

Shareholders Agreement

by and between

Airports Authority of India

and

Delhi International Airport Pvt. Ltd.

and

GMR Infrastructure Ltd.

and

GMR Energy Ltd.

and

GVL Investments Pvt. Ltd

and

Fraport AG Frankfurt Airport Services Worldwide

and

Malaysia Airports (Mauritius) Private Limited

and

India Development Fund

TABLE OF CONTENTS

CLAUSE 1	4
DEFINITION AND INTERPRETATION	4
CLAUSE 2	9
SHA EFFECTIVE DATE.....	9
CLAUSE 3	9
CAPITAL STRUCTURE	9
CLAUSE 4.....	15
SCOPE AND OBJECTIVE OF THE JVC: BUSINESS PLAN.....	15
CLAUSE 5	16
MANAGEMENT AND THE BOARD OF DIRECTORS	16
CLAUSE 6.....	21
SHAREHOLDERS' RIGHTS AND OBLIGATIONS.....	21
CLAUSE 7	24
TERMINATION.....	24
CLAUSE 8	26
CONFIDENTIALITY.....	26
CLAUSE 9	28
MISCELLANEOUS	28
SCHEDULE 1.....	36
PRIVATE PARTICIPANTS	36
SCHEDULE 2.....	37
BROAD PRINCIPLES FOR DERIVING FAIR MARKET VALUE OF EQUITY	
SHARES	37
SCHEDULE 3.....	38
RESERVED BOARD MATTERS	38
SCHEDULE 4.....	39
RESERVED SHAREHOLDERS MATTERS.....	39
ANNEXURE 1.....	40
DEED OF ADHERENCE.....	40

SHAREHOLDERS AGREEMENT

This Shareholders Agreement made on this 4th day of April, 2006,

BY AND BETWEEN:

1. The **Airports Authority of India** (hereinafter referred to as “**AAI**”) (which expression shall, unless it be repugnant or contrary to the subject or context thereof, be deemed to mean and include its nominees, legal representatives, successors) of the one part;
2. The **Parties listed in Schedule 1 hereto** (hereinafter individually referred to as “**Private Participant**” and collectively referred to as “**Private Participants**”) (which expression shall, unless it be repugnant or contrary to the subject or context thereof, be deemed to mean and include their respective nominees, legal representatives and successors) of the second part;

AND

3. **Delhi International Airport Pvt. Ltd.** having its registered office at IGI Airport, Delhi (hereinafter referred to as the “**Company**” or the “**JVC**”, which expression shall, unless it be repugnant or contrary to the subject or context thereof, be deemed to mean and include its legal representatives, successors and permitted assign) of the third part.

The Private Participants and AAI (along with any AAI Nominees) are hereinafter collectively referred to as the “**Shareholders**” and individually as “**Shareholder**”.

All of the Shareholders and the JVC are hereinafter collectively referred to as the "**Parties**" and individually as the "**Party**".

WHEREAS:

- A. AAI is an authority established under the Airports Authority of India Act, 1994 and is responsible for, *inter alia*, the development, operation and maintenance of airports in India.
- B. AAI issued an advertisement on February 17, 2004 inviting proposals from interested parties for selection of competent and willing persons for undertaking the Project (hereinafter defined).
- C. Private Participants are members of a consortium, which had bid, were thereafter short listed and eventually selected by AAI (with the approval of the Government of India) as the joint venture partners for undertaking the Project.
- D. AAI and the JVC have entered into the OMDA (as defined hereunder), pursuant to which AAI has, among others, granted to the JVC, and the JVC has accepted, the right to undertake the Project, in accordance with the terms and conditions set forth therein.
- E. The Shareholders shall, in accordance with the terms and conditions set forth in this Agreement, subscribe to such Equity Shares of the JVC so that immediately thereafter the equity capital is held in the manner and quantity, and subject to such rights and restrictions, powers and obligations as provided for hereunder;
- F. The Shareholders hereto, for themselves intend to set forth and record the terms and conditions to govern the relationships in their mutual capacity as the shareholders of the JVC and to record their respective rights and obligations in relation to the management and functioning of the JVC and other matters incidental thereto.

NOW THEREFORE, in consideration of the above recitals, the mutual covenants of the Parties, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

CLAUSE 1
DEFINITION AND INTERPRETATION

- 1.1 In this Shareholders Agreement (including any recitals, annexure, schedules or exhibit attached thereto), except where the context otherwise requires, the following words and expressions shall have the following meaning:

"**AAI Nominee(s)**" shall mean any GOI PSU nominated by AAI;

"**AAI Default Purchase Period**" shall have the meaning ascribed to the term in Clause 7.2(d) hereunder;

“**AAI Offer Notice**” shall have the meaning ascribed to the term in Clause 3.7.2(i) hereunder;

“**AAI Offer Price**” shall have the meaning ascribed to the term in Clause 3.7.2(i) hereunder;

“**AAI Purchase Period**” shall have the meaning ascribed to the term in Clause 3.7.2(ii) hereunder;

“**AAI Purchase Shares**” shall have the meaning ascribed to the term in Clause 3.7.2(i) hereunder;

“**Adjourned Meeting**” shall have the meaning ascribed to the term in Clause 5.11.2 hereunder;

“**Affected Party**” shall have the meaning ascribed to the term in Clause 9.3.1 hereunder;

“**Alternate Director**” shall have the meaning ascribed to the term in Clause 5.7.1 hereunder;

“**Board of Director(s)**” or “**Board**” means the board of director(s) of the JVC;

“**Chairman**” means chairman of the JVC;

“**Charter Documents**” means the Memorandum of Association and Articles of Association of the JVC incorporating as appropriate, and consistent with, to the extent permitted by law, the terms and conditions of this Agreement.

“**Claimant(s)**” shall have the meaning ascribed to the term in Clause 9.4.3.1 hereunder;

“**Companies Act**” means the Companies Act, 1956;

“**Consequential Loss**” shall have the meaning ascribed to the term in Clause 9.17.1 hereunder;

“**Deed of Adherence**” shall have the meaning assigned thereto in Clause 3.6.1 (b) hereof;

“**Defaulting Party**” shall have the meaning ascribed to the term in Clause 7.2(a) hereunder;

“**Defaulting Shareholder(s)**” shall have the meaning ascribed to the term in Clause 3.5 hereunder;

“**Director**” means a director on the Board of Directors of the JVC;

“**Equity Shares**” shall mean the equity shares of the JVC;

“**Fair Market Value**” shall mean the value of the Equity Shares of the JVC as determined in accordance with Schedule 2 hereof;

“**Foreign Airlines**” means a Foreign Entity that provides air transport services;

“**Foreign Entity**” means any Entity other than an Indian Entity;

“**Foreign Entities Equity Cap**” shall mean that the aggregate Foreign Shareholding shall not exceed forty-nine (49) percent of the total issued and paid up capital of the JVC;

“**Foreign Shareholding**” shall mean the aggregate of:

- (a) The aggregate of the direct shareholding of all Foreign Entities; and
- (b) The aggregate of the “**Beneficial Foreign Ownership**” in the JVC of the Indian Entities. Such Beneficial Foreign Ownership shall mean the shareholding of the Foreign Entity in an Indian Entity multiplied by the shareholding of the Indian Entity in the JVC, represented as a percentage; and where the Foreign Entity holds shares in an Indian Entity (holding shares in the JVC) indirectly through one or more Entities, then Beneficial Ownership shall mean the shareholding of the Foreign Entity in the Entity multiplied by the shareholding of the Entity in the Indian Entity holding shares in the JVC (and so on) multiplied by the shareholding of the Indian Entity (holding shares in the JVC) in the JVC, represented as a percentage. *Provided however*, if the Indian Entity is public listed company, any shares of such Indian Entity held by foreign institutional investors shall not be included for the purposes of determining Beneficial Foreign Ownership as set out above.

As an illustration:

If a Foreign Entity holds 60 % shares in an Indian Entity who holds 30% shares in JVC, then such Foreign Entity’s Beneficial Ownership in JVC is:

$$0.60 * 0.30 = 0.18 * 100 = 18 \%$$

If an Foreign Entity holds 60 % shares in B (an Indian Entity) who holds 80% shares in another Indian Entity who holds 30% shares in JVC, then such Foreign Entity’s Beneficial Ownership in JVC is:

$$0.60 * 0.80 * 0.30 = 0.144 * 100 = 14.4\%.$$

“**GOI**” means the central government of India and any ministry, department, or instrumentality thereof;

“**GOI PSU**” shall mean any company in which not less than fifty-one (51) percent of the paid up share capital is held by GOI, and includes a company which is a subsidiary of a GOI PSU as thus defined;

“Group Entities” with respect to a specified Entity, includes any other Entity directly or indirectly controlling, controlled by or under common control with such specified Entity; provided, however, that, for purposes of this definition, the terms “controlling”, “controlled by” or “under common control with” mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an Entity, whether through the ownership of voting securities, by contract or otherwise, or the power to elect or appoint at least 50% of the directors, managers, partners or other individuals exercising similar authority with respect to such Entity.

“Initial Subscription” shall have the meaning ascribed to the term in Clause 3.2 hereunder;

“ITREOI” means the ‘Invitation to Register an Expression of Interest’ document issued by AAI on February 17, 2004;

“Managing Director” means the whole time managing director of the JVC;

“Non-Defaulting Party” shall have the meaning ascribed to the term in Clause 7.2(a) hereunder;

“OMDA” means the Operation, Management and Development Agreement entered into, on or about the date hereof, between the AAI and the JVC;

“Option” shall have the meaning ascribed to the term in Clause 3.3.3.1 hereunder;

“Original Director” shall have the meaning ascribed to the term in Clause 5.7.1 hereunder;

“PP Default Purchase Period” shall have the meaning ascribed to the term in Clause 7.2(c) hereunder;

“PP Offer Notice” shall have the meaning ascribed to the term in Clause 3.7.1(i) hereunder;

“PP Offer Price” shall have the meaning ascribed to the term in Clause 3.7.1(i) hereunder;

“PP Purchase Shares” shall have the meaning ascribed to the term in Clause 3.7.1(i) hereunder;

“Private Participants” shall have the meaning ascribed to it in the preamble of this Agreement;

“Private Participants Agreement” shall have the meaning ascribed to the term in Clause 4.2.4 hereunder;

“Project” shall have the meaning ascribed to it under Clause 4.1.1 hereunder.

"Proprietary Information" shall have the meaning ascribed to the term under Clause 8.1 hereunder;

"Remaining PP Purchase Period" shall have the meaning ascribed to the term in Clause 3.7.1(iii) hereunder;

"Remaining Private Participants" shall have the meaning ascribed to the term in Clause 3.7.1(i) hereunder;

"Reserved Board Matters" means the matters listed under Schedule 3 hereto;

"Reserved Shareholders Matters" means the matters listed under Schedule 4 hereto;

"Respondent(s)" shall have the meaning ascribed to the term in Clause 9.4.3.1 hereunder;

"RFP" means the 'Request for Proposal' document issued by AAI on April 1, 2005;

"Rupee(s)" or **"Rs."** means Indian rupee(s);

"Scheduled Airlines" means those airlines that operate "Scheduled air transport service" as defined under the Aircraft Rules, 1937;

"Scheduled Airlines Equity Cap" shall mean a maximum equity interest of ten (10) percent in the total issued and paid-up share capital of the JVC held aggregately by the Scheduled Airlines and their respective Group Entities (other than such Group Entities that were airport operators on the date of the issue of the ITREOI and the RFP);

"Seller PP" shall have the meaning ascribed to the term in Clause 3.7.1 hereunder;

"Second PP Offer Notice" shall have the meaning ascribed to the term in Clause 3.7.1(iv) hereunder;

"Second PP Purchase Period" shall have the meaning ascribed to the term in Clause 3.7.1(vi) hereunder;

"Shareholder" or **"Shareholders"** shall have the meaning ascribed to the term in the preamble of this Agreement;

"Shareholders Agreement" or **"Agreement"** means this shareholders agreement;

"SHA Effective Date" means the date on which the conditions precedent set forth in Clause 2.1 hereunder are satisfied;

"SPV PP" shall have the meaning ascribed to the term in Clause 3.6.1 hereunder;

“**Third Party**” means any Entity not a Party to this Agreement;

“**Transfer**” shall include (i) any transfer or other disposition of such securities or voting interests or any interest therein, including, without limitation, by operation of Applicable Law, by court order, by judicial process, or by foreclosure, levy or attachment; (ii) any sale, assignment gift, donation, redemption, conversion or other disposition of such securities or any interest therein, pursuant to an agreement, arrangement, instrument or understanding by which legal title to or beneficial ownership of such securities or any interest therein passes from one Entity to another Entity or to the same Entity in a different legal capacity, whether or not for value; (iii) the granting of any Encumbrance or charge in or extending or attaching to such securities or any interest therein;

“**Trigger Debt Equity Ratio**” means a debt to equity ratio of at least two (2) to one (1);

Other Capitalised terms used herein (and not defined herein) but defined under the OMDA shall have the meaning ascribed to the term under the OMDA.

- 1.2 In this Agreement, unless the context otherwise requires, the interpretation rules as mentioned in Clause 1.2 of the OMDA shall apply.

CLAUSE 2 SHA EFFECTIVE DATE

- 2.1 This Agreement shall come into force and effect and be binding upon the Parties from either (i) the date of execution of this Agreement; or (ii) the date of execution of the OMDA by the relevant parties therein, whichever is later (“**SHA Effective Date**”).

CLAUSE 3 CAPITAL STRUCTURE

- 3.1 The JVC shall have an authorized share capital of Rs. 250,00,00,000 (Rupees Two Hundred and Fifty Crores only).
- 3.2 The Shareholders hereby agree to subscribe to, no later than 14 days from the SHA Effective Date, such number of Equity Shares of the JVC necessary for the Shareholders to own and hold, legally and beneficially, issued share capital of Rs. 200,00,00,000 (Rupees Two Hundred Crore) (“**Initial Subscription**”) in the manner set out below:

Shareholder	Number of shares	Percentage holding
AAI (along with AAI Nominees)	5,20,00,000	26.00%
Private Participants:		

(1) GMR Infrastructure Ltd.,	6,22,00,000	31.10%
(2) GMR Energy Ltd.	2,00,00,000	10.00%
(3) GVL Investments Pvt. Ltd.	1,80,00,000	9.00%
(4)Fraport AG Frankfurt Airport Services Worldwide,	2,00,00,000	10.00%
(5) Malaysia Airports (Mauritius) Private Limited	2,00,00,000	10.00%
(6) India Development Fund	78,00,000	3.90%
Sub-Total	14,80,00,000	74.00%
TOTAL	20,00,00,000	100.00%

The Parties hereby undertake and agree that the JVC shall, immediately, but no later than twenty-one (21) days, after the Initial Subscription reimburse to AAI the incorporation costs (including, but not limited, any legal costs or registration charges paid by AAI) incurred by AAI for, or in relation, to the incorporation of the JVC, to the extent the same have not already been reimbursed by the JVC.

3.3 Cash Calls and Future Capitalisation

- 3.3.1 Subject to the Initial Subscription as set out in Clause 3.2 hereinabove, the JVC, in order to meet its financial requirements may, from time to time, increase its authorized and/or paid up capital. *Provided however*, the JVC shall, prior to making any fresh issue of Equity Shares ensure that the Trigger Debt Equity Ratio is maintained. If the Trigger Debt Equity Ratio is not so maintained, the JVC shall not issue any fresh Equity Shares till such time as the Trigger Debt Equity Ratio is in place. Towards this end, the Private Participants (without diluting AAI (along with AAI Nominees) equity shareholding) hereby covenant and agree to infuse funds in such form and quantity as may be necessary to ensure that the Trigger Debt Equity Ratio is maintained immediately prior to the time of any fresh issue of Equity Shares. Notwithstanding anything contained to the contrary in this Clause 3.3.1, where any financing documents prescribe that equity capital be infused in the JVC prior to any draw-down of debt, the JVC may, to the extent necessary, make such cash calls or issue such fresh equity to its shareholders, so as to ensure compliance with the requirements of such financing documents.
- 3.3.2 Subject to the JVC complying with the requirements of Clause 3.3.1 above, the Private Participants hereby undertake and agree to subscribe to such number of Equity Shares as may be called upon to do so by the JVC, proportionately in accordance with their respective shareholding in the JVC or in such other proportions as may be mutually agreed, subject to such proportions complying with the Foreign Entity Equity Cap and Scheduled Airlines Equity Cap.

3.3.3 AAI's Option

- 3.3.3.1 The Parties hereby further acknowledge and agree that, subsequent to the Initial Subscription, AAI (along with AAI Nominees) shall have the right, but not the obligation, to subscribe to such number of Equity Shares in any subsequent capitalization of the JVC, proportionate to its then shareholding in the JVC ("**Option**"). It is hereby expressly acknowledged and agreed between the Parties that to the extent any AAI Nominee does not subscribe (whether in whole or in part) to any Equity Shares that it is otherwise entitled to subscribe in any future capitalization of the JVC, AAI (or any other AAI Nominee(s) designated by AAI in this regard) shall have the right, but not the obligation, to subscribe (whether in whole or in part) to such number of Equity Shares as the AAI Nominee was entitled to subscribe but did not subscribe in such future capitalization of the JVC.
- 3.3.3.2 In the event AAI (along with AAI Nominees) does not inform the JVC of its decision to exercise such Option within the prescribed time, AAI shall be deemed to have not exercised its Option and will accordingly not be bound to subscribe to any Equity Shares in the additional capitalisation of the JVC.
- 3.3.3.3 To the extent AAI (along with AAI Nominees) chooses or is deemed to have not exercised its Option, it shall be the obligation of the Private Participants to acquire the aforesaid Equity Shares, proportionately in accordance with their then, *inter-se*, respective shareholding in the JVC or such other proportion as may be mutually agreeable between the Private Participants, subject to such proportions complying with the Foreign Entity Equity Cap and Scheduled Airlines Equity Cap. *Provided however*, the Parties hereby agree that reasonable time shall be provided to the Private Participants to acquire such Equity Shares.
- 3.3.3.4 The Parties further agree, that to the extent AAI (along with AAI Nominees) chooses to exercise its Option (whether in whole or in part) in accordance with Clause 3.3.3.1 hereinabove, but fails, for whatsoever reason, to subscribe its portion of the Equity Shares of the JVC within the prescribed time, it shall be deemed that AAI (along with AAI Nominees) has not exercised its Option and the provisions of Clause 3.3.3.3 shall apply accordingly.
- 3.4. The Equity Shares of the JVC shall, unless otherwise provided for under this Agreement, have identical rights and privileges with respect to dividend and voting right.
- 3.5. If, for any reason, any of the Shareholders (other than AAI and and/or AAI Nominees) are unable to fulfill their obligation to capitalize the JVC in the manner and effect provided hereinabove ("**Defaulting Shareholder(s)**") by the due date of such capitalization, then the Defaulting Shareholder(s) shall be liable to pay an interest of the then State Bank of India Prime Lending Rate plus an additional ten (10) percent per annum from the aforesaid due date upto the date of rectification (in full) of such default by the Defaulting Shareholder. If the Defaulting Shareholder does not fulfill its capitalization obligation, within thirty (30) days of the due date of such capitalization (or such other date as may be mutually agreed between the Parties), then all rights of the Defaulting Shareholder under this Agreement including those on the Board shall stand suspended until rectification

of default by the Defaulting Shareholder. Such default shall be considered a material breach (but not the only material breach) for the purposes of this Agreement, and if such material breach is not remedied by the Defaulting Shareholder within thirty (30) days from a Breach Notice being issued (in accordance with Clause 7.2(b)), this Agreement may be terminated vis-à-vis the Defaulting Shareholder in accordance with Clause 7.2.

In this regard, the Parties expressly undertake and agree that in the event the entire shareholding of the Defaulting Party is purchased by any of the non-defaulting Private Participants (or their approved nominees) in accordance with the provisions of Clause 7.2, the non-defaulting Private Participants (or their approved nominees) shall be obliged to subscribe to such additional Equity Shares of the JVC as may be required to rectify the default of the Defaulting Shareholder, proportionately in accordance with the number of Equity Shares purchased by the non-defaulting Private Participants (or their approved nominees) from the Defaulting Shareholder in accordance with the provisions of Clause 7.2 or in such other proportions as may be mutually agreed between the non-defaulting Private Participants, subject to such proportions complying with the Foreign Entity Equity Cap and Scheduled Airlines Equity Cap.

3.6. **Transfer restrictions**

3.6.1 Any Shareholder may, subject to the provisions of this Agreement and the OMDA, and in compliance with the Applicable Law, Transfer, whether directly or indirectly, all or any of its/their Equity Shares to a Third Party provided that:

- (a) The Shareholder is not in default of this Agreement;
- (b) The Third Party purchaser agrees and undertakes to be bound by the terms and conditions of this Agreement and executes a deed of adherence in the form and manner attached in **Annexure 1 (“Deed of Adherence”)**.
- (c) If the Shareholder is Private Participant, the consent of AAI (as required under the provisions of the OMDA) is obtained.
- (d) Such Transfer does not result in the Foreign Entities Equity Cap and/or the Scheduled Airlines Equity Cap being exceeded.
- (e) Considering the political sensitivities, GOI approves the buyer and its constitution.

For abundant caution, it is hereby expressly clarified that where Private Participant is a special purpose vehicle established primarily for the purposes of holding Equity Shares in the JVC (such Private Participant being an “**SPV PP**”), a Transfer of any shareholding in such SPV PP shall constitute an indirect Transfer of Equity Shares by the SPV PP for the purposes of this Agreement and be subject to the restrictions on transfer of shares as set forth in this Agreement.

3.7 **Rights of First Refusal**

3.7.1 In addition to the requirements set out in Clause 3.6 and subject always to the lock-in provisions set out under Clause 2.5 of the OMDA, if at any time, a Private Participant desires to Transfer, whether directly or indirectly, any or all of its Equity Shares or voting interests therein owned by it (the “**Seller PP**”), then, it shall:

- (i) make an offer for the sale of the PP Purchase Shares (as defined hereunder) to the other Private Participants (the “**Remaining Private Participants**”) by a Notice mentioning therein:- (a) the total number of Equity Shares proposed to be offered for sale (the “**PP Purchase Shares**”), (b) the price at which the PP Purchase Shares are being offered for sale (the “**PP Offer Price**”; and (c) any other terms and conditions in connection therewith (the “**PP Offer Notice**”). A copy of the PP Offer Notice shall also be sent to AAI;
- (ii) Subject to receiving the PP offer Notice, and in accordance with its terms and conditions, the Remaining Private Participants shall have the option to purchase between them all, but not less than all, of the PP Purchase Shares, proportionately in accordance with their, *inter-se*, respective shareholding in the JVC or in a manner as may be mutually agreed between them, *provided* that such purchase of the PP Purchase Shares by the Remaining Private Participants shall not result in the Foreign Entities Equity Cap and/or the Scheduled Airlines Equity Cap being exceeded.
- (iii) Transfer of all, but not less than all, of the PP Purchase Shares to the Remaining Private Participants shall take place at the same time and date at the registered office of the JVC within thirty (30) days from the date of the PP Offer Notice (the “**Remaining PP Purchase Period**”);
- (iv) If the Remaining Private Participants do not purchase all the PP Purchase Shares from the Seller PP within the Remaining PP Purchase Period then the Seller PP shall, within three (3) days of the expiry of the Remaining PP Purchase Period, make an offer by notice to AAI for the sale of the PP Purchase Shares at the PP Offer Price and on the same terms and conditions as contained in the PP Offer Notice (the “**Second PP Offer Notice**”);
- (v) Subject to receiving the Second PP Offer Notice and in accordance with its terms, AAI (along with AAI Nominees), shall, at AAI’s option, have the right to purchase all, but not less than all, of the PP Purchase Shares.
- (vi) Transfer of all, but not less than all, of the PP Purchase Shares to AAI and/or any of the AAI Nominees shall take place at the same time and date at the registered office of the JVC within thirty (30) days from the date of the Second PP Offer Notice (the “**Second PP Purchase Period**”);
- (vii) If AAI (along with any of AAI Nominees) does not purchase all the PP Purchase Shares from the Seller PP within the Second PP Purchase Period,

then the Seller PP shall be at a liberty to sell, within a period of ninety (90) days of the expiry of the Second PP Purchase Period all, but not less than all, of the PP Purchase Shares at a price not lower than the PP Offer Price and on terms and conditions not more favourable than those offered to AAI in the Second PP Offer Notice to any Entity.

3.7.2 If at any time, AAI and/or AAI Nominees desire to Transfer any or all of Equity Shares or voting interests therein owned by it/ them, to any **Entity** (other than any inter-se transfer amongst themselves or their Group Entities), they shall:

- (i) make an offer for the sale of the AAI Purchase Shares (as defined hereunder) to the Private Participants by a notice mentioning therein:- (a) the number of Equity Shares proposed to be offered for sale (the “**AAI Purchase Shares**”), (b) the price at which the AAI Purchase Shares are being offered for sale (the “**AAI Offer Price**”; and (c) any other terms and conditions in connection therewith (the “**AAI Offer Notice**”). A copy of the AAI Offer Notice shall be sent to each Private Participant, who shall have the option to purchase between them all, but not less than all, of the AAI Purchase Shares, proportionately in accordance with their, *inter-se*, respective shareholding in the JVC or in a manner as may be mutually agreed between them *provided* that such purchase of the AAI Purchase Shares by the Private Participants shall not result in the Foreign Entities Equity Cap and/or the Scheduled Airlines Equity Cap being exceeded;
- (ii) Transfer of all, but not less than all, of the AAI Purchase Shares to the Private Participants in accordance with the AAI Offer Notice shall take place at the same time and date at the registered office of the JVC within thirty (30)days of the date of the AAI Offer Notice (the “**AAI Purchase Period**”);
- (iii) If the Private Participants do not purchase all the AAI Purchase Shares from AAI and/or AAI Nominees within the AAI Purchase Period then AAI and/or AAI Nominees shall be at a liberty to sell, within a period of ninety (90) days of the expiry of the AAI Purchase Period, all but not less than all, the AAI Purchase Shares at a price not lower than the AAI Offer Price and on terms and conditions not more favourable than those offered to the Private Participants in the AAI Offer Notice, to any Entity.

3.8 The Parties hereby expressly undertake and agree that, notwithstanding anything to the contrary contained in this Agreement, no Foreign Airlines and/or their respective Group Entities (other than such Group Entities that were airport operators on the date of the issue of the ITREOI and the RFP) shall hold, nor be allowed to hold, any Equity Shares of the JVC.

CLAUSE 4
SCOPE AND OBJECTIVE OF THE JVC: BUSINESS PLAN

4.1 Purpose of the JVC and Scope of this Agreement

4.1.1 The purpose of the JVC shall be to design, develop, construct, finance, manage, operate and maintain the Airport, as provided for under the OMDA (“**Project**”).

4.2 Shareholder Commitments

4.2.1 Each Shareholder hereby agrees to cooperate with each other Shareholder and with the JVC and to use its reasonable efforts to the extent that it has the authority and ability to do so to promote the success of the JVC and the Project and in attaining the objectives set forth in the Business Plan. Provided however, the Parties hereby expressly acknowledge and agree that AAI (or AAI Nominees) shall only be responsible for contributing equity capital in the JVC in the manner and to the extent set out in this Agreement.

4.2.2 Each Shareholder hereby undertakes towards the other Shareholders and to the benefit of the JVC;

(a) To perform and observe all of the provisions of this Agreement, the Charter Documents and all other agreements between the Parties;

(b) intentionally omitted

(c) Subject to AAI’s rights in relation to the Reserved Board Matters and the Reserved Shareholder Matters, and without prejudice to the foregoing, to procure that (i) every person for the time being representing it in its capacity as shareholder, and (ii) every person appointed as a Director in terms of this Agreement will exercise any power of vote or cause the power to vote to be exercised, at any meeting of the Shareholders or the Board of the JVC, as the case may be, so as to ensure the approval of any and every resolution necessary or desirable to procure that the affairs of the JVC are conducted in accordance with the OMDA and otherwise to give full effect to this Agreement, and likewise so as to ensure that no resolution is passed which is not in accordance with the OMDA and/or the provisions of this Agreement; provided, however, that except as expressly directed or as otherwise contemplated by any provisions in this Agreement each Shareholder shall have full discretion on how to vote the Equity Shares which such Shareholder owns or on how to cause any person appointed by such Shareholder to act in operating the JVC, subject only to Applicable Law; and

(d) To cause any of its Group Entities, to comply with the provisions of Clause 4.2.1 and paragraphs (b) and (c) of this Clause 4.2.2.

4.2.3 If any Director nominated by a Shareholder pursuant to Clause 5, for any reason refuses to exercise his discretion in accordance with the provisions of this

Agreement, such Shareholder shall forthwith take all action within its power or control to substitute such Director.

- 4.2.4 The Parties agree that the Charter Documents shall, to the extent permissible under Applicable Law, incorporate the provisions of this Agreement and, to the extent that the Charter Documents are inconsistent with the Agreement, the Shareholders shall exercise their power as shareholders of the JVC to ensure that the Charter Documents are amended to the extent possible under Applicable Law to remove any such inconsistencies. Further, the Parties also agree that the Private Participants may enter into any agreement amongst themselves to regulate their inter-se relationship as shareholders of the JVC (“**Private Participants Agreement**”), provisions of which agreement shall, to the extent the same are not contrary to or inconsistent with the provisions of this Agreement, not detrimental, in any way, to the interest of AAI and as permissible under Applicable Law, be incorporated in the Charter Documents. For abundant caution, it is hereby expressly agreed between the Parties that in the event of a dispute or inconsistency between the Private Participants Agreement and this Agreement, the provisions of this Agreement shall take precedence. The Parties further expressly acknowledge and agree that the onus to prove whether the Private Participants Agreement (or any provision thereof) is not contrary to or inconsistent with the provisions of this Agreement, detrimental, in any way, to the interest of AAI or permissible under Applicable Law, shall be that of the Private Participants and the decision of the AAI shall be final.
- 4.2.5 Notwithstanding anything to the contrary contained in this Agreement, the Parties hereby expressly acknowledge that each AAI Nominee or every person for the time being representing the AAI Nominee in its capacity as shareholder, as the case may be, shall exercise any power to vote or cause the power to vote to be exercised, at any meeting of the shareholders, as the case may be, in the same manner as AAI exercises its power to vote or causes the power to vote to be exercised (including abstaining from voting if AAI so abstains) or in such other manner as may otherwise be notified by AAI in writing.

CLAUSE 5

MANAGEMENT AND THE BOARD OF DIRECTORS

- 5.1 The JVC shall be managed and governed under the overall superintendence, direction and control of the Board. The Board shall have overall authority with respect to development and management of the JVC and the Project. The officers of the JVC shall have the authority and responsibilities specified by the Board of Directors, consistent with the Charter Documents and this Agreement.
- 5.2 **Composition of the Board**
- 5.2.1 The Board composition shall be determined as under:
- (i) AAI shall have the right to nominate such number of Directors as is proportionate to its shareholding in the JVC subject to a minimum of one (1).

- (ii) For abundant clarity, it is expressly set out here that the aforesaid right of AAI to nominate one (1) director to the Board shall subsist and survive irrespective of AAI not being a Shareholder in the JVC.
- (iii) Private Participants shall have the right to nominate the remaining Directors.

5.2.2 The Shareholders hereby acknowledge and agree to vote their respective shareholding in the JVC in such manner so as to ensure appointment of the nominees of AAI and the Private Participants, as Directors from time to time

5.3 **Chairman**

5.3.1 The Parties hereby undertake and agree that till such time as the Private Participants in the aggregate hold more than fifty (50) percent of the total paid up and outstanding equity share capital of the JVC, they shall have the right to nominate the Chairman of the JVC, who shall be appointed by the Board.

5.3.2 The Parties further acknowledge and agree that if, at anytime, the aggregate shareholding of the Private Participants is equal to or falls below fifty (50) percent of the total paid up and outstanding equity share capital of the JVC, AAI shall have the right to nominate the Chairman of the JVC, who shall be appointed by the Board.

5.3.3 The Chairman shall preside over all the meetings of the Board or of the Shareholders of the JVC.

5.3.4 If the Chairman is not present at a Board meeting or a Shareholders meeting, the Directors who are present may appoint an acting Chairman from the other nominee Directors of Private Participants or, if none of the nominee Directors of Private Participants are present, any Director present at the meeting, for the purpose of the Board meeting.

5.3.5 In the event of any dead lock, the Chairman shall not have the casting vote.

5.4 **Managing Director**

5.4.1 The Private Participants shall also nominate the Managing Director of the JVC, who shall, following a Board resolution, be appointed by the Board. The Managing Director shall not be liable to retire by rotation. The term of each appointment for the Managing Director shall be for such period as would be decided by the Board from time to time and subject to a detailed employment agreement (if considered necessary by the Board) with the appointee.

5.4.2 The Managing Director shall be responsible for day-to-day management of the JVC and for implementing the Project. The Managing Director will exercise his powers subject to the overall superintendence, direction and control of the Board.

5.5 **Qualification**

5.5.1 The Directors need not hold any qualification shares in the JVC.

5.6 **Resignation and Removal**

5.6.1 All Directors, except the Managing Director, shall be liable to retire by rotation provided that AAI or the Private Participants (as the case may be) shall be entitled to nominate the same or any other person as a Director to fill the vacancy caused by such retirement/ rotation. Except where a Director is required by Applicable Law or the Charter Documents to vacate office, no Director shall be removed during the term for which he was elected without the consent of the Shareholder that recommended his appointment on the Board. Notwithstanding the foregoing, a Shareholder may ask for removal, substitution or recall for any reason, of any of the Directors nominated by such Shareholder and such Director shall be bound by the direction of removal, substitution or recall. Each Shareholder agrees to co-operate with the other Shareholders in convening a meeting of the shareholders of the JVC to effect such removal and to vote in favour thereof, if so required.

5.7 **Alternate Director**

5.7.1 A Director, other than the Managing Director, (the "**Original Director**") shall be entitled at any time and from time to time, to appoint any person to act as the Original Director's alternate ("**Alternate Director**") (and the Shareholders shall procure that the Board appoints such person as his alternate) and to direct the termination of the appointment of such Alternate Director (and the Shareholders shall procure that the Board terminates the appointment of such Alternate Director).

5.7.2 Such Alternate Director shall be entitled, while holding office as such, to receive notices of meetings of the Board or any committee thereof to which the Original Director has been appointed, and to attend and vote as a Director at any such meetings at which the Original Director is not present and generally to exercise all the powers, rights (other than the right to appoint an Alternate Director as provided in this Clause 5.7.1), duties and authorities and to perform all the functions of the Original Director. Further, such Alternate Director shall be entitled to constitute quorum, exercise the vote and sign a written resolution on behalf of the Original Director at any meeting of the Board or any committee thereof and to the extent permitted by Applicable Law his signature, vote, presence and consent shall be deemed to be that of himself (as if he is a Director in his own right) and the Original Director for whom he is an Alternate Director.

5.8 **Vacancy**

5.8.1 If a vacancy in any such office should occur for whatever reason, or a Director is absent for a continuous period of one (1) month from the place where meetings of the Board are regularly held and no Alternate Director has been appointed in his place, then the Shareholder that nominated such Director shall be entitled to nominate a replacement Director, and the Shareholders agree to vote their Shares unanimously for the election of such replacement Director.

5.9 Mode of conduct of Board Meeting

5.9.1 Board meetings shall be held at least once every quarter at such places in India as the Board may determine and failing any such determination at the JVC's registered office located at Delhi. If and when permitted under Applicable Law, a Director may participate in a Board meeting or a committee/sub-committee meeting of the Board by means of telephone, audio and/or video conferencing or other communication facilities, and a Director participating in such a meeting by such means shall be deemed for the purposes of this Agreement, to be present at that meeting.

5.10 Notice and Agenda for Meeting

5.10.1 Unless the requirement of notice is waived by all Directors, a minimum of fourteen (14) days written notice (or such shorter period as all the Directors may agree) of the Board meetings shall be given to all Directors and their Alternate Directors. Each notice of a meeting of the Board shall contain, inter alia, an agenda specifying in reasonable detail, the matters to be discussed at the relevant meeting and shall be accompanied by all necessary written information.

5.10.2 The Board shall only transact the business set out in the agenda accompanying the notice to the Directors. Provided however that with the unanimous consent of all the Directors with at least 1 (one) Director nominated by AAI in attendance and voting in favour, the Board may transact business that is not set out in the agenda.

5.11 Quorum

5.11.1 The quorum for the meetings of the Board or any adjournment thereof shall necessarily include at least one (1) Director nominated by AAI and at least one (1) Director nominated by any of the Private Participants. Provided that the requirement of having at least one (1) Director nominated by AAI for validly constituting any meeting of the Board or any adjournment thereof shall apply irrespective of its shareholding in the JVC; Provided further that the requirement of having at least one (1) Director nominated by any of the Private Participants for validly constituting any meeting of the Board or any adjournment thereof shall only apply till such time as the Private Participants, in the aggregate, hold at least 26 percent Equity Shares in the JVC.

5.11.2 If within half an hour from the time appointed for holding a meeting of the Board, a quorum is not present, the said Board meeting shall stand adjourned to the same day in the next week, to be held at the same time and place (“**Adjourned Meeting**”). If at the Adjourned Meeting as well, a valid quorum cannot be constituted, the Directors present shall constitute a valid quorum.

5.11.3 All items of business transacted or decisions taken at meetings where the quorum is not so constituted shall be null and void.

5.12 Committees of the Board

5.12.1 If the Board finds it necessary to constitute a committee or sub-committee, the Board shall determine the powers (including scope, termination, amendment of and withdrawal thereof) of such committee or sub-committee. The committee or sub-committee shall be subject to and be under the supervision of the Board. Notwithstanding anything to the contrary contained, AAI shall have the right to nominate one nominee each on every committee and sub-committee constituted by the Board.

5.13 Decisions

5.13.1 Each member of the Board of Directors shall be entitled to cast one vote with respect to any matter to be decided by the Board of Directors.

5.13.2 A resolution of the Board of Directors shall be adopted by the affirmative vote of the simple majority of the Directors present at a meeting at which a quorum of the Board of Directors is present. *Provided, however,* that as long as AAI along with the AAI Nominees, in the aggregate, holds not less than ten (10) percent of equity share of the JVC, any decision in relation to the Reserved Board Matters shall be considered as passed by a majority vote necessarily requiring the affirmative vote of the Directors nominated by AAI.

5.13.3 The JVC or any of its Directors, officers, agents or representatives shall not undertake any Reserved Board Matter without the prior approval by the Board.

5.14 Resolution by Circular

5.14.1 Subject to Applicable Law and for matters other than Reserved Matters, resolutions of the Board may be passed by circulation, if the resolution has been circulated in draft, together with necessary papers, if any, to all the Directors, then in India or outside India, and has been signed by a majority of the Directors. Such resolutions may be signed by the Directors as single document or in counterparts.

5.15 Authority

5.15.1 Unless otherwise authorised by the Board, none of the Directors shall be empowered to bind the JVC individually.

5.16 Disqualification of Directors

5.16.1 Subject to Applicable Law, a Director shall not be deemed disqualified to serve by reason of his being officer, director or shareholder of any other body corporate.

5.17 Inspection and Information

5.17.1 It is hereby agreed between the Parties that AAI shall have the right to examine the books, records and accounts to be kept by the JVC and shall be entitled to receive all information, including monthly management accounts and operating statistics and other trading and financial information.

5.17.2 Without prejudice to the generality of Clause 5.17.1, the JVC shall supply AAI with copies of:

- (a) audited accounts of the JVC (complying with all relevant legal requirements); and
- (b) monthly/quarterly management accounts of each principal division of the JVC; these shall include a consolidated profit and loss account, balance sheet and cash flow statement broken down according to the principal divisions of the JVC including a statement of progress against the relevant Business Plan, a statement of any variation from the quarterly revenue budget and up-to-date forecasts for the balance of the relevant Financial Year and itemizing all expenditure in relation to the JVC's capital programme entered into by each principal division of the JVC during that period;

CLAUSE 6 SHAREHOLDERS' RIGHTS AND OBLIGATIONS

6.1 Matters Requiring Approval of Shareholders

- 6.1.1 Till such time as AAI along AAI Nominees, in the aggregate hold at least ten (10) percent Equity Shares in the JVC, the JVC (or any of its Directors, officers, agents or representatives) shall not give effect to any decision or resolution in respect of the Reserved Shareholders Matters, unless the same is approved by the affirmative vote of AAI .
- 6.1.2 The Articles of Association of the JVC shall (a) expressly permit the proxies to vote at the JVC's shareholders' meetings; and (b) expressly permit the appointment of multiple proxies/representatives in respect of the JVC's shares and specify the number of votes that each proxy is authorised to use.

CLAUSE 6A REPRESENTATIONS AND WARRANTIES

- 6A.1 Each of the Private Participants hereby warrant and represent to and for the benefit of AAI, the JVC and the other Private Participants that:
 - (i) It is duly organised and validly existing under law and has all requisite legal power and authority to execute this Agreement and carry out the terms, conditions and provisions hereof;
 - (ii) The execution and delivery by the Private Participant of this Agreement has been duly authorized by all requisite corporate and other action and will not contravene any provisions of or constitute a default under, any other agreement or instrument to which it is a party or by which it may be bound;

- (iii) This Agreement and all such other agreements and written obligations entered into and undertaken in connection with the transactions contemplated hereby to which it is a Party, constitute or will constitute following the execution and delivery thereof valid and legally binding obligations of such Private Participant, enforceable against it in accordance with its respective terms, subject as to enforcement of remedies to applicable bankruptcy, insolvency, reorganisation and other laws affecting generally the enforcement of the rights of creditors and subject to a court's discretionary authority with respect to the granting of a decree ordering specific performance or other equitable remedies;
- (iv) It is not insolvent and no insolvency proceedings have been instituted, nor threatened or pending by or against it;
- (v) It has complied with Applicable Law in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate has or may have a material adverse effect on its ability to perform its obligations under this Agreement.
- (vi) There are no actions, suits, claims, proceedings or investigations pending or, to the best of the Private Participant's knowledge, threatened in writing against it at law, in equity, or otherwise, whether civil or criminal in nature, before or by, any court, commission, arbitrator or Governmental Authority, and there are no outstanding judgments, decrees or orders of any such courts, commissions, arbitrators or governmental authorities, which materially and adversely affects its ability to perform its obligations under this Agreement.

6A.2 AAI hereby warrants and represents to and for the benefit of the JVC and the Private Participants that:

- (i) It is duly organised and validly existing under law and has all requisite legal power and authority to execute this Agreement and carry out the terms, conditions and provisions hereof;
- (ii) The execution and delivery by AAI of this Agreement has been duly authorized by all requisite corporate and other action and will not contravene any provisions of or constitute a default under, any other agreement or instrument to which it is a party or by which it may be bound;
- (iii) This Agreement and all such other agreements and written obligations entered into and undertaken in connection with the transactions contemplated hereby to which it is a Party, constitute or will constitute following the execution and delivery thereof valid and legally binding obligations of AAI, enforceable against it in accordance with its respective terms, subject as to enforcement of remedies to applicable bankruptcy, insolvency, reorganisation and other laws affecting generally the enforcement of the rights of creditors and subject to a court's discretionary

authority with respect to the granting of a decree ordering specific performance or other equitable remedies;

- (iv) AAI is not insolvent and no insolvency proceedings have been instituted, nor threatened or pending by or against it;
- (v) It has complied with Applicable Law in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate has or may have a material adverse effect on its ability to perform its obligations under this Agreement.
- (vi) There are no actions, suits, claims, proceedings or investigations pending or, to the best of AAI's knowledge, threatened in writing against it at law, in equity, or otherwise, whether civil or criminal in nature, before or by, any court, commission, arbitrator or governmental authority, and there are no outstanding judgments, decrees or orders of any such courts, commissions, arbitrators or governmental authorities, which materially and adversely affects its ability to perform its obligations under this Agreement.

6A.3 Each of the Parties to this Agreement hereby acknowledges that (i) other than the representations and warranties made in and/or referred to in this Clause 6A, no Party has relied upon or will rely upon any other representation or warranty (whether written or oral) or any financial projection or forecast or market information delivered to it with respect to the business and operations of the Company for the purposes of this Agreement; and (ii) there are no representations or warranties by or on behalf of any Party or its representatives other than those expressly set forth and/ or referred to in this Clause 6A for the purposes of this Agreement.

CLAUSE 7 TERMINATION

7.1 Termination

7.1.1 The Parties agree that in the event any of the Shareholders (along with any of their respective Group Entities and in case of AAI, also along with the AAI Nominees) cease to hold, directly or indirectly, any Equity Shares of the JVC, this Agreement shall stand terminated automatically vis-à-vis such Shareholder. Provided however, the obligations of such Shareholder under this Agreement relating to confidentiality (Clause 8) and dispute resolution (Clause 9.4) and such other provisions of this Agreement that by their nature are intended to survive, shall survive any termination of this Agreement.

7.2 Right to Terminate for Cause

- (a) In the event of occurrence of a material breach of any of the terms and conditions of this Agreement or any covenant, representation, warranty or agreement set forth herein (“**Material Breach**”) on the part of a Shareholder (the “**Defaulting Party**”), any other Shareholders (“**Non-Defaulting Party**”) may give written notice of the alleged breach (“**Breach Notice**”) to the Defaulting Party.
- (b) A termination event (“**Termination Event**”) shall be deemed to have occurred:
 - (i) If such Material Breach, if reasonably capable of being cured, is not cured by the Defaulting Party within thirty (30) days of receipt of the Breach Notice (“**Cure Period**”), or if such Material Breach is not reasonably capable of being cured, forthwith upon issue of the Breach Notice;
 - (ii) In the event an insolvency, winding up or a bankruptcy petition or other insolvency application is presented against a Shareholder, or a court of competent jurisdiction makes an order, or a resolution is passed, for the winding up, dissolution or judicial management or administration of that Shareholder otherwise than in the course of a reorganisation or restructuring previously approved in writing by the other Shareholders (such approval not to be unreasonably withheld). For avoidance of doubt, it is clarified that exercise of any powers by GOI under the AAI Act with respect to AAI or its property, including but not limited to reconstitution thereof shall not be a Termination Event;
 - (iii) In the event any attachment, sequestration, distress, execution or other legal process is levied, enforced or instituted against the assets of a Shareholder, or a liquidator, judicial manager, receiver, administrator, trustee-in-bankruptcy, custodian or other similar officer has been appointed (or a petition for the appointment of

such officer has been presented) in respect of any assets of a Shareholder; or

- (c) On the occurrence of a Termination Event on the part of any of the Private Participants:
- (i) the non-defaulting Private Participants shall have the right to acquire the entire shareholding of the defaulting Private Participant in the JVC; and the defaulting Private Participant hereby undertakes and agrees to so transfer, its entire shareholding in the JVC to the non-defaulting Private Participants at such price as agreed / to be agreed between the Private Participants. *Provided however*, such Transfer does not in any way result in the Foreign Entity Equity Cap and/or the Scheduled Airlines Equity Cap being exceeded;
 - (ii) Transfer of all, but not less than all, of the Equity Shares held by the defaulting Private Participant shall take place at the registered office of the JVC within thirty (30) days from the date of occurrence of a Termination Event (“**PP Default Purchase Period**”);
 - (iii) In the event the entire shareholding of the defaulting Private Participants is not purchased by the non-defaulting Private Participants pursuant to Clause 7.2(c)(i) above, AAI (and/or AAI Nominees nominated by AAI in this regard) shall have the right, but not the obligation, upon issuing notice within forty five (45) days after expiration of the PP Default Purchase Period to the defaulting Private Participant, to acquire the entire shareholding held by Defaulting Party in the JVC and the defaulting Private Participant undertakes and agrees to so transfer its entire shareholding held in the JVC to AAI and/or AAI Nominees (as the case may be) at the lesser of (i) 50% of the par value; or (ii) 50% of the Fair market Value.
 - (iv) If all of the Equity Shares held by the Defaulting Party are not purchased by the Non-Defaulting Party (being either AAI (and/or AAI Nominees) or the non-defaulting Private Participant (or their approved nominees)) within sixty (60) days of the expiry of the Default Purchase Period, then the Material Breach, in respect of which the Breach Notice was given, shall be deemed to have been condoned and the Termination Event shall be deemed to have been lapsed without prejudice to other remedies at law or under this Agreement which the Non-Defaulting Party may have against the Defaulting Party.
- (d) On the occurrence of a Termination Event by Material Breach of AAI:
- (i) the Private Participants shall have the right, but not the obligation, upon issuing notice to the AAI within forty five (45) days after date

of occurrence of the Termination Event (“**AAI Default Purchase Period**”), to acquire the entire shareholding of AAI (including the shareholding of the AAI Nominees) at the lesser of (i) 100% of the par value; or (ii) 100% of the Fair market Value. *Provided however*, such Transfer does not in any way result in the Foreign Entity Equity Cap and/or the Scheduled Airlines Equity Cap being exceeded;

- (ii) If all of the Equity Shares held by AAI (along with AAI Nominees) are not purchased by the Private Participant (or their approved nominees) within sixty (60) days of expiration of the Default Purchase Period, then the Material Breach, in respect of which the Breach Notice was given, shall be deemed to have been condoned and the Termination Event shall be deemed to have been lapsed without prejudice to other remedies at law or under this Agreement which the Non-Defaulting Party may have against the Defaulting Party.
- (e) Any Shareholder entitled to purchase shares under this Clause 7.2 shall have the right to designate any of its’ Group Entity(s) to purchase the said shares, in place and stead of such Shareholder. *Provided however*, (i) such Transfer does not in any way result in the Foreign Entity Equity Cap and/or the Scheduled Airlines Equity Cap being exceeded; and (ii) the Group Entity agrees and undertakes to be bound to the terms and conditions of this Agreement and executes the Deed of Adherence.

CLAUSE 8 CONFIDENTIALITY

- 8.1 The Parties hereby acknowledge and agree that each of them and their Group Entities possess and will continue to possess information that has been created, discovered, developed, or otherwise known and owned by them and their Group Entities, which information has commercial value in the business in which they and their Group Entities, are or may become engaged (the aforementioned information is hereinafter called "**Proprietary Information**"). The Parties, on behalf of themselves and their Group Entities, agree that during the terms of this Agreement and after the termination or expiration hereof, each of them will keep in confidence and trust all such Proprietary Information, and they and their Group Entities will not use or disclose any such Proprietary Information or anything directly relating to it without the written consent of the other Parties.
- 8.2 In the event of the expiration or termination of this Agreement for any reason, the Parties shall promptly, at the direction of the owner of such Proprietary Information, cease to use, destroy or return to the owner or its Group Entities all documents and data of any nature pertaining to the Proprietary Information owned by such Party or any of its Group Entities, and will not keep or deliver to anyone else any documents or data of any description or any reproduction of any description containing or pertaining to any Proprietary Information.
- 8.3 This Clause shall not, however, apply to information which:

- (a) is or becomes publicly available without fault of any Party;
- (b) was known to any Party on a non-confidential basis prior to disclosure;
- (c) is independently developed by any Party without use of the Proprietary Information;
- (d) is disclosed by the owner of such information to a Third Party without restrictions similar to those contained herein;
- (e) is disclosed in order to enable the sell-down/ draw-down of debt or to proposed Third Party transferees, provided that the recipient executes a confidentiality undertaking to use the information solely for that purpose;
- (f) is disclosed in order to comply with the requirements of Applicable Law including any requirements for the stock exchange listing of the JVC or any Entity, which directly or indirectly, holds Equity Shares;
- (g) is disclosed to any of the consultants (legal, financial, technical or otherwise) of the Parties, provided that the recipient executes a confidentiality undertaking to use the information solely for the purpose disclosed.

8.4 The Shareholders on behalf of themselves and their respective Group Entities also agree with each other and their respective Group Entities and the JVC to use their, and to cause the JVC to use its, best efforts to assure that all information disclosed in connection with the business of the JVC and not otherwise generally available shall be kept confidential and shall not be revealed.

**CLAUSE 9
MISCELLANEOUS**

9.1 Notices

9.1.1 Any notice to be given under this Agreement shall be deemed to have been duly given upon receipt when in writing and delivered in person, by facsimile transmission, by telex or by courier, addressed as follows:-

(a) If to AAI and/or AAI Nominees:

Airports Authority of India,
Rajiv Gandhi Bhawan,
New Delhi 110 003.

Attention: Chairman
Fax No: +91-011-24641088

(b) If to the JVC:

Delhi International Airport Pvt. Ltd.,
IGI Airport , Delhi.

Attention: Mr. Srinivas Bommidala
Fax No: +91-11-23766352

(c) If to Private Participants:

1. **GMR Infrastructure Ltd.**
Skip House
25/1, Museum Road
Bangalore – 560 025
Karnataka
India

Attention: Mr. Kiran Kumar Grandhi
Fax No: +91 80 2227 3620

2. **GMR Energy Ltd.**
Skip House
25/1, Museum Road
Bangalore – 560 025
Karnataka
India

Attention: Mr. Srinivas Bommidala
Fax No: +91 80 2227 3633

3. **GVL Investments Private Ltd.**
Skip House
25/1, Museum Road
Bangalore – 560 025
Karnataka
India

Attention: Mr. G.B.S. Raju
Fax No: +91 80 2299 8118
4. **Fraport AG Frankfurt Airport Services Worldwide,**
Cargo City South
Building 664C
Fraport AG
60547 Frankfurt am Main,
Federal Republic of Germany

Attention: Mr. Frank Thiesen
Fax No: +49 69 690 59866
5. **Malaysia Airports (Mauritius) Private Ltd.**

C/o Malaysia Airport (Niaga) Sdn. Bhd.
Head Office of MAB
Sultan Abdul Aziz Shah Airport,
Subang,
47200 Selangor Darul Ehsan,
Malaysia.

Attention: Dato' Bashir Ahmad Bin Abdul Majid
Fax No: +603 7846 4177
6. **India Development Fund,**
IDFC Private Equity Co. Ltd.
17, Vaswani Mansion,
3rd Floor, D Vachha Raod, Church Gate,
Mumbai – 400 020,
India.

Attention: Mr. Luis Miranda
Fax No: +91-22-2202 0798

9.1.2 Any Party may change its address provided above for the purpose of this Agreement by giving written notice to the other Parties of such change in the manner hereinabove provided.

9.2 **Force Majeure:**

9.2.1 Notwithstanding anything to the contrary contained in this Agreement, it is hereby expressly agreed between the Parties that no relief shall be granted to any Party

under this Agreement for, or on account of, Force Majeure.

9.3 **Specific Performance of Obligations**

9.3.1 The Parties to this Agreement agree that, to the extent permitted under Applicable Law, the rights and obligations of the Parties under this Agreement shall be subject to the right of specific performance and may be specifically enforced against a Defaulting Party. The Parties acknowledge that any breach of the provisions of this Agreement will cause immediate irreparable harm to the adversely affected Party (“**Affected Party**”) for which any compensation payable in damages shall not be an adequate remedy. Accordingly, the Parties agree that the Affected Party shall be entitled to immediate and permanent injunctive relief, specific performance or any other equitable relief from a court of competent jurisdiction in the event of any such breach or threatened breach by any other Party. The Parties agree and stipulate that the Affected Party shall be entitled to such injunctive relief, specific performance or other equitable relief without (i) the necessity of proving actual damages; or (ii) posting a bond or other security. Nothing contained herein shall limit the Affected Party’s right to any remedies at law or in equity, including without limitation the recovery of damages from the defaulting Party.

9.4 **Governing Law and Consent to Jurisdiction; Arbitration**

9.4.1 This Agreement and all questions of its interpretation shall be construed in accordance with the laws of the Republic of India.

9.4.2 The Parties agree that they shall attempt to resolve through good faith consultation, disputes arising in connection with this Agreement, and such consultation shall begin promptly after a Party has delivered to the other Party a written request for such consultation. Provided that if such good faith consultations have not resulted in a resolution of the dispute within sixty (60) days of such consultations having commenced, the provisions of Clause 9.4.3 shall apply.

9.4.3 **Arbitration**

9.4.3.1 Any dispute, which could not be settled by the Parties through amicable settlement (as provided for under Clause 9.4.2 hereinabove) shall be finally settled by arbitration in accordance with the Indian Arbitration and Conciliation Act, 1996. A notice of the intent to refer the dispute to arbitration may be given by a Party or group of Parties (“**Claimant(s)**”) to the other Party or group of Parties (“**Respondent(s)**”).

9.4.3.2 The disputes shall be referred to a tribunal comprising three (3) arbitrators. The Respondent(s) and the Claimant(s) to the arbitration shall have the right to appoint one arbitrator each and the two arbitrators thus appointed shall choose the third arbitrator who will act as a presiding arbitrator of the tribunal (together forming the “**Arbitral Tribunal**”). In the event of failure by the Respondent(s) and/or the Claimant(s) to appoint their arbitrator(s) or by the two arbitrators appointed by the

Respondent(s) and the Claimant(s) respectively to appoint the third arbitrator, the said arbitrator(s) shall be appointed by the High Court of Delhi.

9.4.3.3 Such arbitration shall, unless otherwise agreeable to the Parties, be held at New Delhi, India. All proceedings of such arbitration shall be in the English language.

9.4.3.4 The decision(s) of the Arbitral Tribunal shall be final and binding on the Parties.

9.4.3.5 Subject to this Clause 9.4, the Courts at Delhi shall have jurisdiction over this Agreement.

9.5 **Entire Agreement**

9.5.1 This Agreement, together with all Annexures, Schedules, Exhibits and attachments hereto, represents the entire agreement and understanding between the Parties with respect to the subject matter of this Agreement and supersedes any prior agreement or understanding, written or oral, that the Parties may have had.

9.6 **Amendments**

9.6.1 Any modification, amendment, or waiver of any provision of this Agreement shall be effective if, but only if, in writing and signed in person or by an authorized representative of each Party.

9.7 **Severability**

9.7.1 If any article, clause, section or paragraph, or part thereof, of this Agreement or any agreement or document appended hereto or made a part hereof is invalid, ruled illegal by any court of competent jurisdiction, or unenforceable under present or future Applicable Laws, then it is the intention of the Parties that the remainder of the Agreement, or any agreement or document appended hereto or made a part hereof, shall not be affected thereby unless the deletion of such provision shall cause this Agreement to become materially adverse to any Party in which case the Parties shall negotiate in good faith such changes to the Agreement as will best preserve for the Parties the benefits and obligations under such provision.

9.8 **Counterparts**

9.8.1 This Agreement may be executed in two or more counterparts, and by each Party on the same or different counterparts, but all of such counterparts shall together constitute one and the same instrument.

9.9 **Waivers**

9.9.1 No failure by a Party to take any action with respect to a breach of this Agreement or a default by any other Party shall constitute a waiver of the former Party's right to enforce any provision of this Agreement or to take action with respect to such breach or default or any subsequent breach or default. Waiver by any Party of any

breach or failure to comply with any provision of this Agreement by a Party shall not be construed as, or constitute, a continuing waiver of such provision, or a waiver of any other breach of or failure to comply with any other provision of this Agreement.

9.10 No Agency

9.10.1 This Agreement shall not constitute any Party as the legal representative or agent of another Party, nor shall any Party have the right or authority, to assume, create or incur any liability or obligation, express or implied, against, in the name of, or on behalf of another Party.

9.11 No Third Party Beneficiaries

9.11.1 Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any **Entity** other than the Parties hereto (and their respective successors and permitted assigns) any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision herein contained.

9.12 Independence of the Parties with respect of each other and of the JVC

9.12.1 The Parties are and shall remain independent. None of the Parties or any Group Entity thereof shall be considered an agents of the other, nor shall they have authority to enter into any contract or any obligation for, or make any warranty or representation on behalf of the other, or the JVC.

9.13 Arms Length

9.13.1 All relationships between each Party and/or any relevant Group Entity of such Party of the one part, and the JVC, of the other part, shall be conducted at arms length and on competitive terms.

9.14 Expenses

9.14.1 Each of the Parties shall bear the fees and expenses of its respective counsel, accountants and experts and all other costs and expenses incurred by it incidental to the negotiation, preparation, execution and delivery of this Agreement.

9.15 AAI not Promoter

9.15.1 For the benefit of the shareholders and expediting the operation of this agreement and of the OMDA, AAI has blocked the name "Delhi International Airport Private Limited" with the Registrar of Companies and has got the skeleton of the structure of the JVC registered. The Parties hereby expressly agree and acknowledge that merely by such act of AAI or its shareholding, neither AAI nor any of the AAI Nominees shall, at any point, for whatsoever reason, be construed to be the promoter(s) of the JVC. If at any point, AAI and/or any of the AAI Nominees are held to be promoters of the JVC under Applicable Law, resulting in some loss, expense, cost or liability to the AAI and/or its nominee(s), the Private Participants shall keep AAI and/or its nominee(s) harmless and shall indemnify them in full.

9.16 Encumbrance

9.16.1 Notwithstanding anything to the contrary contained in this Agreement, it is hereby expressly agreed between the Parties that the Private Participants shall have the right but not the obligation to, in any way, Encumber their shareholding in the JVC in favour of the Lenders for raising Debt for the use of the JVC, in accordance with the provisions of the OMDA.

9.17 Consequential Loss

9.17.1 Notwithstanding anything to the contrary contained in this Agreement, in no event shall any Party, its officers, employees or agents be liable to any other Party (on the basis of contract, indemnity, warranty or tort including negligence and strict or absolute liability or breach of statutory duty or otherwise) for any matter arising out of, or in connection with, this Agreement in respect of any Consequential Loss suffered by such other Party. Each party undertakes not to sue any other party, its officers, employees and agents in respect of such Consequential Loss.

For the purposes of this provision, “**Consequential Loss**” means any indirect or consequential loss (including loss or protection, loss of profit, loss of revenue, loss of contract, loss of goodwill, liability under other agreements, or liability to third parties) resulting from such breach and whether or not the Party committing the breach knew or ought to have known, that such indirect or consequential loss would be likely to be suffered as a result of such breach and includes the payment or repayment of any amounts (or any acceleration thereof) to lenders or creditors of the aggrieved Party from time to time, but excludes death or personal injury resulting from the negligence of the Party liable, its officers, employees or agents.

IN WITNESS WHEREOF the Parties have hereunto set their respective hands the day and year first above written.

<p>For and on behalf of Airports Authority of India :</p> <p>Signed by _____</p>	<p>Witnessed by:</p>
<p>For and on behalf of Delhi International Airport Pvt. Ltd.:</p> <p>Signed by _____</p>	<p>Witnessed by:</p>
<p>For and on behalf of GMR Infrastructure</p>	<p>Witnessed by:</p>

<p>Ltd.:</p> <p>Signed by _____</p>	
<p>For and on behalf of GMR Energy Ltd.:</p> <p>Signed by _____</p>	<p>Witnessed by:</p>
<p>For and on behalf of GVL Investments Pvt. Ltd.:</p> <p>Signed by _____</p>	<p>Witnessed by:</p>
<p>For and on behalf of Fraport AG Frankfurt Airport Services Worldwide:</p> <p>(1)</p> <p>Signed by _____</p> <p>(2)</p> <p>Signed by _____</p>	<p>Witnessed by:</p>
<p>For and on behalf of Malaysia Airports (Mauritius) Private Limited:</p> <p>Signed by _____</p>	<p>Witnessed by:</p>
<p>For and on behalf of India Development Fund a unit scheme of IDFC Infrastructure Fund, a trust created under the Indian Trusts Act, 1882, which is a venture capital fund registered under the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996, of which IDBI Trustee Company is the trustee, acting through its investment manager IDFC Private Equity</p>	<p>Witnessed by:</p>

SCHEDULE 1
PRIVATE PARTICIPANTS

(1)	GMR Infrastructure Ltd.,
(2)	GMR Energy Ltd.
(3)	GVL Investments Pvt. Ltd.
(4)	Fraport AG Frankfurt Airport Services Worldwide,
(5)	Malaysia Airports (Mauritius) Private Limited
(6)	India Development Fund, a unit scheme of IDFC Infrastructure Fund, a trust created under the Indian Trusts Act, 1882, which is a venture capital fund registered under the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996, of which IDBI Trustee Company is the trustee, acting through its investment manager IDFC Private Equity Company Limited.

SCHEDULE 2
BROAD PRINCIPLES FOR DERIVING FAIR MARKET VALUE OF EQUITY SHARES

In the event that a determination needs to be made of the Fair Market Value of the Equity Shares, the procedures and approach set forth in this Schedule shall apply:

1. If the JVC at that time is publicly listed company then the Fair Market Value shall be the weighted average of the daily trading price for the shares over the previous twelve (12) week period, with the weights being the value of the daily turnover of the Equity Shares.
2. If the JVC is not publicly listed, then:
 - (i) Fair Market Value of the Equity Shares means the value of the Equity Shares determined by a firm of independent chartered accountants of international reputation (the “**Valuer**”) on the basis of a transaction between a willing seller and a willing buyer and in accordance with Indian GAAP. Provided that in the event AAI is not the defaulting Party, in determining such value, the Valuer shall:
 - (a) not ascribe or take into account directly or indirectly, any value per se to the land provided to the JVC under the Lease Deed.
 - (b) exclude any value attributable directly or indirectly to the state support granted to the JVC.

Provided however, if AAI is the defaulting Party then the Valuer shall attribute the above value while determining the Fair market Value of the Equity Shares.

- (ii) Upon receiving a request from a concerned Party for determination of the Fair Market Value of Equity Shares where required in terms of this Agreement, the Board will select the Valuer and instruct the Valuer to determine the Fair Market Value in accordance with Paragraph 1 above.
- (iii) The JVC will provide the information required by the Valuer for such determination, within a period of seven (7) days of his appointment.
- (iv) The Valuer shall determine the Fair Market Value within a period of twenty (20) days thereafter and provide his report to the Board, with copies to all Parties.
- (v) The costs, including fees of the Valuer, incurred for such determination shall be borne by the seller and / or the buyer, as may reasonably be determined by the Board.

SCHEDULE 3
RESERVED BOARD MATTERS

1. Any change in the business of the JVC (including any cessation of any kind of business);
2. Change of rights of any class or classes of shares (directly or indirectly);
3. Sale, transfer, lease, license or disposal of all or a substantial part of its business, undertaking or assets whether by a single transaction or series of transactions, related or not, provided that this clause shall not apply where the value of and consideration for the business, undertaking and/or assets being sold, transferred, leased, licensed or disposed of aggregates to less than ten (10) percent of the net fixed asset of JVC in any period of twelve (12) months;
4. Commencement of any action to wind up or dissolution of the JVC including passing of a resolution that the JVC be liquidated.

SCHEDULE 4
RESERVED SHAREHOLDERS MATTERS

1. Any change in the business of the JVC (including any cessation of any kind of business);
2. Change of rights of any class or classes of shares (directly or indirectly);
3. Sale, transfer, lease, license or disposal of all or a substantial part of its business, undertaking or assets whether by a single transaction or series of transactions, related or not, provided that this clause shall not apply where the value of and consideration for the business, undertaking and/or assets being sold, transferred, leased, licensed or disposed of aggregates to less than ten (10) percent of the net fixed assets of the JVC in any period of 12 months;
4. Commencement of any action to wind up or dissolution of the JVC including passing of a resolution that the JVC be liquidated;
5. Any shareholder resolution requiring the consent of not less than three-fourths (75%) of the shareholders voting (*special resolutions*) under the provisions of the Companies Act.

**ANNEXURE 1
DEED OF ADHERENCE**

This **DEED OF ADHERENCE** (“Deed”) is executed this [•] day of [•], by [*insert here name and details of transferee company*], a company / body corporate incorporated under the laws of [•] with its registered office / principal place of business at [•] (the “**Transferee**”)

WHEREAS:

- A. By a Shareholders Agreement dated [•], 2006 (the “**Shareholders Agreement**”) among AAI, [*insert here names of Private Participants*] and the JVC, the Shareholders agreed to a mutual distribution / regulation of their rights and liabilities as shareholders of the JVC.
- B. Section 3.6.1 (b) of the Shareholders Agreement requires, inter alia, that, concurrently with the transfer of shares in the equity capital by any Shareholder (“Parent”) to any third party, such third party shall, as a pre-condition of such transfer of shares to it execute this Deed and be bound by the Shareholders Agreement.

NOW THIS DEED WITNESSETH AS FOLLOWS:

1. Definitions And Interpretation

Capitalised terms used but not defined in this Deed shall, unless the context otherwise requires, have the respective meanings ascribed thereto in the Shareholders Agreement.

2. Undertakings

- 2.1 Transferee hereby acknowledges that it has heretofore received a copy of, and has read and understands the Shareholders Agreement and other Project Agreements, and covenants, agrees and confirms that it shall be bound by all provisions of the Shareholders Agreement as if it was an original party thereto, including with respect to the rights and obligations of the transferor Party contained therein, and the Shareholders Agreement shall have full force and effect on it, and shall be read and construed to be binding on it.

3. Governing Law

This Deed shall be governed by and construed in accordance with the laws of the India. The terms and conditions of the Shareholders Agreement in relation to the provisions regarding arbitration and other terms and conditions shall be deemed to have been incorporated in this Deed.

SIGNED BY:

By _____

Name:

Title:

Witness

Name: