of the same. For the avoidance of doubt, the unwinding (Λύση) of the Concessionaire as a result of the merger or re-organisation of the Concessionaire on terms previously agreed by the State will not be considered as a Concessionaire's Event of Default;
- (b) The failure of the Concessionaire to satisfy the conditions precedent for draw down under the Designated Loan Agreements (if any) unless of a temporary nature or waived, or the termination of any of the Designated Loan Agreements (if any) by the Finance Parties (as defined in the Designated Loan Agreements, if any);
- (c) Subject to any extensions granted as a result of Events of Delay or otherwise, the time period for the Imminent Works exceeds, or the Independent Engineer determines that such period will exceed, by more than 30% any Planned Completion Dates in respect of Imminent Works at any of the Regional Airports;
- (d) Any amount payable by the Shareholders of the Concessionaire is not paid in accordance with the provisions of the Committed Investment Payment Schedule;
- (e) The amendment of the articles of association of the Concessionaire in violation of this Agreement;
- (f) The Performance Bonds or any other on-demand letters of guarantee issued in favour of the State and/or the Grantor in accordance with this Agreement ceases to be valid prior to its expiry in accordance with this Agreement and is not replaced by equivalent letters of guarantee from banks which are appropriately rated and/or regulated by regulators in the EU;
- (g) The occurrence of an Extensive Force Majeure Event which has an adverse effect on the performance of the Concession Operations as a result of the

Concessionaire's failure to comply with any of its obligations under this Agreement; nevertheless, if such failure of the Concessionaire to comply with any of its obligations under this Agreement due to an Extensive Force Majeure Event applies at one or more Regional Airports but no more than three (3) Regional Airports, a consultation period of thirty (30) days between the State, the Grantor and the Concessionaire shall take place for the purpose of assessing, amongst others, whether excluding the Regional Airport affected by the Extensive Force Majeure Event from the Concession Operations is commercially viable and, if it is commercially viable, on what terms (including the impact to the Concession Fee) such exclusion could be acceptable to the State, the Grantor and the Concessionaire, in order for the Concessionaire to be in a no better and no worse position;

- (h) The occurrence of an Extensive Force Majeure Event, other than as referred to in (g) above, which results in the time period for the Works exceeding 30% of the completion dates set out in the Imminent Works Implementation Time Schedule and which results in the acceleration and cancellation of the Designated Loan Agreements;
- (i) The Concessionaire fails to pay any sum or sums due to the State or the Grantor under this Agreement within thirty (30) days of the relevant payment date or if such amount is in dispute within five (5) days of receipt by the Concessionaire of the relevant decision of the Technical Disputes Resolution Panel or Arbitral Tribunal, as the case may be, issued in accordance with Article 39 (*Dispute Resolution*) and ordering the Concessionaire to pay such amount;
- (j) The Concessionaire abandons or suspends the Works for a continuous period of three (3) months at any Regional Airport and/or abandons or suspends the operations of the Regional Airports and the provision of the Airport Services and / or closes a Regional Airport during the relevant Operating Hours subject to the requirements set out in paragraph 2 (*Operating Hours*) of Appendix 5 (*Airport Services*) for a period of two (2) consecutive days, unless such suspension or abandonment is as a consequence of an Event of Delay, a State Responsible Event or a State Event of Default;
- (k) The breach by the Concessionaire of the Approved Environmental Terms and any other Environmental Requirements;
- (l) The Concessionaire terminates the Design-Construction Contract or the contract with any other approved subcontractor or replaces any Contractor

without first obtaining the State's approval, such approval not to be unreasonably withheld/delayed;

- (m) The breach by the Concessionaire of the Health and Safety Regulations that has a material adverse effect on the business of or the services provided by the Regional Airports;
- (n) Any breach by the Concessionaire of any of its obligations under this Agreement, the HAF Cooperation Framework or any State Service Level Agreement that has a material adverse effect on the business or condition of the Regional Airports;
- (o) The Concessionaire (directly or indirectly) imposes Regulated Aeronautical Charges or other charges, tariffs or fees in relation to the Airport Services in excess of the levels permitted pursuant to the relevant Tariff Cap as calculated in accordance with this Agreement and Appendix 7 (*Airport Charges*) and fails to reduce such charges to fall within the relevant permitted level within one (1) month of receiving notice from the State requesting the Concessionaire to do so;
- (p) If the Initial Shareholders breach the obligation to maintain shareholdings in accordance with Article 11.3 (*Concessionaire's Shares*);
- (q) The replacement of the Contractor or the change of its members in breach of Article 16.2; and
- (r) Four (4) or more Termination Points are accrued under Appendix 6 (*Performance Measurement*) in any consecutive thirty six (36) month period.

33.2 State and/or Grantor Termination

- 33.2.1 If a Concessionaire Event of Default occurs, the State and/or the Grantor, subject to the provisions of Article 37 (*Rights of Lenders - State*), may terminate this Agreement by notice to the Concessionaire and the Lenders (the **Termination Notice**) which shall specify the Concessionaire Event of Default.
- 33.2.2 Subject to the provisions of Article 37 (*Rights of Lenders - State*), termination shall commence from the service of the Termination Notice.
- 33.2.3 Other than in relation to an event set out in Article 33.1.1(a), any Dispute by the Concessionaire as to the validity of the termination which is referred to the Arbitral Tribunal, will suspend the effect of such termination until the issue of the Arbitration Award.

- 33.2.4 The date on which the termination occurs, in accordance with the provisions of this Agreement will be the Termination Date (the **Termination Date**).
- 33.2.5 Until the Termination Date, the Parties shall continue to fulfil their contractual obligations to the extent it is reasonably practicable to do so, unless, in the case of a pending Dispute, the Arbitral Tribunal provides otherwise.
- 33.2.6 If the State intends to exercise its substitution rights under Article 33.3.1(e), it shall include a relevant statement in the Termination Notice and shall immediately notify in writing the counterparties to the relevant agreements that it intends to substitute itself for the Concessionaire.

33.3 Results of Termination by the State and/or the Grantor

33.3.1 If the State and/or the Grantor terminates this Agreement:

- (a) all the rights, title and interest of the Concessionaire and of any third party deriving from or relating to the Concession including in respect of any assets noted on the Inventory in respect of any Movable Property shall cease immediately including any rights the Concessionaire may have under the Independent Engineer's Agreement or any other contract relating to the Concession and the whole of the Concession shall pass to the Grantor;
- (b) all the cash balances of the Concessionaire that are not held for or on behalf of the Lenders shall pass to the State;
- (c) all claims of the Concessionaire against the insurers that are not held for or on behalf of the Lenders shall pass to the State;
- (d) the Concessionaire shall comply with its obligations pursuant to Article 36 (*Continued Performance*);
- (e) the Grantor and / or the State, provided it has complied with the requirements of Article 33.2.6 may exercise its step-in rights and substitute the Concessionaire:
 - (i) in relation to any aspect of this Agreement. If the Grantor/the State exercises such right of step-in it will to the extent of such step-in assume the obligations of the Concessionaire under any agreements in respect of which it effects a step-in, that arise after the substitution of the Concessionaire;

- (ii) in the insurance policies existing on the day of the substitution, and for such time as the relevant premiums have been paid without additional covers having to be issued, but it does not undertake the payment of premiums outstanding up to the Termination Date. The Concessionaire shall include a relevant provision in the insurance policies reflecting the provisions of this Article 33.3.1(e)(ii);
- (f)
 - (i) the Operation Bond shall be forfeited in favour of the Grantor; and
 - (ii) any other Performance Bonds held by the State or the Grantor (as applicable) and the Lenders which have not been cancelled and/or forfeited in accordance with the terms of this Agreement shall, within fourteen (14) days as of the date on which the Concession is transferred to the State will be subject to the provisions of the State Direct Agreement (if any, in accordance with Article 37.1.8) and otherwise shall be returned to the Concessionaire;
- (g) the State shall pay to the Concessionaire or the Lenders (to the latter, if this is provided for in the Designated Loan Agreements) the **Concessionaire Default Compensation Sum** calculated as an amount not lower than zero and equal to the lower of:
 - (i) the Liabilities to Lenders on the Termination Date; and
 - (ii) the Net Present Value Compensation Amount (**NPV Compensation**).
The NPV Compensation is calculated for the purposes of the present Article as follows:

$$\text{NPV Compensation} = A + B - C$$

where:

- A = the NPV of Revenues, that the Concessionaire would have received from the Termination Date until the end of the Concession Period (ignoring for these purposes any early termination thereof) on the basis of the most recent Forecasts
- B = any compensation payable to the Concessionaire under this Agreement as a result of an event which occurs before the Termination Date, and

$$C = (D1 - D2) + E + F + G$$

where:

- D1 = total cost on the Termination Date for the reinstatement of the Concession to the Standards and Specifications and the Required Level of Service as contemplated in this Agreement,
- D2 = the insurance monies received by the State with respect to the reinstatement costs referred to in D1,
- E = the NPV of the costs for the operation and maintenance of the Concession, including any Concession Fee, the Levy or other fees payable and any capital expenditure from the Termination Date until the end of the Concession Period (ignoring for these purposes any early termination thereof) (excluding any costs included in D1 above) on the basis of the most recent Forecasts,
- F = amounts deposited or placed by or on behalf of the Concessionaire in any debt service reserve account to secure obligations owed to the Lenders under the Designated Loan Agreements,
- G = any amount, not included in (F) above, in cash or cash equivalent investments held by the Concessionaire and other amounts that in each case secure the Lenders' claims and are payable to or receivable by the Lenders (whether in a reserve account or otherwise), and in any case without double counting the Performance Bonds.

NPV means the net present value of each as the case may be stream of cash flows calculated at a given date as follows:

$$NPV = \sum_{t=1}^{t=n} \frac{C_t}{(1+r_t)^t}$$

Where:

- r_t** = discount rate equal to the weighted average lending cost of the Designated Loan Agreements, as calculated for the period starting from the Termination Date until the contractually agreed final repayment date of the Designated Loan Agreements.

C_t = the relevant cash flows for the year t , being Revenues or costs for the maintenance and operation (E), as the case may be.

$t = 1$ refers to the year beginning on the Termination Date

$t = n$ refers to the year in which the Concession Period is scheduled to end (ignoring for these purposes any early termination thereof).

33.3.2 The payment of the relevant amount calculated pursuant to Article 33.3.1 above shall be made in accordance with Article 35.3 (*Payments on Termination*). However, if the amount is less than zero, no payment shall be required from the Concessionaire to the State or the Grantor.

33.3.3 Following termination of this Agreement for failure by the Concessionaire to remedy a Concessionaire Event of Default and subject to Article 37 (*Rights of Lenders - State*), the Concessionaire must as soon as reasonably practicable and in any event within fourteen (14) days of the Termination Date, notify the State of the amounts calculated pursuant to Article 33.3.1.

33.3.4 Following the issue of any notice pursuant to Article 33.3.3, the Parties are to meet in order to seek to agree such amount specified. Where such amount is not agreed within fourteen (14) days from the Dispute is to be resolved in accordance with the Technical Disputes Resolution Procedure, provided that any undisputed amount must be paid on the date which is twenty eight (28) days after the Termination Date.

34 Concessionaire Termination – Consequences

34.1 State Events of Default

34.1.1 The following events will be considered as State Events of Default:

- (a) the State fails to pay any sum or sums due to the Concessionaire under this Agreement (where the State has not given notice to the Concessionaire that such sums are in Dispute) within the prescribed time limits or, where no time limits are prescribed in this Agreement, within ninety (90) days from the date it was due and payable;
- (b) the occurrence of an Extensive Force Majeure Event which is not a Concessionaire Event of Default pursuant to paragraphs (g) and (h) of Article 33.1.1;
- (c) the annulment or the unilateral amendment of this Agreement by the State;

- (d) the State or any Government Authority confiscates or nationalises the Concessionaire or all or part of its assets otherwise than in accordance with this Agreement;
 - (e) the termination by the Lenders of a Designated Loan Agreement (if any) as a consequence of a State Event of Default;
 - (f) a breach by the State and/or the Grantor of any other provision of this Agreement including a breach of the provisions of the HAF Cooperation Framework by the State or HAF that has a permanent material adverse effect on the business and condition of the Regional Airports to the extent that, in accordance with good faith and business usages, the Concessionaire's profitability is substantially affected or the Concessionaire could not be reasonably expected to have a commercial interest in the further implementation of this Agreement;
 - (g) subject to the exercise of the Concessionaire's rights to step in pursuant to Article 4.3.3, an Event of Delay which results in a delay to the handover of the State Works by more than thirty (30%) of the relevant deadline set out in Article 19.1.3;
 - (h) an Event of Delay which directly results in the delay to the completion of any of the Works by more than thirty (30%) percent of the relevant approved completion date and which results in the Lenders declaring the termination of the Designated Loan Agreements for this purpose; and
 - (i) any breach by the State of the provisions of Article 10.4 or any event or occurrence (including any Change of Law or proposed Change of Law) that would require such provision to be breached.
- 34.1.2 If a State Event of Default occurs, the Concessionaire, subject to the provisions of Article 37 (*Rights of Lenders - State*), may terminate this Agreement by notifying the State (the **Termination Notice**) which notice shall specify the relevant State's Event of Default.
- 34.1.3 Subject to the provisions of Article 37 (*Rights of Lenders - State*), termination shall commence from the service of the Termination Notice.
- 34.1.4 Any dispute by the State as to the validity of the termination which is referred to Arbitration, will suspend the effect of such termination until the issue of the Arbitration Award.

34.1.5 The date on which the termination occurs, in accordance with the previous paragraphs, is the Termination Date (the **Termination Date**).

34.1.6 Until the Termination Date, the Parties shall continue to fulfil their contractual obligations to the extent it is reasonably practicable for them to do so, unless, in the case of a pending Dispute, the Arbitral Tribunal provides otherwise.

34.2 Results of Termination by the Concessionaire

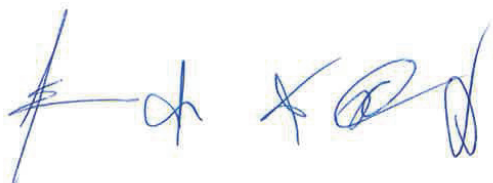
34.2.1 If the Concessionaire terminates this Agreement:

- (a) all rights, title and interest of the Concessionaire and of any third party deriving from or relating to the Concession shall immediately cease;
- (b) the Concession shall pass to the Grantor or the State, as applicable;
- (c) the State shall pay to the Concessionaire or the Lenders (to the latter, if this is provided for in the Designated Loan Agreements) (if any) the **State Default Compensation Sum** calculated as an amount equal to the aggregate of:
 - (i) the Liabilities to Lenders on the Termination Date; and
 - (ii) an amount which if paid to the Shareholders would achieve an IRR at the date of payment of the second instalment in accordance with Article 35.3.1(a) equal to the one set out in the Updated Financial Model taking into account all amounts of the Committed Investment paid to the Concessionaire, as well as dividends and other distributions including fees and interest or repayments paid to the Shareholders of the Concessionaire or to holders of Subordinated Debt,

less the amount of any insurance monies receivable by the Concessionaire which are not for the account of the Lenders and which have not been applied in reinstatement of the relevant assets.

34.2.2 The payment of the amount pursuant to Article 34.2.1 shall be made in accordance with Article 35.3 (*Payments on Termination*). However, if the amount is less than zero, no payment shall be required from the Concessionaire to the State or the Grantor.

34.2.3 Following termination of this Agreement for a State Event of Default and subject to Article 37 (*Rights of Lenders - State*), the Concessionaire must as soon as reasonably practicable and in any event within fourteen (14) days as of the Termination Date, notify the State of the amount calculated pursuant to Article 34.2.1. Such notice is to show in reasonable detail the derivation of the relevant amounts.



34.2.4 Following the issue of any notice pursuant to Article 34.2.3, the Parties are to meet in order to seek to agree such amount specified. Where such amount is not agreed within fourteen (14) days the Dispute shall be referred to the Technical Disputes Resolution Panel, provided that any undisputed amount must be paid on the date which is twenty eight (28) days after the Termination Date.

34.2.5 Any Performance Bonds held by the Grantor and/or the State which have not been cancelled or forfeited in accordance with the terms of this Agreement shall be subject to the provisions of the State Direct Agreement (if any, in accordance with Article 37.1.8) and otherwise shall be returned to the Concessionaire within fourteen (14) days as of the date on which the Concession is transferred to the Grantor or the State, as applicable.

35 Compensation on Extensive Force Majeure

35.1 If this Agreement is terminated for an Extensive Force Majeure Event, then the State shall pay to the Concessionaire the **Force Majeure Compensation Sum** in accordance with this Article 35 (*Compensation on Extensive Force Majeure*).

35.2

35.2.1 The Force Majeure Compensation Sum shall be an amount equal to the aggregate of:

- (a) the Liabilities to Lenders on the Termination Date; and
- (b) an amount which if paid to the Shareholders, would achieve an IRR equal to the weighted average cost of debt funds of the Shareholders (weighted based on their respective shareholding level) as evidenced in their latest publicly available audited consolidated financial statements (by dividing (a) debt outstandings at the beginning and debt outstandings at the end of the year, by (b) the interest expense times two), taking into account all amounts of the Committed Investment paid to the Concessionaire, as well as dividends and other distributions including fees and interest or repayments paid to the Shareholders of the Concessionaire or to holders of Subordinated Debt;

taking into account:

- (a) the amount of the Concessionaire's liquid assets; and
- (b) the amount of any insurance monies to be received by the Concessionaire which are not for the account of the Lenders and which have not been applied in reinstatement of the relevant assets.

- 35.2.2 The payment of the amount calculated pursuant to Article 35.1 shall be effected in accordance with Article 35.3 (*Payments on Termination*). However, if the amount is less than zero, no payment shall be required from the Concessionaire to the State or the Grantor.
- 35.2.3 Following termination of this Agreement for an Extensive Force Majeure Event, the Concessionaire must as soon as reasonably practicable and in any event within fourteen (14) days of the Termination Date, notify the State and the Grantor of the amount calculated pursuant to Article 35.2.1. Such notice is to show in reasonable detail the derivation of the relevant amounts.
- 35.2.4 Following the issue of any notice pursuant to Article 35.2.3, the Parties are to meet in order to seek to agree such amount specified. Where such amount is not agreed within fourteen (14) days the Dispute shall be referred to the Technical Disputes Resolution Panel, provided that any undisputed amount must be paid on the date which is twenty eight (28) days after the Termination Date.
- 35.2.5 Unless otherwise stated in the relevant Performance Bond, any Performance Bonds held by the Grantor and/or the State which have not been cancelled or forfeited in accordance with the terms of this Agreement shall be returned to the Concessionaire within fourteen (14) days as of the date on which the Concession is transferred to the Grantor or the State, as applicable.

35.3 Payments on Termination

35.3.1 The State must pay to the Concessionaire:

- (a) the State Default Compensation Sum or the Force Majeure Compensation Sum (as appropriate) in two equal instalments, the first of which shall be payable six (6) months and the second eighteen (18) months after the Termination Date; and
- (b) the Concessionaire Default Compensation Sum, if any, in instalments which reflect the amortisation profile of the Designated Loan Agreements, the first of which shall be payable on the first scheduled repayment date falling six (6) months after the Termination Date and the last of which shall be payable on or before the scheduled final maturity date under the Designated Loan Agreements;

provided that the Concessionaire has provided the notices set out in Articles 33.3.3, 34.2.3 or 35.2.3 (as applicable) within the required period. Where the Concessionaire

has not provided such notice within the required period, the State's obligation to pay is to be extended by the number of days that such notice is delayed.

35.3.2 From the date on which the State receives the notice identified in Articles 33.3.3, 34.2.3 or 35.2.3 (as applicable), as such may be extended pursuant to Article 35.3.1, to and including the date of payment, interest is to accrue on any unpaid element of:

- (a) the State Default Compensation Sum or the Force Majeure Compensation Sum (as appropriate) at the weighted average of the Senior Debt interest rate; and
- (b) the Concessionaire Default Compensation Sum at the lower of the rate calculated pursuant to paragraph (a) above and the rate of return payable on the Termination Date on Greek government bonds of an average maturity as close as possible to the average repayment term of the outstanding amounts;

such interest is to be paid on the date that the State Default Compensation Sum, Concessionaire Default Compensation Sum or Force Majeure Compensation Sum is paid by the State. No interest is to accrue in the period from the Termination Date until the date that the State receives the notice identified in Articles 33.3.3, 34.2.3 or 35.2.3 (as applicable) (as the same may be extended pursuant to Article 35.3.1).

35.3.3 The State may (on twenty eight (28) days prior notice to the Concessionaire) elect to pay the State Default Compensation Sum, the Force Majeure Compensation Sum or the Concessionaire Default Compensation Sum, (as applicable) in full on any instalment date.

35.3.4 If the State:

- (a) fails to make a payment to the Concessionaire in accordance with Article 35.3.1 above; or
- (b) breaches its obligations in respect of assignment of this Agreement;

the Concessionaire may issue a notice to the State declaring any unpaid and outstanding element of the State Default Compensation Sum, the Force Majeure Compensation Sum or the Concessionaire Compensation Sum, to be immediately due and payable.

35.3.5 Furthermore, any amounts that are payable by the State to the Lenders pursuant to Articles 33 (*State Termination – Consequences*), 34 (*Concessionaire Termination – Consequences*) and 35 (*Compensation on Extensive Force Majeure*) shall also be

paid free and clear of any restriction or conditions and without any deduction or withholding by way of set off, counterclaim or otherwise.

36 Continued Performance

36.1 Subject to any exercise by the Grantor and the State of their rights to perform, or to procure a third party to perform, the obligations of the Concessionaire under this Agreement, the Parties are to continue to perform their obligations under this Agreement, notwithstanding the giving of any notice of default or Termination Notice, until the Termination Date. From the date of notice of an Event of Default pursuant to Articles 33.2 (*State and/or Grantor Termination*) and 34.1.2, the Concessionaire is to ensure that no material project assets, facilities, information, records or accounts are removed permanently from the Concession Sites and not replaced without the prior written approval of the State, and the Concessionaire is to continue to carry out the Works and perform the Concession Operations at the Regional Airports in accordance with this Agreement.

36.1.1 From the Termination Date:

- (a) the State may require the Concessionaire to carry out the Works and perform the Airport Services at the Regional Airports (**Additional Period Operations**) until the Additional Period Termination Date, or, if earlier, until the State notifies the Concessionaire that such additional period will end, with the intent that the State or a successor operator would be able to take over the Works and/or Airport Services at the Regional Airports at any time after the end of the Additional Period. The Concessionaire must use all reasonable endeavours to ensure that the State or such successor operator has immediate access to all employees and all facilities and assets within the Concessionaire's control for such purpose at such time; and
- (b) the Concessionaire is to carry out the Additional Period Operations at the Regional Airports on the basis that, to the extent possible and practicable, the Regional Airports may be transferred as a going concern at the expiry of the Additional Period to the State or a successor operator. The Concessionaire must accordingly use all reasonable endeavours to ensure that the Regional Airports have an appropriate number of employees (having sufficient skills, qualifications and experience) at the time of transfer to the State or any successor operator following the expiry of the Additional Period, provided that the Concessionaire need not offer inducements to agree to any transfer to the State or any successor operator or to remain up to the time of such transfer; and

- (c) the State shall pay to the Concessionaire a fee for the provision of the Additional Period Operations which shall be the cost of the provision of such operations plus a percentage of such cost to be agreed by the Parties prior to the commencement of the Additional Period (**Additional Period Operations Fee**) and such an Additional Period Operations Fee shall be paid to the Concessionaire each month of the Additional Period within fourteen (14) days after the receipt by the State of an invoice from the Concessionaire provided that the invoice shall not be issued any earlier than the seventh (7th) day of the relevant month and the invoice shall set out the cost for the Additional Period Operations for such month. In relation to the first and last month of the Additional Period the Additional Period Operations Fee shall be pro rated accordingly. For the avoidance of doubt the Concessionaire shall not be entitled to retain any revenues from the provision of the Additional Period Operations and all such revenues shall be collected by the Concessionaire on behalf of the Grantor.

37 Rights of Lenders – State

37.1 Remedy by Concessionaire - Lenders

- 37.1.1 If a Concessionaire Event of Default occurs, the Termination Notice served on the Concessionaire and the Lenders by the State shall also include an invitation to cure or remedy the Concessionaire Event of Default or to submit a plan for the remedy of such Concessionaire Event of Default.
- 37.1.2 The Grantor and the State acknowledge that the Lenders are entitled at any time either before or after the occurrence of a Concessionaire Event of Default to take the steps, or request that such steps are taken, that are included in the Designated Loan Agreements (if any) and the State Direct Agreement (if any, in accordance with Article 37.1.8) (or detailed in accordance with Article 37.1.8), including the substitution of the Concessionaire and any subcontractors of the Concessionaire in order to either prevent or remedy the occurrence of a Concessionaire Event of Default.
- 37.1.3 The Concessionaire is obliged to notify the Grantor and the State of any particular agreements with the Lenders as regards the manner in which the right of remedy of the Concessionaire Event of Default may be exercised.
- 37.1.4 Any remedy plan shall be subject to the approval of the Grantor and the State, which shall not be unreasonably withheld or delayed. The Grantor and the State shall notify the Concessionaire and the Lenders in writing of its acceptance or rejection of the remedy plan within fifteen (15) days of its submission. If the Grantor and the State

fails to respond within this deadline, the remedy plan shall be deemed to have been approved.

37.1.5 Any remedy plan submitted by the Lenders may propose, among other things, the substitution of the Concessionaire with another entity (the **Substitute Entity**), whose substitution shall be permitted provided that such entity satisfies the eligibility criteria that applied to the Concessionaire as part of the tender process.

37.1.6 The Lenders may also propose the substitution of the Contractor with an entity acceptable to the State. In this case the conditions and arrangements of the previous paragraphs apply as appropriate.

37.1.7 If despite the service of the Termination Notice by the State, the Concessionaire or its Lenders:

- (a) have not cured the Concessionaire Event of Default within sixty (60) days from the date of service of the Termination Notice; or
- (b) have not submitted a remedy plan within sixty (60) days from the date of service of the Termination Notice, or the plan was submitted on time but has not been accepted by the Grantor and the State; or
- (c) submitted the remedy plan on time, but have failed to cure the Concessionaire Event of Default within a hundred and eighty (180) days from the date of service of the Termination Notice or within such longer period as may be agreed with the Grantor;

then subject to Article 33.2.3, termination shall be effective on the day following the expiry of the respective deadlines set out above.

37.1.8

- (a) The exercise of the Lenders' right to remedy a Concessionaire Event of Default, the Lenders' exercise of rights and discretions under the Designated Loan Agreements (if any), the interface between the rights of the State, the Grantor and/or the Lenders, the procedures of termination, appropriate step-in mechanisms into the Concession Documents, clarifications that may be necessary in respect of this Agreement and the resolution of any disputes that might arise between the Lenders and the State and/or the Grantor and/or the Concessionaire pursuant to the exercise of such rights and any other matter affecting the rights of the Lenders, may be regulated by a State Direct Agreement between the State, the Grantor and the Lenders provided that any such agreement shall not have an adverse effect on the State and the

Grantor's rights and obligations under this Agreement and will be executed on behalf of the Grantor in accordance with Article 50.5;

- (b) If the Lenders request that a State Direct Agreement on the terms mentioned in Article 37.1.8(a) above should be entered into, such agreement will be executed following the Effective Date, and the form will not be required to be agreed and initialled on the Effective Date;
- (c) Subject to the Lenders' approval, the Concessionaire might be a party to the State Direct Agreement in order for such agreement to survive in the event of repayment of the initial group of Lenders and the subsequent designation of further Designated Loan Agreements; and
- (d) If there are no Designated Loan Agreements in place at the Effective Date, but the State elects to designate Designated Loan Agreements following the Concession Commencement Date in the context of which Lenders request a State Direct Agreement on the terms mentioned in Article 37.1.8(a) above, the State will enter into such an agreement and the Minister of Finance and the Ministry of Infrastructure, Transport and Networks are authorised to negotiate and sign such an agreement on behalf of the State.

37.2 Remedy by the State

37.2.1 If a State Event of Default occurs, the Termination Notice served on the State by the Concessionaire will also include an invitation to cure or remedy the State's Event of Default or to submit a plan for the remedy of such State Event of Default.

37.2.2 If, despite the service of the Termination Notice by the Concessionaire, the State:

- (a) has not cured the State Event of Default within sixty (60) days from the date of service of the Termination Notice; or
- (b) has not submitted a remedy plan, within sixty (60) days from the date of service of the Termination Notice, or the plan was submitted on time but has not been accepted by the Concessionaire and its Lenders; or
- (c) submitted the remedy plan on time, but has failed to cure the State Event of Default within a hundred and eighty (180) days from the date of service of the Termination Notice or such longer period as may be agreed with the Concessionaire;

then subject to Article 34.1.4, termination shall occur on the day following the expiry of the respective deadlines set out above.

38 Intellectual and Industrial Property Rights**38.1 Obligations of the Concessionaire during the Concession Period**

- 38.1.1 The Concessionaire will enter into the necessary agreements with the owners or holders of intellectual and industrial property rights, licences, trademarks, drawings and models concerning any drawings, designs, certificates, specifications, reports, written information and records in printed or electronic form (except those acquired or created by the Grantor and/or the State or on their behalf), assets, materials, all kinds of equipment, instruments, installations, rights or all kinds of objects used for (or concerning) the Works or the Concession Operations (**Intellectual and Industrial Property Rights**), for the purpose of using the same for the implementation of the Concession Operations.
- 38.1.2 The Concessionaire undertakes to pay all fees, rights, royalties, expenses, compensations and duties owed to the owners or the holders of such Intellectual and Industrial Property Rights and to do all acts and execute all such documents as may be necessary to give effect to this Article 38 (*Intellectual and Industrial Property Rights*), including any registrations or renewals of these Rights.
- 38.1.3 For the purpose of using them for the Concession Operations, the Concessionaire will place at the disposal of the Grantor and the State, as appropriate, and any Competent Authority, free of any charge, all drawings, designs, certificates, specifications, reports, written information and records in printed or electronic form, which are acquired, were acquired or created by the Concessionaire or on its behalf for the purposes of the Concession Operations. The Concessionaire will take all reasonable steps to place at the disposal of the Grantor and the State, as appropriate, and any Competent Authority all elements and documents created by third parties for the purposes of the Concession Operations, which are in its possession.
- 38.1.4 The Concessionaire may use for the purposes of the Concession Operations all drawings, designs, certificates, specifications, reports, written information and records in printed or electronic form, which are acquired, were acquired or created by the Grantor and/or the State or on their behalf for the purposes of the Concession Operations, subject to any conditions that the Grantor and/or the State may set. If the Concessionaire wishes to use such elements and/or documents for any other purpose, it will notify the Grantor and the State, and the Grantor and/or the State will advise within sixty (60) days whether it agrees or not. If the Grantor and/or the State does not reply, the Concessionaire's request will be deemed to have been rejected.

38.2 Grant of Licence to Use

38.2.1 By this Agreement, the Grantor and the State, as appropriate, grants to the Concessionaire an irrevocable, non-exclusive and transferable, royalty-free licence (including the right of the Grantor and the State to sub-licence) to copy, reproduce, modify, translate and use every Intellectual and Industrial Property Right:

- (a) which may be owned by or licensed to the Concessionaire as at the date of execution of this Agreement; or
- (b) which may, after the date of execution of this Agreement, be owned by or licensed to the Concessionaire.

38.2.2 Where any such Intellectual and Industrial Property Right is vested in any third party, the Concessionaire will use its best endeavours to ensure either (i) the grant of a licence of such Intellectual and Industrial Property Right to itself on terms permitting the sub-licence of such right to the Grantor or the State as appropriate, or (ii) the grant to the Grantor or the State as appropriate of the relevant licence of such Right, on the basis of the terms described in Article 38.2.1.

38.2.3 The Concessionaire will pay all fees, costs, royalties, intellectual and industrial property taxes and compensation payable under such licence.

38.2.4 By this Agreement the Grantor and/or the State, as appropriate grants to the Concessionaire an irrevocable, non-exclusive, royalty-free licence (but without the right to sub-licence) for the duration of the Concession Period only of the relevant Intellectual and Industrial Property Rights, which were granted or will be granted to the Grantor for the purposes of the Concession.

38.2.5 From the publication of the Ratification Law this Agreement is deemed to have been submitted to the Industrial Property Organisation in accordance with the provisions of paragraph 1 of article 22 of law 1733/1987 (G.G. 171-A/30-6-1987).

38.3 Further Actions

Each of the State and/or the Grantor, as appropriate, and the Concessionaire will execute (or procure the execution of) such documents and do all such things as may be necessary for the full implementation of the provisions of this Article. If the Concessionaire does not comply with its obligations under this provision, the State and/or the Grantor, as appropriate, may undertake such actions, on behalf of the Concessionaire, by virtue of irrevocable instruction provided to it by the Concessionaire pursuant to this Agreement.

38.4 Intellectual and Industrial Property Rights Indemnity

- 38.4.1 The Concessionaire will indemnify and hold harmless the State and the Grantor and each of their agents and employees from and against all loss, cost, expense, liability and/or damage that they will suffer or to which they will be subjected and shall exempt all of them from any claim, lawsuit and procedure against them, arising out of or on account of any infringement of any Intellectual and Industrial Property Rights in respect of any drawings, designs, certificates, specifications, reports, written information and records in printed or electronic form (except those acquired or created by the State and/or the Grantor, as appropriate or on its behalf), assets, materials, all kinds of equipment, instruments, installations, rights or all kinds of objects used for (or concerning) the Works.
- 38.4.2 If the Concessionaire omits to lawfully acquire the licence to use the Intellectual and Industrial Property Rights, this omission will be deemed to be a breach of its obligations under this Agreement and the State and/or the Grantor, as appropriate, may retain from paying any sum due to the Concessionaire or may deduct from the Works Performance Bond the sum which it may be ordered to pay to the beneficiary of the Intellectual and Industrial Property Rights.
- 38.4.3 The State and/or the Grantor, as appropriate, will notify the Concessionaire within fourteen (14) days of receiving any claim, lawsuit or proceedings for infringement of any such Intellectual and Industrial Property Rights and it may retain from any payment to the Concessionaire or from the Performance Bonds that the Concessionaire has submitted, any sum charged to it for this reason.

38.5 Commencement of Intellectual and Industrial Property Licence

With regard to the Intellectual and Industrial Property Rights that are created during the Concession Period, the relevant licences are deemed to have been granted ipso jure by and with the creation of such Intellectual and Industrial Property Right.

38.6 Electronic Data

If any data, materials and documents, referred to in the present Article, are created or maintained in a computer, the Concessionaire will ensure, for the benefit of the State/Grantor, as appropriate, and without any cost for the latter, the acquisition by the State/Grantor, as appropriate, of a licence to use any necessary software or database, so that it or persons designated by it, have access to and are able to use such data for the purpose of the Concession Operations and such other purposes as the State/Grantor and the Concessionaire may agree.

38.7 Possession and storage of documents

38.7.1 The Concessionaire will ensure that any data, materials and documents, referred to in this Article 38 (*Intellectual and Industrial Property Rights*), will be held at all times in its possession and will be at the disposal of the Grantor and the State for inspection, unless the same have already been granted and / or submitted to the Grantor and the State in compliance with this Agreement.

38.7.2 Within two (2) months from the Concession Commencement Date, the Concessionaire will submit to the Grantor and the State its proposals for keeping backup files and the safe storage of data, materials and documents, referred to in this Article 38 (*Intellectual and Industrial Property Rights*). If the Grantor and the State do not object to the above proposals, the Concessionaire will put these proposals into effect and ensure that the Contractor and any subcontractors of the Concessionaire comply with those.

39 Dispute Resolution**39.1 General**

39.1.1 All Disputes arising between the Contracting Parties, from the Effective Date until the Concession Commencement Date, with regard to the implementation, interpretation or the validity of this Agreement shall be resolved by the competent courts of Athens.

39.1.2 After the Concession Commencement Date, all Disputes arising between the Contracting Parties shall be resolved in accordance with the provisions of this Article 39 (*Dispute Resolution*). Technical Disputes shall be resolved through the Technical Disputes Resolution Procedure as set out in this Article 39 (*Dispute Resolution*) and referral of a Technical Dispute to Arbitration shall be permitted only in respect of the following aspects of the Findings of the Technical Disputes Resolution Panel:

- (a) allocation of liability issues;
- (b) allocation of risk;
- (c) interpretation of laws and contractual terms of this Agreement;
- (d) financial issues;
- (e) allocation of procedural costs issues; and
- (f) termination of this Agreement.

- 39.1.3 The right of a Contracting Party to refer a Dispute to Arbitration shall be suspended if a Technical Disputes Resolution Procedure is initiated in respect of that Dispute and shall remain suspended until the Technical Disputes Resolution Procedure is completed. The appointment of an Expert shall be deemed to be an initiation of the Technical Disputes Resolution Procedure.
- 39.1.4 Unless otherwise expressly provided in this Agreement, recourse to the Technical Disputes Resolution Procedure shall not have a suspensive effect on the performance of the obligations of the Contracting Parties under this Agreement.
- 39.1.5 The right of a Contracting Party to refer a Technical Dispute to the Technical Disputes Resolution Procedure may be exercised within two (2) months from the notice of the Technical Dispute, save where a different period is provided for in relation to specific Technical Disputes elsewhere in this Agreement. Where the time limit for the Parties' recourse to the Technical Disputes Resolution Procedure is shorter than two (2) months, the time period within which the Findings must be rendered is reduced to forty five (45) days. The deadlines of the present Articles refer to calendar days, unless otherwise provided.
- 39.1.6 Any notice of Technical Disputes Resolution, any response to any such notice, any request for Arbitration, any answer to any such request and any reply to any counterclaim shall be served by a court bailiff or by method of service of process recognised as valid in the jurisdiction in which the relevant Party is being served.

39.2 Technical Disputes Resolution

- 39.2.1 All Technical Disputes, regardless of whether they entail financial consequences, and (unless another means of resolution is specified) any failure of the Contracting Parties to reach agreement where this Agreement requires them to do so must be submitted to and decided through the procedure set out in this Article 39.2 (*Technical Disputes Resolution*) (the **Technical Disputes Resolution Procedure**). The Technical Disputes Resolution Procedure shall be effected by three Experts constituting a three-member panel (the **Technical Disputes Resolution Panel**). Any Expert appointed to the Technical Disputes Resolution Panel must have the training and experience necessary for the resolution of the Technical Dispute which they are required to resolve.
- 39.2.2 Recourse to the Technical Disputes Resolution Procedure shall be initiated by one of the Contracting Parties serving the other, through a bailiff, with a notification of its intention pursuant to Article 39.1.6. Such notice shall set out detailed particulars of the nature of the Technical Dispute, the demands of the relevant Party, be accompanied

by any evidence on which that Contracting Party relies and must specify an Expert to be appointed.

- 39.2.3 Within twenty (20) days of receiving the notification outlined in 39.2.2 above, the other Party shall appoint the second Expert and serve its written arguments in response to the Technical Dispute together with any evidence on which it relies. If the second Party refuses to appoint an Expert or the twenty (20) day time limit for doing so expires, the referring Party may petition the ICC to appoint the second Expert. The petition to the ICC shall be filed within ten (10) days from the written refusal by the other Party to appoint an Expert or the expiration of the aforementioned twenty (20) day time limit whichever date is earlier and shall be compulsorily accompanied by a copy of the relevant claim. The ICC shall appoint the second Expert through ballot from those persons set out in the expert's list, within ten (10) days.
- 39.2.4 Within a time limit of twenty (20) days from the appointment of the second Expert, the two appointed Experts shall appoint the third Expert. If agreement cannot be reached, or the twenty (20)-day time limit expires, either Party may instruct the ICC to appoint the third Expert.
- 39.2.5 For the avoidance of doubt, the Experts nominated or appointed in relation to any Technical Dispute pursuant to this Agreement need not be fluent in the Greek language (written or spoken). In case either Party appoints an Expert that is not fluent in the Greek language (written or spoken), such Party shall procure, at its own expense and care, that Greek translations (for documents) or interpretation (for oral communications), as the case may be, are provided for the purposes of the Technical Disputes Resolution Procedure. If following appointment an Expert is unable or unwilling to act, or is removed following a challenge, a replacement will be appointed following the same procedure as that used to appoint the Expert being replaced. In the event that a Party wishes to challenge for lack of independence, impartiality, qualification or any other reason, any of the Experts, such challenge shall be made by the submission to the ICC of a written statement specifying the facts and circumstances on which the challenge is based, and the challenge shall be decided by the ICC.
- 39.2.6 Any Technical Disputes Resolution Procedure shall be governed by Greek law, conducted in the Greek language and any hearings shall take place in Athens, Greece. For the avoidance of doubt, any participant in any such Technical Disputes Resolution Procedure may communicate in English (or any other language of their choice), in which case Greek translations (for documents) or interpretation (for oral communications) will be provided at the expense and care of the interested Party.

Subject to Article 39.2.10, any Technical Disputes Resolution Procedure shall be concluded with the issue of the Technical Disputes Resolution Panel's Findings.

- 39.2.7 The Technical Disputes Resolution Panel shall, within fourteen (14) days from the appointment of the third Expert, decide whether and to what extent the Dispute referred to it constitutes a Technical Dispute. If the Technical Disputes Resolution Panel decides that the Dispute is not a Technical Dispute, it will immediately notify this to the Parties, following which the Parties may refer the Dispute to Arbitration in accordance with the provisions below. If the Technical Disputes Resolution Panel finds that there is a Technical Dispute, it shall notify its decision immediately to the Parties and shall then proceed to determine the Dispute in accordance with Article 39.2.8. The Parties agree that they shall only be permitted to refer to Arbitration a matter that a Technical Disputes Resolution Panel has found to be a Technical Dispute following the issuing of the Findings and only insofar as permitted in Article 39.2.10.
- 39.2.8 Upon determining that a matter referred to it is a Technical Dispute, the Technical Disputes Resolution Panel shall apply the terms of this Agreement and provisions of Greek law to resolve the Technical Dispute. Subject to the provisions of this Agreement, the Technical Disputes Resolution Panel shall set the rules for the conduct of the Technical Disputes Resolution Procedure pursuant to the discretions provided in this respect by the applicable Greek law after the Parties have expressed their views in respect of such rules. This includes (but shall not be limited to) discretion as to whether to: (i) accept oral as well as written evidence; (ii) examine witnesses and conduct inspections of any relevant property or thing; (iii) permit any Party to make and/or amend any submissions; (iv) continue with the reference despite any Party's failure to appear or to comply with procedures or directions; (v) order disclosure of documents or other evidence subject to confidentiality restrictions; (vi) order any sample, observation or experiment to be made which is, in the Technical Disputes Resolution Panel's view, necessary or desirable; (vii) require the Parties to provide written statements of their respective cases, and written answers, and reasons for any disagreement; (viii) fix the date, time and place of meetings, hearings or inspections (if any); (ix) provide the Parties with a list of mandatory questions to address; (x) invite the Lenders or the technical adviser of the Lenders; and (xi) consult with the Independent Engineer. Any meetings, hearings or inspections will be in private unless the Parties agree otherwise.
- 39.2.9 The Technical Disputes Resolution Panel shall notify the Parties of its determination of the Technical Dispute by issuing its Findings within three (3) months from the date of appointment of the third Expert. The Findings of the Technical Disputes Resolution Panel shall be in writing and shall contain the reasoning of the Technical Disputes

Resolution Panel in arriving at those Findings. The Findings will not be deposited at the Secretariat of the One-member First Instance Court. Unless otherwise specified in this Article the provisions of articles 867 to 903 of the Code of Civil Procedure apply *mutatis mutandis* to the Technical Disputes Resolution.

- 39.2.10 The Findings of the Technical Disputes Resolution Panel, shall be final and binding upon the Parties. If the Technical Disputes Resolution Panel's Findings on any technical issues relating to any of the matters agreed to in paragraphs (a) to (f) of Article 39.1.2 are disputed by any of the Parties, the affected Party shall be entitled within thirty (30) days from the date the Findings were issued to refer those matters only to Arbitration in accordance with this Agreement.
- 39.2.11 The costs of the Technical Disputes Resolution Procedure shall be determined by the Technical Disputes Resolution Panel within the limits set by the ICC Rules. The costs of the Technical Disputes Resolution Procedure shall be paid in advance by the referring Party and shall be allocated in accordance with the Technical Disputes Resolution Panel's Findings.
- 39.2.12 Any Experts appointed to the Technical Disputes Resolution Panel in respect of a Technical Dispute may not be appointed as Arbitrators should that Technical Dispute subsequently be referred to Arbitration in accordance with the above provisions.
- 39.2.13 All written submissions and documents of the Parties, and the decision of the Technical Disputes Resolution Panel and any other records of the Technical Disputes Resolution Panel shall be admissible in any subsequent arbitration.

39.3 Arbitration

- 39.3.1 Subject to Article 39.4 (*Multi-party Disputes*) any Dispute that is not a Technical Dispute, including the Disputes set out in Article 39.1.2(a)-(f) shall be resolved by Arbitration in accordance with this Article 39.3 (*Arbitration*).
- 39.3.2 Any Arbitration commenced under this Agreement shall proceed under the ICC Rules subject to the variations agreed within this Article, which shall prevail over such ICC Rules.
- 39.3.3 Subject to the above provisions regarding Technical Dispute Resolution, each Party may refer to Arbitration any Dispute that has not already been referred to the Technical Disputes Resolution Procedure described in Article 39.2 (*Technical Disputes Resolution*) and is not the subject of another arbitration to which that Party is already a party. If a Dispute is referred directly to Arbitration without first having been referred to the Technical Disputes Resolution Procedure and one of the Parties raises

the issue as to whether the Dispute is a Technical Dispute, the Arbitration shall continue and the Tribunal appointed in the Arbitration shall upon application of a Party and by reference to this Agreement and Greek law determine the nature of the Dispute and whether it is a Technical Dispute within twenty one (21) days from the application being submitted. The decision of the Arbitral Tribunal shall be final and binding upon the Parties. If the Arbitral Tribunal determines that the matter is a Technical Dispute, the Arbitration proceedings shall be terminated and the Dispute may be referred for determination pursuant to the Technical Disputes Resolution Procedure in accordance with the provisions of Article 39.2 (*Technical Disputes Resolution*). Challenges regarding the nature of a Dispute referred to Arbitration shall only be permitted prior to the signing of the terms of reference in the Arbitration or the ICC Court determining to proceed without agreement on the terms of reference in accordance with article 23 of the ICC Rules.

- 39.3.4 The Arbitral Tribunal shall consist of three (3) Arbitrators. Each Party shall nominate an Arbitrator in accordance with article 12(4) of the ICC Rules. Should either Party fail to nominate an Arbitrator as provided, then that Arbitrator shall be chosen and appointed by the ICC Court. The two Arbitrators so appointed shall nominate the third Arbitrator, who shall act as chairman. If the two Arbitrators fail to nominate the chairman within thirty (30) days of the appointment of the second Arbitrator, the chairman shall be chosen and appointed by the ICC Court. For the avoidance of doubt, the Arbitrators nominated or appointed in any Arbitration commenced pursuant to this Agreement need not be fluent in the Greek language (written or spoken). In case either Party appoints an Arbitrator that is not fluent in the Greek language (written or spoken), such Party shall procure, at its own expense and care, that Greek translations (for documents) or interpretation (for oral communications), as the case may be, are provided for the purposes of the Arbitration proceedings. The Parties expressly agree that article 13(5) of the ICC Rules shall not apply to any Arbitration commenced under this Agreement to the extent that such provision would prevent a person of Greek nationality from being appointed as chairman and the Parties irrevocably agree that any Arbitrator, including the chairman, may be a person of Greek nationality.

- 39.3.5 Should the replacement of an Arbitrator be necessary, the substitute Arbitrator shall be nominated by the Party which had nominated such Arbitrator, within twenty (20) days from the date that the Arbitrator ceases to perform his duties, or, in case this deadline elapses without any action being taken, by the ICC Court, following a request by the other Party. If the third Arbitrator is to be replaced, the ICC Court shall choose and appoint the substitute Arbitrator.
- 39.3.6 The seat and legal place of Arbitration shall be Athens, Greece. The language of the Arbitration shall be Greek and any hearings shall take place in Athens and be conducted in the Greek language. For the avoidance of doubt, any participant in such Arbitration proceedings may communicate in English (or any other language of their choice), in which case Greek translations (for documents) or interpretation (for oral communications) will be provided at the expense and care of the interested Party.
- 39.3.7 The Arbitral Tribunal, in its discretion following a written request of each party to the Arbitration, may order appropriate interim measures.
- 39.3.8 Subject to articles 36 and 37 of the ICC Rules, the Arbitration Award shall establish the costs of Arbitration and their final allocation between the Parties, including the Arbitrators' fees, which shall be limited to the ICC's Scale of Arbitrators' Fees, as well as reimbursement of their reasonable out of pocket expenses.
- 39.3.9 The Arbitration Award shall be final, binding and irrevocable, not subject to appeal or cancellation lawsuit under articles 897 et seqq. of the Greek Civil Procedural Code, as in force, or any other equivalent measure and constitute an executory title without the need of Court endorsement, and the Parties expressly undertake the obligation for immediate compliance with its terms.
- 39.3.10 Amounts awarded to the Concessionaire pursuant to an Arbitration Award shall be capable of set-off pursuant to Article 44 (*Set Off*) without any further formality, including without limitation, the process set forth in legislative decree 356/1974 (KEDE), Pol 1022/3012 and law 4174/213 as applicable.

39.4 Multi-party Disputes

Notwithstanding any other provision of this Agreement, the Parties agree that where any of the parties to the Multi-Party Arbitration Agreement has a legal interest in a Dispute, that Dispute shall be resolved in accordance with the provisions of the Multi-Party Arbitration Agreement.

40 Communication - Notices

40.1 The Contracting Parties agree that correspondence, notifications and servings of documents between them, will be effected at the following addresses:

40.1.1 To the State and/or the Grantor:

Hellenic Republic Asset Development Fund

For the attention of the Chairman

1, Kolokotroni & Stadiou str., 7th Floor, 105 62 Athens, Greece

Fax: +30 210 3274449

Ministry of Finance

For the attention of the Minister's Office

5-7, Nikis str. 10180, Athens, Greece

Fax: +30 210 3332608

Ministry of Infrastructure, Transport and Networks

For the attention of the Minister's Office, 2, Anastaseos & Tsigante str. 10190
Holargos, Greece

Fax: +30 210 6508040

40.1.2 To the Concessionaire:

FRAPORT REGIONAL AIRPORTS OF GREECE A SOCIETE ANONYME

For the attention of the Chairman of the Board of Directors

209 Kifissias avenue, Amaroussio, Greece

Fax: +30 210 6140371

40.1.3 To The Initial Shareholders:

Fraport AG Frankfurt Airport Services Worldwide

Flughafen, Geb. 178, 60547 Frankfurt am Main, Germany

For the attention of the Head of Global Acquisitions & Management



Fax: +49 69 690 20130

SLENTEL LIMITED

15 Esperidon Street, ATLANTIC INSURANCE BUILDING, Strovolos 2001, Nikosia,
Cyprus

For the attention of the sole Director

Fax: +35 722 028806

- 40.2** The communication of the State and/or the Concessionaire with the Independent Engineer will be effected at the addresses provided on or after the execution of the Independent Engineer's Agreement by the Concessionaire and the Independent Engineer, and in accordance also with the provisions of the Independent Engineer's Agreement.
- 40.3** The communication of the State with the Contractor will be effected exclusively through the Concessionaire.
- 40.4** Each Contracting Party shall notify the other Parties of any change of address and each notification will become effective fifteen (15) days after its receipt by the Party to which it is addressed. Furthermore, the Concessionaire shall notify the State of any change of addresses of the Independent Engineer in accordance with this Article 40.4.
- 40.5** The Concessionaire shall, throughout the duration of this Agreement notify the Grantor and the State immediately of the content of:
- 40.5.1 all documents that are addressed or notified to it with respect to issues regarding the implementation of the Concession;
- 40.5.2 all litigation documents or other public or private documents that refer to any of its material obligations under this Agreement.
- 40.6** All documents which may be material to the State and are exchanged between the Concessionaire, the Contractor and the Independent Engineer will be copied to the State. This Article does not create per se any obligations to the State other than the obligation to notify.
- 40.7** The Concessionaire may authorise the Contractor to exchange documents directly with the State exclusively in relation to issues regarding the implementation of the Design-Construction Contract(s).

41 Applicable Law – Change in Law - Language

- 41.1** This Agreement is governed by Greek law. From the Ratification Law Effective Date, this Agreement is primarily governed by the provisions of the Ratification Law, which by virtue of being specific to it, shall prevail over any other provision, with the exception of any directly applicable provisions of European legislation and the Hellenic Duty Free Laws.
- 41.2** This Agreement has been drafted and executed in the Greek language. Furthermore:
- 41.2.1 All documents in relation to the implementation of this Agreement and other documents between the Parties shall be either in Greek or in English, accompanied by a translation into Greek;
- 41.2.2 If a second language is to be used this shall be English. If a document has been drafted in two languages the Greek text will prevail;
- 41.2.3 The Concessionaire shall facilitate the communication of its foreign personnel with the Grantor and the State by making interpreters or translators available;
- 41.2.4 Regardless of the use of a second language by the Parties, the official and prevailing language for this Agreement shall be Greek;
- 41.2.5 The Financial Model and exceptionally, other information brochures for materials or apparatuses may be initially submitted in English only and translated if requested by the Grantor and/or the State. The responsibility and cost for the translation shall be for the account of the Concessionaire. The Minimum Insurance Requirements, the Financial Model and the Design - Construction Contract shall be appended to this Agreement as Appendix 16 (*Minimum Insurance Requirements*), Appendix 25 (*Financial Model*) and Appendix 28 (*Design - Construction Contract(s) and/or Design-Construction Contract Template for Imminent Works*) respectively in English only.
- 41.3** If any Change in Law takes place, after a date which is thirty (30) days prior to the Concession Tender Date, which materially affects the consideration payable under this Agreement, then the financial consequences resulting from such amendment, as these will be assessed on the basis of the Financial Model and the principles of Appendix 23 (*Financial Adjustments*):
- 41.3.1 shall be paid by the State to the Concessionaire, if they are detrimental to the Concessionaire, at the time that such financial consequences occur; or
- 41.3.2 with the exception of Changes in Law that relate to the improvement of the general economic environment and the competitiveness of the economy and of enterprises, if a Change in Law is beneficial to the Concessionaire, the Grantor will be entitled to

and the Concessionaire shall pay to the Grantor the amount of the benefit when it is actually received or gained by the Concessionaire.

- 41.4** The application of Article 41.3 in each case will be determined by agreement between the Grantor, the State and the Concessionaire and, if there is a Dispute, by an award from the Arbitral Tribunal, in accordance with Article 39 (*Dispute Resolution*).

41.5 Change in Law Notice

If a Change in Law occurs or is shortly to occur, then the Concessionaire is, subject to Article 41.8.2, entitled to the relief and compensation set out below:

- 41.5.1 any necessary change to the Works and the Concession Operations;
- 41.5.2 any changes that are required to the terms of this Agreement or any of the Project Documents (as defined in the Designated Loan Agreements (if any)) to deal with the Change in Law;
- 41.5.3 relief from compliance with obligations, including the obligation of the Concessionaire to achieve agreed completion dates in relation to the Works at any Regional Airport and/or to meet the Performance Standards and/or Required Service Levels which it is unable to meet in each case as a result of the implementation of any relevant Change in Law but only for so long as is necessary to allow the Concessionaire (acting reasonably) to comply with the relevant Change in Law;
- 41.5.4 in relation to any (i) Discriminatory Change in Law, any Estimated Change in Concession Costs that directly result from such Discriminatory Change in Law; and (ii) General Change in Law, any Estimated Change in Concession Costs in excess of the amount that the Concessionaire is able to recover by increasing Airport Charges without exceeding any applicable Tariff Cap and/or the rate of return set out in Article 28.3.1 (the **Recoverable Amount**) and without the Concessionaire breaching any other term of this Agreement (as the case may be); and
- 41.5.5 in relation to any (i) Discriminatory Change in Law, any Capital Expenditure and/or Operational Expenditure that is required or is likely to be incurred as a result of such Discriminatory Change in Law, including any relevant financing costs incurred by the Concessionaire as a result of such Capital Expenditure and/or Operational Expenditure; and (ii) General Change in Law, any such Operational Expenditure and/or Capital Expenditure, including any relevant financing costs incurred by the Concessionaire as a result of such Capital Expenditure and/or Operational Expenditure, which is in excess of the Recoverable Amount (as the case may be), for the avoidance of doubt, without any double-counting;

and either Party may provide a notice to the other to express an opinion on its likely effects in each case giving in full detail the procedure for implementing the change in the Works or in the Concession Operations. Responsibility for the costs of implementation (and any resulting variation to the Concession Fee) shall be dealt with in accordance with Articles 41.6 (*Parties to Discuss*) to 41.7 (*Funding for Capital Expenditure*).

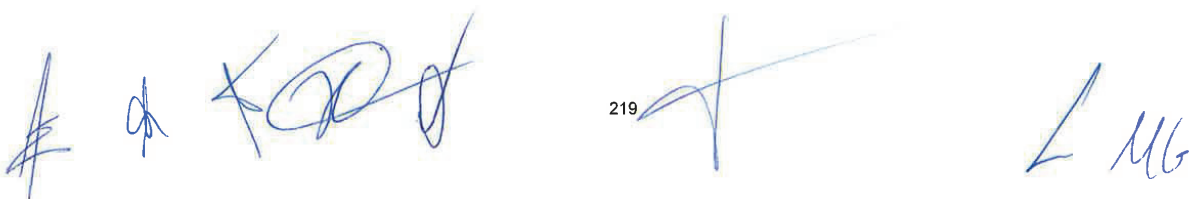
41.6 Parties to Discuss

41.6.1 As soon as practicable after receipt of any notice from either Party under Article 41.5 (*Change in Law Notice*), the Parties shall discuss and seek to agree the issues referred to in Article 41.5 (*Change in Law Notice*) and any ways in which the Concessionaire can mitigate the effect of the Change in Law, including:

- (a) that the Concessionaire has used reasonable endeavours (including (where practicable) the use of competitive price quotes) to oblige its subcontractors to minimise any increase in costs and maximise any reduction in costs;
- (b) how any Capital Expenditure and/or Operational Expenditure to be incurred or avoided, including any relevant financing costs to be incurred or avoided by the Concessionaire as a result of such Capital Expenditure and/or Operational Expenditure, are being measured in a cost effective manner, including showing that when such Capital Expenditure and/or Operational Expenditure, including in each case any relevant financing costs, are to be incurred any other Changes in Law (which do not apply at the time of such discussion but will at the time such Capital Expenditure and/or Operational Expenditure, including in each case any relevant financing costs, are to be incurred) have been taken into account by the Concessionaire;
- (c) how the Qualifying Change in Law has affected prices charged by any similar businesses to the Concession, including similar businesses in which the Concessionaire or its subcontractors carry on business; and
- (d) that any Capital Expenditure and/or Operational Expenditure that has been avoided and, which was anticipated to be incurred to replace or maintain facilities and/or assets that have been affected by the Qualifying Change in Law concerned, has been taken into account in the amount which has resulted or is required under Articles 41.5.4 and/or 41.5.5.

41.6.2 If the Parties agree or it is determined that a Change in Law will necessitate a change to the Concession Operations, the State shall issue a Variation Enquiry in respect of the Change in Law and the provisions of Appendix 19 (*Variations*) shall apply. For the

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avoidance of doubt, in such circumstances, the Concessionaire may also seek appropriate Event of Delay protection in accordance with Article 30 (*Compensations*).

- 41.6.3 Without prejudice to Article 41.4, if the Parties cannot agree any matter or matters set out in this Article 41 (*Applicable Law – Change in Law – Language*) within forty two (42) days after the receipt of a notice under Article 41.5 (*Change in Law Notice*), then such matter or matters shall be referred for determination to the Arbitral Tribunal.

41.7 Funding for Capital Expenditure

- 41.7.1 If the Parties agree or it is determined under the Dispute Resolution Procedure that the Concessionaire is required to incur any Capital Expenditure due to a Qualifying Change in Law (excluding the Recoverable Amounts (or part thereof) of any Capital Expenditure), then the Concessionaire shall use its best endeavours to obtain funding for such Capital Expenditure on terms reasonably satisfactory to it and the Lenders.

41.7.2

- (a) The Concessionaire shall give notice to the Grantor when the Concessionaire has incurred or is to incur any Capital Expenditure and/or Operational Expenditure as a result of a Change in Law, including any relevant financing costs incurred by the Concessionaire as a result of such Capital Expenditure and/or Operational Expenditure, in excess of any Recoverable Amounts, such notice to include reasonable details of the relevant Change in Law and the corresponding Capital Expenditure and/or Operational Expenditure, including any relevant financing costs, incurred or to be incurred by the Concessionaire. If the Grantor disputes the contents of any notice given by the Concessionaire pursuant to this Article 41.7.2 then such Dispute shall be referred to the Arbitral Tribunal in accordance with Article 41.6.3;
- (b) Any Recoverable Amounts shall be solely for the account of the Concessionaire;
- (c) The Concessionaire shall be compensated for any amounts in excess of the Recoverable Amounts in accordance with this Article 41 (*Applicable Law – Change in Law – Language*).

41.8 Adjustment to Levy

- 41.8.1 Any compensation payable under this Article 41.8 (*Adjustment to Levy*) by means of an adjustment to the Levy including any adjustment to the Levy to reflect funding obtained by the Concessionaire pursuant to Article 41.7 (*Funding for Capital*

Expenditure) shall be calculated in accordance with Appendix 23 (*Financial Adjustments*).

- 41.8.2 In the case of a Change in Law when making any adjustment to the Levy, the overriding principle is that the Concessionaire shall in accordance with Appendix 23 (*Financial Adjustments*) be placed in a no better no worse position than it was in before the Change in Law occurred and may under this Article 41 (*Applicable Law – Change in Law – Language*) and Appendix 23 (*Financial Adjustments*) be compensated to the extent necessary to achieve this. Any Change in Law which has reduced the Concessionaire's Operational Expenditure, Capital Expenditure or the amount of Tax it is paying shall be taken into account by the Parties when determining the adjustment needed to ensure that the Concessionaire is placed in a no better no worse position.

42 Variation Procedure

The provisions of Appendix 19 (*Variations*) have effect in respect of Variations and the Concessionaire Variations except as otherwise expressly provided in this Agreement. For the avoidance of doubt, neither Party may request a Variation before the Concession Commencement Date.

42.1 Variation to the Works and Airport Services

42.1.1 The Concessionaire may only make a:

- (a) Variation; or
- (b) Concessionaire Variation;

to the Works and/or the Airport Services once the Variation is a Qualifying Variation or the Concessionaire Variation has been accepted by the State pursuant to Appendix 19 (*Variations*).

42.2 Variation and Change in Law

Either Party may give notice to the other of the need for a Variation which is necessary in order to enable the Concessionaire to comply with any Change in Law in which event:

- 42.2.1 the Parties must meet within six (6) days to consult in respect of the Change in Law and any Variation required as a consequence;
- 42.2.2 within fourteen (14) days after the meeting referred to in Article 42.2.1 above, the State must, if a Variation is required in order to comply with the Change in Law, issue a Variation Enquiry and the provisions of Appendix 19 (*Variations*) are to apply.

43 Tax Issues**43.1 Tax Issues**

43.1.1 The payments to the Grantor pursuant to Article 29.1 (*Concession Fees*) and to the State pursuant to Article 28.9 and Appendix 20 (*Cooperation Framework between the Hellenic Air Force (HAF), the Hellenic Civil Aviation Authority (HCAA) and the Concessionaire at Joint Use Airports*) constitute income for the Grantor and the State respectively which is subject to VAT and is an operation cost of the Concessionaire. For the avoidance of doubt, the Upfront Concession Fee is not an operation cost of the Concessionaire. The payment of a part of the Upfront Concession Fee to be paid by the Concessionaire pursuant to Article 29.1 (*Concession Fees*) prior to or on the Concession Commencement Date, that is equal to the amount of the VAT that corresponds to the Upfront Concession Fee, shall, at the discretion of the Concessionaire be deferred, until such VAT amount is actually returned by the State to the Concessionaire, subject to the assignment to the Grantor of a credit balance of VAT pursuant to Article 43.1.2 of equal amount. The Concessionaire shall be fully responsible to pursue the reimbursement of any credit balance of VAT, including default interest for any delays in such VAT being reimbursed, in a proper and timely manner. It is clarified that the assignment of the credit balance of the VAT pursuant to this Article 43.1.1. shall also extend to default interest for any delays in such VAT being reimbursed.

43.1.2

- (a) The provisions of the last passage of paragraph 3 of article 33 of law 2859/2000, as currently in force, are applicable *mutatis mutandis* to this Concession, without however such application resulting in the Concessionaire being considered as a Public Utility Organisation or enterprise or company in any manner whatsoever;
- (b) The reimbursement of any credit balance of VAT to the Concessionaire shall be effected within the time frame stipulated in the Law and in any case not more than ninety (90) days from the submission of the relevant application. In particular, for the first reimbursement such deadline may not exceed six (6) months. If this deadline is exceeded, the State shall pay the Concessionaire default interest on the amount to be reimbursed, timing for such accrual to be calculated in accordance with paragraph 2 of article 53 of law 4174/2013, as currently in force, at an interest rate defined each time pursuant to paragraph 4 of article 53 of such law.

- 43.1.3 The determination of the net taxable income and the payment of relevant tax by the Concessionaire and the contractors and sub-contractors who execute works within the context of the Design - Construction Contract(s) shall be done for each fiscal year on the basis of their income statement that is drafted pursuant to the provisions of law 4172/2013, as currently in force.
- 43.1.4 Any accumulated losses of the Concessionaire, can be carried forward to be set-off against taxable profits of the five (5) subsequent fiscal years.
- 43.1.5 The total investment cost that shall include the Design - Construction Contract(s) cost, including the initial cost of all of the equipment required and any cost and expense of any nature including interest that has been incurred by the Concessionaire prior to the Imminent Works End Date, together with the Upfront Concession Fee shall be depreciated pursuant to the method and the depreciation rates provided under article 24 of law 4172/2013, as currently in force.
- 43.1.6 The interest expense accrued under the Designated Loan Agreements (if any) for the purpose of the Works may be deducted, to the extent permitted by articles 23 and 49 of law 4172/2013, as currently in force, from the revenue of the fiscal year in which they were accrued, irrespective of the time of completion of such Works, provided that they will not be capitalized by the Concessionaire in accordance with Article 43.1.5.
- 43.1.7 All payments to be made by the State with regards to compensation of any kind by virtue of Articles 30 (*Compensations*), 33 (*State Termination – Consequences*), 34 (*Concessionaire Termination – Consequences*), 35 (*Compensation on Extensive Force Majeure*) and 41.3.1 shall be made in cleared funds, free and clear of and without any deduction for or on account of stamp duties or third party charges and fees, save as required by law. If any stamp duty, third party charge or fee is applicable at the time of payment, the amount of the compensation shall be increased by the amount of such stamp duty, third party charge or fee.
- 43.1.8 The Concession Fees and the Levy to be paid by the Concessionaire to the Grantor and the State respectively are tax deductible from the revenue of the fiscal year in which they were paid.
- 43.1.9 For the avoidance of doubt, the Concessionaire (including any Airport Right Holder), not being the holder of any right in rem over the Concession Sites, does not fall under the scope of article 2 of law 4223/2013, as in force, or any other Law having similar effect and is not subject to any property taxes or duties (special or aggregate) in respect of any Regional Airport.

43.1.10 For the avoidance of doubt, the agreement of the Grantor and/or the State to set off and any declaration and/or agreement of any Party to set off any expropriation cost against its claims for any part of the Concession Fees pursuant to Article 14.1.8 shall not be subject to any tax, stamp duty, third party charge or fee applicable at the time of the conclusion of such agreement or at the time of the set off.

44 Set Off

The Concessionaire waives any set off rights that it may have against the Grantor. The State and the Concessionaire may retain or set off any amount due to it by the other Party under this Agreement excluding for the avoidance of doubt any monetary claims that the Grantor may have (including, for the payment of any Concession Fee) against any amount due and payable by it to the other Party under this Agreement provided that such amount is ascertained or that part of any sum that is not in Dispute and which is expressly due and payable in accordance with the terms of this Agreement has been previously notified to the other Party (such notice to advise that it is the relevant Party's intention to retain or set off such amount). If a Party retains or sets off any sum pursuant to this Article 44 (*Set Off*), then at the same time that such retention or set off is made it shall provide a notice to the other Party identifying the sums of, and the entitlement of that Party to, the retention or set off as appropriate. This Article 44 (*Set Off*) shall:

- (a) not prevent the Concessionaire from deferring the Concession Fee under Article 45.5 (*Shock Events*);
- (b) not prevent the State to set off any amounts owed by the Concessionaire, other than amounts which are subject to Dispute under this Agreement, which are ascertained even if they are not yet due and payable, to the extent that the existence of such debts is not subject to a court dispute; or
- (c) not apply with respect to any set off under the provisions of Article 14.1.8.

45 Shock Events

45.1 Where a Shock Event occurs, the Concessionaire may, subject to the provisions of this Article 45 (*Shock Events*), defer part of the payment of the Levy and, if applicable, the Concession Fee during the Shock Event Period and the Concessionaire must repay such deferred payment to the State and, if applicable, the Grantor in accordance with the provisions of this Article 45 (*Shock Events*).

45.2 No later than twenty eight (28) days before the end of a Concession Year or where a Shock Event occurs in the twenty eight (28) days before the end of a Concession Year as soon as reasonably practicable after the occurrence of such Shock Event but no later than fourteen (14)

days after the end of such Concession Year, the Concessionaire may, if it reasonably believes that it will, having regard to the provisions of this Article 45 (*Shock Events*), defer part of the payment of the next Levy and, if applicable the Concession Fee, serve a notice on the State and the Grantor (the **Concessionaire Shock Event Notice**) and such notice shall provide the State and the Grantor:

45.2.1 with reasonable details to confirm:

- (a) that a Shock Event has occurred and/or is continuing or that it reasonably believes a Shock Event will occur together with details of the expected number of Passengers at the Regional Airports as at the date of such notice for the relevant Concession Year; and
- (b) that debt under the Designated Loan Agreements (if any) is outstanding during that Concession Year;

45.2.2 a statement as to whether it reasonably believes that it is likely that the next payment of the Levy and, if applicable the Concession Fee will cause the Minimum Cover Ratios not to be achieved at the next Calculation Date or result in it being unable to meet its Operational Expenditure in the next succeeding Concession Year.

45.3 If the Concessionaire has delivered to the State and the Grantor a Concessionaire Shock Event Notice pursuant to Article 45.2 the Levy and, if not sufficient for these purposes, the Concession Fee shall cease to be payable, subject to this Article 45 (*Shock Events*), until the relevant Shock Event End Date.

45.4 If:

45.4.1 the Concessionaire has delivered to the State and the Grantor a Concessionaire Shock Event Notice pursuant to Article 45.2; and

45.4.2 either:

- (a) the Concessionaire demonstrated to the reasonable satisfaction of the Grantor that the Revenues received by the Concessionaire in the Concession Year to which the Concessionaire Shock Event Notice applies are reduced as a result of the Shock Event with the result that the Concessionaire is unable to pay the Operational Expenditure (as set out in the Financial Model) which will be due and payable in the relevant period; or
- (b) the Minimum Cover Ratios or any other ratios set out in the financial covenant provisions of the Designated Loan Agreements have not been achieved or will not be achieved at the next Calculation Date,

then the Concessionaire may defer payment of part of the Levy and, if not sufficient, the Concession Fee in accordance with the provisions of Article 45.5.

45.5 If the Concessionaire has complied with its obligation under Article 45.4.1 and the circumstances in Article 45.4.2 have occurred then, subject to Article 45.7, the Concessionaire may defer part of the payment of the Levy and, if not sufficient, the Concession Fee for the Concession Year to which the Concessionaire Shock Event Notice relates, by an amount equal to the amount of the Levy and, if not sufficient, the Concession Fee required to be deferred in order to meet:

- (a) the Minimum Cover Ratios or other ratios on the next Calculation Date; or
- (b) the Operational Expenditure minus the Levy falling due in such Concession Year;

(the **Deferred Amount**) provided that the amount to be deferred in any Concession Year in relation to the relevant Shock Event shall not exceed, when taken together with any other Concession Fee Adjustments (as such adjustments are to be applied against the Concession Fee), the aggregate Levy and the Concession Fee for the Concession Year and any amount by which the amount to be deferred (as calculated under this Article 45.5) exceeds the Deferred Amounts shall be added to the Deferred Amounts calculated for the succeeding Concession Year and also deferred under this Article 45.5.

45.6 The Deferred Amounts shall be retained in the Proceeds Account (as defined in the Designated Loan Agreements) and may be applied to discharge the costs of Concession Operations, including amounts due under the Designated Loan Agreements (if any) but excluding Subordinated Debt and Distributions notwithstanding that there may be monies in the Distribution Account (as defined in the Designated Loan Agreements (if any)).

45.7 Any Dispute relating to the provisions in this Article 45 (*Shock Events*) shall be referred to the Technical Disputes Resolution Panel. Where as a result of the resolution of that Dispute, the Concessionaire is obliged to repay to the State and/or the Grantor amounts which it withheld and was not entitled to do so, such payments shall become due and payable by the Concessionaire to the State and/or the Grantor by way of a lump sum payment within six (6) weeks after the resolution of the Dispute to the extent funds are available or if not available then on the date of payment of the Levy and, if applicable, Concession Fee for the relevant Concession Year, where such amounts remain due after the Shock Event End Date, following the resolution of the Dispute, together with interest at the Reference Interest Rate accrued from the date of deferral of the Deferred Amount in dispute to the date of the payment.

45.8 The Concessionaire shall pay to the State and, if applicable, the Grantor the Total Deferred Amount in accordance with the provisions of this Article 45 (*Shock Events*), provided that the

Total Deferred Amount outstanding at the Termination Date shall only become due as a debt seven (7) days after the payment of compensation to the Concessionaire (or its nominee) in respect of amounts referred to in Article 34.2 (*Results of Termination by the Concessionaire*) or Article 35 (*Compensation on Extensive Force Majeure*) (as applicable) and the State and, if applicable, the Grantor may not set off, counterclaim or otherwise reduce amounts due under Article 30 (*Compensations*) in respect of amounts payable to the State and, if applicable, the Grantor under this Article 45 (*Shock Events*).

45.9 Subject to Article 45.8, following a Shock Event End Date:

45.9.1 the Concessionaire must pay to the State and, if applicable, the Grantor within forty two (42) days after the Shock Event End Date, all Deferred Amounts not applied to discharge the costs of the Concession Operations including amounts due under the Designated Loan Agreements but excluding Subordinated Debt and Distributions in accordance with Article 45.6; and

45.9.2 thereafter, the Concessionaire must pay to the State and, if applicable, the Grantor, the amount outstanding of the Total Deferred Amount to the extent that:

- (a) funds are available after the payment by the Concessionaire of all amounts for principal, interest (not Default Interest) and fees under the Designated Loan Agreements and principal and interest (but not Default Interest) on Subordinated Debt and any Distributions, in accordance with the terms of the Designated Loan Agreements and Subordinated Debt Documents (as the case may be);
- (b) so long as no further Shock Event is subsisting; and
- (c) such payment of the Deferred Amounts would not impact the ability of the Concessionaire to meet:
 - (i) the Minimum Cover Ratios or other ratios on the next Calculation Date; or
 - (ii) the Operational Expenditure falling due in such Concession Year.

45.10 Following a Shock Event End Date, the Levy and the Concession Fee shall be calculated and paid by the Concessionaire to the State and the Grantor in accordance with Article 29 (*Payments*), subject to any further application of this Article 45 (*Shock Events*).

45.11 For the period from the issue of a Concessionaire Shock Event Notice until the Shock Event End Date to which the Concessionaire Shock Event Notice applies, the Concessionaire may not make any Distributions or payments of principal and interest on Subordinated Debt during the

period from the issue of a Concessionaire Shock Event Notice until the date that the Total Deferred Amount has been repaid.

46 Confidentiality

- 46.1** Each Party recognises that under this Agreement it may receive trade secrets and/or confidential or proprietary information belonging to the other. Subject to the exclusions detailed in Article 46.3, all such information which is designated as confidential or which is otherwise clearly confidential in nature constitutes **Confidential Information**.
- 46.2** Each Party agrees not to divulge Confidential Information belonging to the other to any third party.
- 46.3** The following is not Confidential Information for the purposes of this Article 46 (*Confidentiality*):
- 46.3.1 information which is in, or which comes into, the public domain otherwise than by reason of a breach of this Agreement or of any other duty of confidentiality relating to that information;
- 46.3.2 information obtained from a third party without that third party being under an obligation (express or implied) to keep the information confidential; and/or
- 46.3.3 information which is lawfully in the possession of the other Party before the Effective Date and in respect of which that Party is not under an existing obligation of confidentiality.
- 46.4** Each Party may disclose Confidential Information to the extent that it is required to do so:
- 46.4.1 to enable the disclosing Party to perform its obligations under this Agreement; or
- 46.4.2 by any applicable Law or by a court, arbitral or administrative tribunal in the course of proceedings before it; or
- 46.4.3 by any regulatory body (including any investment exchange) acting in the course of proceedings before it or any regulatory body (including any investment exchange) acting in the course of its duties; or
- 46.4.4 in order to give proper instructions to any professional adviser of that Party who also has an obligation to keep any such Confidential Information confidential; or
- 46.4.5 in the case of the Concessionaire, and only on a confidential basis, for the purpose of any financing or refinancing, complying with any Designated Loan Agreements (if any), or effecting any sale or issue of any shares or debt.

- 46.5** Each Party may disclose Confidential Information to the extent that disclosure is authorised in writing by the other Party which authorisation must not be unreasonably withheld or delayed.
- 46.6** If reasonably requested by the Grantor, the Concessionaire undertakes to procure that individual members of its staff must each sign a non-disclosure agreement with the Grantor on terms similar to those in this Article 46 (*Confidentiality*).
- 46.7** The obligation in Article 46.2 above survives the expiry or termination of this Agreement for a period of three (3) years or, in respect of any particular item of Confidential Information, until such earlier time as that item of Confidential Information reaches the public domain otherwise than by reason of a breach of this Agreement or of any other duty of confidentiality relating to that information.

46.8 Submission to Dispute Resolution Procedure

The Parties acknowledge and agree that this Agreement constitutes a commercial transaction.

Each of the Parties unconditionally and irrevocably agrees:

- 46.8.1** to the submission of any Dispute by any Party to the Dispute Resolution Procedure set out in Article 39 (*Dispute Resolution*) including binding arbitration under Article 39 (*Dispute Resolution*) and not to claim any right it may have under the laws of any jurisdiction to hinder, obstruct or nullify the submission of any Dispute to the Dispute Resolution Procedure; and
- 46.8.2** to accept any award rendered by the Arbitral Tribunal as final and binding and not to hinder, obstruct or nullify the enforcement or execution of any award rendered by such arbitration tribunal or court of competent jurisdiction.

47 Refinancing

- 47.1** The Concessionaire shall obtain the Grantor's prior written consent (not to be unreasonably withheld or delayed) to any Qualifying Refinancing and both the Grantor and the Concessionaire shall at all times act in good faith with respect to any Refinancing or any potential or proposed Refinancing under Article 47.9 (*State and/or Grantor right to request refinancing*).
- 47.2** The Grantor may receive: (i) a fifty percent (50%) share of any Refinancing Gain from a Qualifying Refinancing, in respect of any Refinancing Gain for any Refinancing from the Concession Commencement Date until ten (10) years from the Concession Commencement Date (the **First Refinancing Gain End Date**); and (ii) a percentage share of any Refinancing Gain from a Qualifying Refinancing, in respect of any Refinancing Gain from any Refinancing which shall decrease on annual basis of five percent (5%) from fifty percent (50%) starting from

the First Refinancing Gain End Date and ending ten (10) years from the First Refinancing Gain End Date.

47.3 The Grantor shall not withhold or delay its consent to a Qualifying Refinancing to obtain a greater share of the Refinancing Gain than that specified in Article 47.2.

47.4 The Concessionaire shall promptly provide the Grantor with full details of any proposed Qualifying Refinancing, including a copy of the proposed financial model relating to it (if any) and the basis for the assumptions used in the proposed financial model. The Grantor shall (before, during and at any time after any Refinancing) have unrestricted rights of audit over any financial model and documentation (including any aspect of the calculation of the Refinancing Gain) used in connection with that Refinancing (whether that Refinancing is a Qualifying Refinancing or not).

47.5 The Grantor may elect to receive its share of any Refinancing Gain as:

47.5.1 a single payment in an amount less than or equal to any Distribution made on or about the date of the Refinancing;

47.5.2 an increase in the Concession Fee over the remaining term of this Agreement; or

47.5.3 a combination of any of the above;

The Grantor shall, within twenty eight (28) days after being provided with full details of any proposed Qualifying Refinancing, notify the Concessionaire of its election regarding how it wants to receive its share of any Refinancing Gain.

47.6 The Grantor and the Concessionaire will negotiate in good faith to agree the basis and method of calculation of the Refinancing Gain and payment of the Grantor's share of the Refinancing Gain (taking into account how the Grantor has elected to receive its share of the Refinancing Gain under Article 47.5 above). If the Parties fail to agree the basis and method of calculation of the Refinancing Gain or the payment of the Grantor's share, the Dispute shall be determined in accordance with the Dispute Resolution Procedure.

47.7 The Refinancing Gain shall be calculated after taking into account any breakage costs necessary to facilitate the Qualifying Refinancing together with the reasonable and proper professional costs that each Party directly incurs in relation to the Qualifying Refinancing and on the basis that all reasonable and proper professional costs incurred by the Grantor will be paid to the Grantor by the Concessionaire within twenty eight (28) days after any Qualifying Refinancing.

47.8 Without prejudice to the other provisions of this Article 47 (*Refinancing*), the Concessionaire shall include a provision in the Designated Loan Agreements whereby it is entitled to be

informed of any proposals which the Lenders may have to refinance the Designated Loan Agreements.

47.9 State and/or Grantor right to request refinancing

47.9.1 If the State and/or the Grantor (acting reasonably) considers the funding terms generally available in the market to be more favourable than those reflected in the Designated Loan Agreements (if any), the State or the Grantor (as the case may be) may, by notice to the Concessionaire, require the Concessionaire to request potential funders to provide terms for a potential Refinancing (a **Refinancing Notice**).

47.9.2 The Refinancing Notice shall set out in reasonable detail the grounds upon which the State or the Grantor (as the case may be) believes such funding terms to be available. The Concessionaire, the State and the Grantor shall meet to discuss the Refinancing Notice within twenty eight (28) days. Such a meeting will consider the evidence available to both Parties about the availability of funding terms for a potential Refinancing. The State or the Grantor (as the case may be) may withdraw the Refinancing Notice at or before such a meeting, or within ten (10) days following the meeting.

47.9.3 If the State or the Grantor (as the case may be) serves a Refinancing Notice which is not withdrawn pursuant to Article 47.9.2, then the Concessionaire shall:

- (a) act promptly, diligently and in good faith with respect to the potential Refinancing;
- (b) use all reasonable endeavours to obtain the most favourable available terms from existing and/or new lenders for any potential Refinancing (provided that the Concessionaire shall not be required to propose refinancing in a manner which a prudent board of directors of a company operating the same business in the Hellenic Republic to that operated by the Concessionaire, in similar circumstances, would not approve), for the avoidance of doubt also being terms which are likely to generate a positive Refinancing Gain after the deduction of costs in accordance with the provisions of Article 47.7; and
- (c) either:
 - (i) as soon as reasonably practicable after receipt of the Refinancing Notice, provide to the State and the Grantor (A) full details of the proposed Refinancing, including a financial model and the basis for the assumptions used in the financial model and evidence to the reasonable satisfaction of the State and the Grantor that these assumptions

represent the most favourable available terms for the potential Refinancing on the basis set out in this Article 47 (*Refinancing*) and (B) initial drafts of any changes to this Agreement including in relation to potential compensation on termination which might be required to give effect to the proposed Refinancing; or

- (ii) if the Concessionaire (acting reasonably) believes that it is not possible to obtain funding terms which are more favourable than those reflected in the Designated Loan Agreements in accordance with the requirements of this Article 47 (*Refinancing*), provide evidence to the reasonable satisfaction of the State and the Grantor for such belief and evidence to the reasonable satisfaction of the Grantor that the Concessionaire has complied with its obligations in Articles 47 (*Refinancing*), 47.9.3(a) and 47.9.3(b).

47.9.4 Following receipt of the information referred to in Article 47.9.3(c)(i), the State and the Grantor shall (in their absolute discretion) either:

- (a) instruct the Concessionaire to implement the proposed Refinancing; or
- (b) instruct the Concessionaire to discontinue the proposed Refinancing;

provided that if the State and the Grantor reasonably consider that the requirements of Article 47.9.3(c)(i) have not been satisfied, the State and/or the Grantor may require the Concessionaire to satisfy its obligations under Article 47.9.3(c)(i) whereupon the provisions of Articles 47.9.3 and 47.9.4 shall apply as if the State and the Grantor had served a Refinancing Notice.

47.9.5 If the Grantor instructs the Concessionaire to implement the proposed Refinancing:

- (a) the Concessionaire shall, as soon as reasonably practicable, use all reasonable endeavours to procure that such proposed Refinancing is implemented;
- (b) such proposed Refinancing shall be deemed to be a Qualifying Refinancing; and
- (c) the provisions of Articles 47.1 to 47.8 shall apply.

47.9.6 If:

- (a) the State and the Grantor instruct the Concessionaire to discontinue the potential Refinancing pursuant to Article 47.9.4(b); or

- (b) the requirements of Article 47.9.3(c)(ii) are satisfied;

then, the State shall reimburse the Concessionaire for the reasonable and proper professional costs incurred by the Concessionaire in relation to the potential Refinancing; such costs to be paid to the Concessionaire by the State within sixty (60) days after receipt of a valid invoice in respect of such amount. Such costs shall not include any internal management costs incurred by the Concessionaire except insofar as (a) it can be demonstrated to the reasonable satisfaction of the State that such costs have been incurred in place of professional costs which would in the normal course of such business have been paid to third parties and (b) the State has, by prior written agreement, approved the use of such internal management resource.

- 47.9.7 The State and/or the Grantor may issue a Refinancing Notice under Article 47.9.1 at any time but not more than once in any two-year period. For the avoidance of doubt, a Refinancing Notice that has been withdrawn under Article 47.9.2 has been issued for the purpose of this Article 47.9.7.

48 [NOT USED]

49 Exclusive Remedy

- 49.1** Without prejudice to any entitlement of the Concessionaire:

49.1.1 to specific performance of any obligation under this Agreement; or

49.1.2 to the right to implementation of interim measures;

the Concessionaire shall not be entitled to any rights to damages or to any other rights under contract, tort or otherwise in relation to any breach of this Agreement to the extent that such breach is a State Responsible Event or this Agreement provides an express remedy in relation to the breach.

- 49.2** Unless otherwise set out in this Agreement, the only remedies of the Grantor and/or the State in respect of any matter to which Deficiency Points and/or Performance Deductions apply under Appendix 6 (*Performance Measurement*) shall be such Deficiency Points or Performance Deductions.

50 Amendment of the Concession Agreement

- 50.1** Subject to Articles 16.2 and 22.1, the Concessionaire may, with subsequent notice to the State or the Grantor, amend any major subcontract or State Service Level Agreement unless such amendment is prejudicial to the interests of the State or the Grantor in which case such amendment can only be made with the State's and/or the Grantor's (as applicable) prior written

consent, not to be unreasonably withheld. Any such amendment will not relieve the Concessionaire from its obligations under this Agreement.

50.2 With the exception of the Appendices, this Agreement may be amended or supplemented only with the written consent of the Grantor, the State and the Concessionaire, and such amendments shall be ratified by law. Subject to the provisions on Change in Law, the repeal or amendment of this Agreement without the agreement of the Concessionaire shall constitute a State Event of Default.

50.3 Any agreement between the Grantor, the State and the Concessionaire for the amendment of this Agreement shall be set out in writing and executed by the Grantor's Representative, the State's Representative and the Concessionaire's Representative(s) who shall be specifically empowered to that effect.

50.4

50.4.1 The amendment of the Appendices:

- (a) with regard to all Appendices other than Appendices 25 (*Financial Model*), 26 (*Technical Offer*) and 27 (*Concessionaire's Articles of Association*), shall be effected by agreement between the State, the Grantor and the Concessionaire and shall be executed by the persons referred to in Article 50.3;
- (b) with regard to Appendices 25 (*Financial Model*), 26 (*Technical Offer*) and 27 (*Concessionaire's Articles of Association*), shall be effected by agreement between the contracting parties therein, following consent in writing by the State.

50.4.2 The Grantor and the Concessionaire shall be entitled to make or grant any amendment, without obtaining the consent of the other Parties if such matter relates solely to any fees payable by the Concessionaire to the Grantor.

50.4.3 The State and the Concessionaire shall be entitled to make or grant any amendment, without obtaining the consent of the other Parties if such matter relates solely to:

- (a) the Levy or other amounts payable under this Agreement by the Concessionaire to the State; and
- (b) amendments that the State and the Concessionaire reasonably believe to be of a purely mechanical or clerical nature or do not affect the rights, interests and/or obligations of the Grantor.

- 50.5** Unless otherwise provided in the relevant Article, all agreements to be entered into pursuant to this Agreement between the State and/or the Grantor and the Concessionaire or the Lenders are executed by the Grantor's Representative and the Concessionaire's Representative(s) who shall be specifically empowered to that effect.
- 50.6** Arrangements and actions of the Contracting Parties pursuant to this Agreement, other than those required for the achievement of the Concession Commencement Date, are effective after the Ratification Law Effective Date.

IN WITNESS whereof the State, the Grantor, the Concessionaire, and the Initial Shareholders have signed this Agreement (in seven copies – three for the State, one for the Grantor, one for the Concessionaire and two for the Initial Shareholders) through their authorised representatives as above stated, as of the date first hereinabove mentioned.

FOR THE HELLENIC REPUBLIC

Minister of Infrastructure, Transport and Networks

Minister of Finance

Minister of Defence

FOR THE GRANTOR

ΤΑΜΕΙΟ ΑΞΙΟΠΟΙΗΣΗΣ ΙΔΙΩΤΙΚΗΣ
ΠΕΡΙΟΥΣΙΑΣ ΤΟΥ ΔΗΜΟΣΙΟΥ ΑΕ
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ΑΦΜ: 997471299 - ΔΟΥ: ΦΑΕ ΑΔΟΚΗΠΗ
ΑΡ.Γ.Ε.Μ.Η. 117034801000

FOR THE CONCESSIONAIRE

Γραφείο Περιφερειακά Ασφιδρόμια
της Ελλάδας Α' Ανώνυμη Εταιρεία
Γραφείο Περιφερειακά Ασφιδρόμια
της Ελλάδας Α' Α.Ε.
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FOR THE INITIAL SHAREHOLDERS

FOR THE INITIAL SHAREHOLDERS

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[Circular stamp: SLENTHEM LIMITED]