

(TRANSLATION)(for Reference Only)

Qualified Project Etc. for Takamatsu Airport Operation

Basic Agreement (Draft)¹

The original of this document shall be prepared in Japanese language, and this is only English translation of that. This document shall serve only as a reference and shall be interpreted in accordance with the Japanese document.

¹ The State may add or change the contents provided in the Agreement (Draft) based on matters agreed concerning the Project through competitive dialogue etc. held with the Preferred Negotiation Right Holder in the course of the bidding procedures.

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The Civil Aviation Bureau of the Ministry of Land, Infrastructure, Transport and Tourism and the Osaka Regional Civil Aviation Bureau of the Ministry of Land, Infrastructure, Transport and Tourism (hereinafter collectively referred to as the “State”) and [] and [] shall execute this basic agreement (the “Agreement”) concerning the Qualified Project Etc. for Takamatsu Airport Operation as follows.

Article 1 (Definitions)

In the Agreement, the following terms shall have the following meanings.

- (1) “Operating Right” means the Right to Operate Public Facility etc. defined in Article 2, paragraph (7) of the PFI Act scheduled to be established in favor of the SPC with respect to the Airport on October [DD], 2017 pursuant to Article 7.
- (2) “SPC” means a stock company (*kabushiki kaisha*) to be incorporated for the purpose of carrying out the Project.
- (3) “Companies Act” means the Companies Act (Act No. 86 of 2005).
- (4) “Project Period” means collectively the Airport Operating Business Period and the Building Facility Business Period stipulated in the Project Agreement.
- (5) “Project Agreement” means the Qualified Project Etc. for Takamatsu Airport Operation Agreement to Implement Right to Operate Public Facility Etc. to be executed between the State and the SPC concerning the implementation of the Project.
- (6) “Representative Company” means [] indicated as the representative company in the Proposal Documents among the Preferred Negotiation Right Holder’s Members.
- (7) “Proposal Documents” means the first screening documents submitted on December [DD], 2016 and the second screening documents submitted on June [DD], 2017 by the Preferred Negotiation Right Holder, and the full set of other proposal documents relating to the implementation of the Project (including written responses to the items for confirmation with respect to the first screening documents and second screening documents and other responses from the Preferred Negotiation Right Holder to matters for confirmation inquired by the State to the Preferred Negotiation Right Holder with respect to the full set of other Proposal Documents (including written responses (including the documents submitted to the State))).
- (8) “Building Facility Operator” means Takamatsu Airport Building Co., Ltd.
- (9) “Building Facility Operator Shares” means the shares issued by the Building

Facility Operator.

- (10) “Building Facility Operator Share Acquisition Option Agreement” means, individually and collectively, each of the share acquisition option agreements for the Building Facility Operator Shares respectively executed as of July 7, 2016 by the State with each Building Facility Operator Shareholder.
- (11) “Building Facility Operator Shareholders” means the shareholders of the Building Facility Operator (including the Local Governments Relevant to the Airport).
- (12) “Application Guidelines” means the Application Guidelines for the Qualified Project Etc. for Takamatsu Airport Operation published by the State on September 6, 2016.
- (13) “Application Guidelines etc.” means the Application Guidelines and its attachments and supplementary materials (excluding the compilation of referential materials) (if any amendments were made thereto, those reflecting such amendments), as well as questions and responses, and other documents in relation thereto issued by the State (excluding the Basic Agreement (draft), Project Agreement (draft) and Required Standards Document (draft)), which are published on the website of the Civil Aviation Bureau of the Ministry of Land, Infrastructure, Transport and Tourism, disclosed via a virtual data room or published by other appropriate methods.
- (14) “Non-Voting Shares” means the shares issued by the SPC of a kind which have no voting rights to vote on any items for resolution at the shareholders’ meeting of the SPC (Article 108, paragraph (1), item (iii) of the Companies Act).
- (15) “Non-Voting Shareholders” means the shareholders of the Non-Voting Shares.
- (16) “Voting Shares” means the shares issued by the SPC which are common shares with voting rights to vote on all items for resolution at the shareholders’ meeting of the SPC.
- (17) “Voting Shareholders” means the shareholders of the Voting Shares.
- (18) “Airport” means the Takamatsu Airport specified in Article 4, paragraph (1), item (vi) of the Airport Act (Act No. 80 of 1956) and Article 1, paragraph (2) of the Order for Enforcement of the Airport Act (Cabinet Order No. 232 of 1956).
- (19) “Local Governments Relevant to the Airport” means, individually or collectively, Kagawa Prefecture and Takamatsu City.
- (20) “Capital Contribution and Personnel Dispatch Agreement” means the agreement which will be executed between the Preferred Negotiation Right Holder’s Members and the Local Governments Relevant to the Airport

concerning the capital contribution and the personnel dispatch to the SPC by and from the Local Governments Relevant to the Airport in accordance with Article 4, paragraph 1.

- (21) “Project” means collectively each business stipulated in the Project Agreement to be implemented at the Airport in accordance with the Required Standards Document pursuant to the Project Agreement as the Qualified Project for National Airport Operation.
- (22) “PFI Act” means the Act on Promotion of Private Finance Initiative (Act No. 117 of 1999).
- (23) “Preferred Negotiation Right Holder” means [] which was selected as the preferred negotiation right holder through the selection procedures pursuant to the Application Guidelines etc.
- (24) “Preferred Negotiation Right Holder’s Members” means [[], [] which are the Voting Shareholders and are the entities which comprise the Preferred Negotiation Right Holder]².
- (25) “Required Standards Document” means the Required Standards Document for the Qualified Project Etc. for Takamatsu Airport Operation (if additions or changes are made to the Required Standards Document, then these additions or changes shall be included).

Article 2 (Purposes)

The purposes of the Agreement are to confirm that the Preferred Negotiation Right Holder’s Members were selected through the procedures stipulated in the Application Guidelines etc. as the entities which implement the Project through the SPC; to have the SPC, which will be incorporated pursuant to Article 5 by the Preferred Negotiation Right Holder’s Members in order to implement the Project, execute the Project Agreement with the State pursuant to Article 8; and to stipulate the duties to be assumed by the State and the Preferred Negotiation Right Holder’s Members and necessary miscellaneous procedures in order to smoothly implement the Project.

Article 3 (Basic Matters Agreed)

1. The State and the Preferred Negotiation Right Holder’s Members acknowledge that the Preferred Negotiation Right Holder was selected in accordance with the procedures stipulated in the Application Guidelines etc. as the one which shall incorporate the SPC

² This part is subject to change in accordance with the composition of the Preferred Negotiation Right Holder actually selected.

and have the SPC implement the Project.

2. The Preferred Negotiation Right Holder's Members acknowledge that they made their proposals to the State in the Proposal Documents in compliance with the terms stated in the Application Guidelines etc.

Article 4 (Capital Contribution and Personnel Dispatch)

1. After execution of the Agreement, the Preferred Negotiation Right Holder's Members shall promptly commence a consultation with the Local Governments Relevant to the Airport and execute the agreement with the Local Governments Relevant to the Airport concerning the capital contribution and the personnel dispatch to the SPC by and from the Local Governments Relevant to the Airport, with the content as stipulated in the Capital Contribution and Personnel Dispatch Agreement (Draft) in **Exhibit 1** (hereinafter referred to as the "Capital Contribution and Personnel Dispatch Agreement"), by one month prior to the Airport Operating Business Scheduled Commencement Date (as defined in the Project Agreement; the same shall apply hereinafter). The Preferred Negotiation Right Holder's Members shall submit a copy of such agreement to the State promptly after execution thereof. The Preferred Negotiation Right Holder's Members may not make any changes to such agreement without prior consent of the State.

2. After the execution of the Capital Contribution and Personnel Dispatch Agreement pursuant to the preceding paragraph, the Preferred Negotiation Right Holder's Members shall have the SPC accept the capital contribution and the personnel dispatch to the SPC by and from the Local Governments Relevant to the Airport, in accordance with the Capital Contribution and Personnel Dispatch Agreement, unless such contribution and dispatch violate the Agreement.

3. Notwithstanding Article 6, paragraph 2, the Preferred Negotiation Right Holder's Members may issue and allot new Voting Shares in accordance with the Capital Contribution and Personnel Dispatch Agreement without prior consent of the State. The Preferred Negotiation Right Holder's Members shall have the Local Governments Relevant to the Airport submit a covenant document in the form indicated in **Exhibit 3** to the State simultaneously with the allocation of such new Voting Shares to the Local Governments Relevant to the Airport.

4. Notwithstanding paragraph 1, the Preferred Negotiation Right Holder's Members shall have no obligation to execute the Capital Contribution and Personnel Dispatch Agreement if:

- (1) it becomes impossible to execute the Capital Contribution and Personnel Dispatch Agreement by one month prior to the Airport Operating Business Scheduled Commencement Date due to any reason attributable to the Local Governments Relevant to the Airport, such as the Local Governments Relevant to the Airport request to agree upon any matter not stipulated in the Capital Contribution and Personnel Dispatch Agreement (Draft) in **Exhibit 1** or the Local Governments Relevant to the Airport delay in making their decisions or completing their procedures;
- (2) it becomes impossible to execute the Capital Contribution and Personnel Dispatch Agreement by one month prior to the Airport Operating Business Scheduled Commencement Date due to any of Force Majeure (as defined in the Project Agreement); or
- (3) in addition to the cases stipulated in the preceding two items, the Project Agreement is not executed or has been terminated before executing the Capital Contribution and Personnel Dispatch Agreement.

5. Even if the Capital Contribution and Personnel Dispatch Agreement is not executed or the capital contribution and the acceptance of the personnel dispatch to the SPC by and from the Local Governments Relevant to the Airport are not completed and thereby causing any additional expenses or damage to the Preferred Negotiation Right Holder's Members or the SPC, the State shall, for any reason, have no liability for such additional expenses or damage.

Article 5 (Incorporation of the SPC)

1. The Preferred Negotiation Right Holder's Members shall promptly incorporate the SPC that satisfies each of the following requirements after execution of the Agreement, and shall promptly submit to the State a certified copy of the commercial register, a certified true copy of the articles of incorporation and a seal certificate of the representative seal, of the SPC after completion of the registration procedures of the SPC.

- (1) The SPC is a stock company (*kabushiki kaisha*) duly, effectively, and legitimately incorporated and existing under the Companies Act;
- (2) [The total amount of capital and capital reserve of the SPC is JPY [] or more

[as of the date of its incorporation/as of the Building Facility Business Commencement Date (as defined in the Project Agreement)/as of the Airport Operating Business Commencement Date (as defined in the Project Agreement)]]³;

- (3) The articles of incorporation of the SPC contain a provision that the kind of shares that may be issued by the SPC shall only be Non-Voting Shares and Voting Shares;
- (4) The articles of incorporation of the SPC contain[, [as of the date of its incorporation/as of the date of execution of the Project Agreement] either a provision that the SPC shall have a board of directors, a board of company auditors and accounting auditors provided in Article 326, paragraph (2) of the Companies Act, a provision that the SPC shall have an audit and supervisory committee provided in Article 2, item (xi)-2 of the Companies Act or a provision that the SPC shall have a nominating committee etc. provided in Article 2, item (xii) of the Companies Act]⁴;
- (5) The SPC is not in breach of Article 6, paragraph 2, item (5);
- (6) The total number of the Voting Shares held by local public entities (meaning the local public entities provided in Article 1-3 of the Local Autonomy Act (Act No. 67 of 1947); the same shall apply hereinafter) does not exceed 10% of the number of the Voting Shares issued and outstanding;
- (7) The personnel of local public entities dispatched by the local public entities to the SPC are only a part-time director (one or less) and a full-time employee (one or less) of the SPC;
- (8) The objectives indicated in the SPC's articles of incorporation are limited to carrying out the Project; and
- (9) The SPC does not fall under any of (a), (b), (d) and (g) of Article 29, paragraph (1), item (i) of the PFI Act.

2. The Preferred Negotiation Right Holder's Members shall, promptly after completion of registration of incorporation of the SPC, ensure that the SPC notifies the State of its [directors at the time of incorporation, company auditors at the time of incorporation and accounting auditor at the time of incorporation]⁵.

³ To be indicated in accordance with the proposal from the Preferred Negotiation Right Holder.

⁴ To be indicated in accordance with the proposal from the Preferred Negotiation Right Holder.

⁵ To be indicated in accordance with the proposal from the Preferred Negotiation Right Holder.

Article 6 (The Shareholders of the SPC)

1. [Upon incorporation of the SPC pursuant to paragraph 1 of the preceding article, all Preferred Negotiation Right Holder's Members shall contribute the amount indicated as the amount of contribution to be made by each of the Preferred Negotiation Right Holder's Members in **Exhibit 2**, and each shall receive allotment of Voting Shares in accordance with the amount contributed.]⁶

2. The Preferred Negotiation Right Holder's Members shall covenant the following matters as of the time of incorporation of the SPC and shall submit a covenant document in the form indicated in **Exhibit 3** simultaneously with the incorporation of the SPC. However, the issuance and allocation of new Voting Shares to the Local Governments Relevant to the Airport pursuant to the Capital Contribution and Personnel Dispatch Agreement shall not constitute a breach of any item (excluding item (6)) of this paragraph.

(1) A Voting Shareholder shall obtain prior written approval from the State if it intends to assign, pledge or otherwise establish security rights on (hereinafter collectively referred to as "to dispose of") the Voting Shares (including securities, if any, that were issued which could be converted or exchanged with the Voting Shares or represent rights to receive the Voting shares; hereinafter the same shall apply in this article) to a third party other than (i) another Voting Shareholder or (ii) any person, if any, to whom the Voting Shareholder may dispose of its Voting Shares as approved in advance by contract etc. executed with the State. [The same shall apply when one who holds the shares of a Voting Shareholder [indirectly through its subsidiary etc.] intends to dispose of the shares of the [Voting Shareholder/subsidiary etc.]]⁷ Non-Voting Shareholders may freely dispose of Non-Voting Shares (including securities, if any, that were issued which could be converted or exchanged with Non-Voting Shares or represent rights to receive Non-Voting Shares; hereinafter the same shall apply in this article) but only in accordance with the provisions of the

⁶ If the State agrees, a different structure of contribution could be adopted in accordance with the method of contribution proposed by the Preferred Negotiation Right Holder (meaning for the Representative Company or Preferred Negotiation Right Holder's Members to indirectly hold the SPC shares through the company etc. to be incorporated after execution of the Agreement). Any applicant intending this indirect shareholding by the Representative Company or the Preferred Negotiation Right Holder's Members shall indicate this in its Proposal Documents.

⁷ If a scheme to indirectly hold the SPC shares is to be adopted in accordance with the proposal from the Preferred Negotiation Right Holder with respect to Article 6, paragraph 1, the scope of limiting the disposal shall be revised accordingly.

Companies Act.

- (2) If a Voting Shareholder intends to dispose of its Voting Shares after obtaining approval from the State in accordance with the preceding item, it shall ensure that the party to whom the Voting Shareholder disposes of its Voting Shares submits to the State in advance a covenant document with the same content as the covenant document indicated in **Exhibit 3**.
- (3) If the SPC needs to pass a resolution at the shareholders' meeting to issue new Voting Shares, the Voting Shareholders shall exercise their voting rights at the shareholders' meeting to approve the issuance after obtaining prior written approval from the State. However, if the SPC intends to issue: (i) new Voting Shares to the Voting Shareholders; or (ii) new Non-Voting Shares, the Voting Shareholders may freely exercise their voting rights at the shareholders' meeting to approve such issuance.
- (4) A Voting Shareholder may not dispose of its Voting Shares to a person who does not satisfy any of the following requirements:
 - (i) A person who does not fall under Articles 70 and 71 of the Order of Budget, Settlement and Accounting (Imperial Ordinance No. 165 of 1947);
 - (ii) A person who does not fall under the grounds for disqualification of a private business operator to implement a qualified project stipulated in Article 9 of the PFI Act; or
 - (iii) A person against whom a petition for the commencement of reorganization proceedings under the Corporate Reorganization Act (Act No. 154 of 2002) or rehabilitation proceedings under the Civil Rehabilitation Act (Act No. 225 of 1999) has not been filed.
- (5) A Voting Shareholder shall not dispose of its shares or otherwise act in a manner that would cause an operator of air transport services as defined in Article 2, paragraph (18) of the Civil Aeronautics Act (Act No. 231 of 1952)), or its parent company (as defined in Article 2, item (iv) of the Companies Act) or their subsidiaries (as defined in Article 2, item (iii) of the Companies Act) (hereinafter collectively referred to as the "Air Carriers"), or affiliates (as defined in Article 2, paragraph (3), item (xx) of the Ordinance for Enforcement of the Companies Act) (including their subsidiaries) of the Air Carriers to become a Voting Shareholder.
- (6) A Voting Shareholder shall not dispose of its shares or otherwise act in a manner that would cause the total number of the Voting Shares held by local public entities to exceed 10% of the number of the Voting Shares issued and

outstanding.

- (7) A Voting Shareholder shall not exercise its voting rights at the shareholders' meeting or otherwise act in a manner that would prevent the personnel dispatched by local public entities to the SPC from being a part-time director (one or less) and a full-time employee (one or less) of the SPC.
- (8) If a Voting Shareholder executes a shareholders agreement (meaning all the agreements concerning the contribution ratio or voting rights ratio of the Voting Shareholders in the SPC or operation of the SPC to be executed between two or more Voting Shareholders or Non-Voting Shareholders), it shall submit a copy of the agreement to the State. The same shall apply when the agreement is changed, and it shall notify the State if the agreement is terminated or expired.

3. The State shall, in general, approve the disposal of the Voting Shares after consultation with the relevant government institutions if a Voting Shareholder requests the State to issue prior approval in item (1) of the preceding paragraph concerning the disposal of the Voting Shares, and the Voting Shareholder proves that: (i) the party to the disposal of the Voting Shares satisfies the requirements stipulated in item (4) of the preceding paragraph; (ii) the SPC would satisfy the requirements stipulated in items (5) and (6) of the preceding paragraph after the disposal; and (iii) with respect to the disposing party and the party to the disposal of the Voting Shares,: (a) the party to the disposal satisfies certain qualification criteria that conform with the participation qualification at the time of the bidding; and (b) the disposal would not hinder the SPC from continuing business.

Article 7 (Establishment of the Operating Right)

1. The State and the Preferred Negotiation Right Holder's Members shall make their best efforts to promptly establish the Operating Right for the Project in favor of the SPC after incorporation of the SPC stipulated in Article 5 in accordance with the terms indicated in the Application Guidelines etc. and the Proposal Documents and to enable the Project Agreement to be executed, as stipulated in the following article, on the same date that the Operating Right is established.

2. The Airport Operating Business (as defined in the Project Agreement) pursuant to the Operating Right in the preceding paragraph shall commence upon fulfillment by the SPC of the conditions precedent which will be separately provided in the Project Agreement.

3. The expenses to prepare the application for registration of the Operating Right stipulated in paragraph 1 and other expenses etc. necessary to register the Operating Right shall be borne by the Preferred Negotiation Right Holder's Members or the SPC.

4. Even if the SPC acquires the right to complete the transfer of the issued and outstanding shares of the Building Facility Operator provided in the Building Facility Operator Share Acquisition Option Agreement before execution of the Project Agreement stipulated in the following article, the Preferred Negotiation Right Holder's Members shall not allow the SPC to exercise such right before execution of the Project Agreement.

Article 8 (Execution of the Project Agreement)

1. The State and the Preferred Negotiation Right Holder's Members shall make their best efforts to enable the Project Agreement to be executed between the State and the SPC in accordance with the terms indicated in the Application Guidelines etc. and the Proposal Documents on the same date that the Operating Right is established as stipulated in the preceding article. In this regard, the State shall not, in general, accept revisions to the Project Agreement (draft) which were revised through the procedures stipulated in the Application Guidelines etc.

2. The Preferred Negotiation Right Holder's Members shall promptly provide the State with materials and all other documentation and information reasonably requested from the State as necessary or appropriate in order to clarify the details of the Proposal Documents ("Materials") upon request from the State.

3. In the process of clarifying the details of the Proposal Documents pursuant to the preceding paragraph, if the State determines that the Materials contain contents that do not conform with the terms indicated in the Application Guidelines etc., the Preferred Negotiation Right Holder's Members shall correct the Proposal Documents and Materials so that they conform with the terms indicated in the Application Guidelines etc. at their own responsibility and expense.

4. The State shall establish the required standards pursuant to the Proposal Documents concerning "businesses and services for a symbiotic relationship with local communities" and "businesses and services for promoting the use of the Airport" in

accordance with the Application Guidelines etc. by the date of execution of the Project Agreement.

5. The Preferred Negotiation Right Holder's Members may commence preparations at their own expense and responsibility that are necessary for the Project, regardless of whether it does so before or after the incorporation of the SPC or before the Project Agreement is executed, and the State shall cooperate with these preparations to the extent necessary and possible. The Preferred Negotiation Right Holder's Members shall, upon incorporation of the SPC, hand over to the SPC the preparations that they commenced before incorporating the SPC.

6. The State may decide not to execute the Project Agreement if any of the following events occurs (for the event stipulated in item (6), if the event is discovered) to any of the Preferred Negotiation Right Holder's Members before the Project Agreement is executed:

- (1) With respect to the Project, if a Preferred Negotiation Right Holder's Member violated Article 3 of the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 54 of April 14, 1947, hereinafter the "Anti-Monopoly Act"), or if a trade association to which a Preferred Negotiation Right Holder's Member is a member violated Article 8, paragraph (1), item (i) or item (ii) of the Anti-Monopoly Act and the Japan Fair Trade Commission ordered the Preferred Negotiation Right Holder's Member to pay a surcharge ("Surcharge Payment Order") pursuant to Article 7-2, paragraph (1) of the Anti-Monopoly Act (including when this is mutatis mutandis applied in Article 8-3 of the Anti-Monopoly Act) or notified the Preferred Negotiation Right Holder's Member, pursuant to Article 7-2, paragraph (18) or paragraph (21) of the same act, that it would not order them to pay the surcharge;
- (2) With respect to the Project, if a cease and desist order ("Cease and Desist Order") issued pursuant to Article 7 or Article 8-2 of the Anti-Monopoly Act states that a Preferred Negotiation Right Holder's Member violated Article 3 of the Anti-Monopoly Act, or that a trade association to which a Preferred Negotiation Right Holder's Member is a member engaged in business activities that constituted a violation of Article 8, paragraph (1), item (i) or item (ii) of the same act;
- (3) If a Surcharge Payment Order or a Cease and Desist Order indicates: (a) the period during which a Preferred Negotiation Right Holder's Member or a trade

association to which a Preferred Negotiation Right Holder's Member belongs is alleged to have acted in violation of Article 3 or Article 8, paragraph (1), item (i) or item (ii) of the Anti-Monopoly Act; and (b) the type of transaction with respect to which such violation is alleged to have occurred, and the procedures to select the Preferred Negotiation Right Holder were conducted during such period and the Project falls under the type of transaction specified in such order (provided that, if the Japan Fair Trade Commission orders the Preferred Negotiation Right Holder's Member to pay a surcharge in respect of the relevant violation and this order becomes final and binding, the period of the violation which is the basis for calculating the surcharge for the Surcharge Payment Order shall be excluded);

- (4) With respect to the Project, if a Preferred Negotiation Right Holder's Member (including its officers or employees if it is a judicial person) is prosecuted for alleged offenses subject to punishment under Article 96-6 or Article 198 of the Penal Code (Act No. 45 of 1907) or Article 89, paragraph (1) or Article 95, paragraph (1), item (i) of the Anti-Monopoly Act;
- (5) If a Preferred Negotiation Right Holder's Member falls under any of the grounds for disqualification of a private business operator to implement a qualified project stipulated in Article 9 of the PFI Act; or
- (6) If a Preferred Negotiation Right Holder's Member was selected as the Preferred Negotiation Right Holder in the selection procedures pursuant to the Application Guidelines etc. in a false or other dishonest manner.

7. The State and the Preferred Negotiation Right Holder's Members shall continue to mutually cooperate in order to implement the Project even after the Project Agreement is executed.

Article 9 (Obligation to Cooperate in Obtaining Financing)

The Preferred Negotiation Right Holder's Members shall invest in the SPC, solicit investors for the SPC, and enable the SPC to borrow and obtain other financial backing for the SPC in accordance with the Proposal Documents.

Article 10 (Non-establishment of the Project Agreement)

1. If the Project Agreement is not executed for reasons attributable to the Preferred Negotiation Right Holder's Members, the following procedures shall be assumed to take place.

- (1) The expenses already paid by the State and the Preferred Negotiation Right Holder's Members for the preparation of the Project shall be jointly and severally borne entirely by all the Preferred Negotiation Right Holder's Members.
- (2) The State may claim a penalty of JPY 100,000,000 from the Preferred Negotiation Right Holder's Members. In this case, all the Preferred Negotiation Right Holder's Members shall jointly and severally pay this penalty.
- (3) If the State incurs actual damages in excess of the amount of this penalty, the provisions of the preceding item shall not prevent the State from claiming compensation for the excess amount from the Preferred Negotiation Right Holder's Members.

2. If the Project Agreement is not executed for reasons attributable to the State, the allocation of expenses already paid by the Preferred Negotiation Right Holder's Members for the preparation of the Project shall be decided through consultation between the State and the Preferred Negotiation Right Holder's Members.

3. If the Project Agreement is not executed for any reason not attributable to either the State or the Preferred Negotiation Right Holder's Members, the parties shall bear their expenses for the preparation for the Project, other damage or additional expenses incurred, if any, respectively and no debtor-creditor relationship shall arise between them.

Article 11 (Confidential Obligations)

The State and the Preferred Negotiation Right Holder's Members acknowledge that each shall not disclose the matters concerning the Agreement to a third party or use the matters for any purpose other than those stipulated herein unless it obtains consent from the other party. However, this shall not apply if these matters are disclosed: by order of a court, competent government authority, financial instruments exchange or financial instruments firms association; as required by laws and regulations; by the Preferred Negotiation Right Holder's Members as necessary for obtaining financing for the Project; by the State in accordance with the Act on Access to Information Held by Administrative Organs (Act No. 42 of 1999) or any other applicable law; or to (i) employees etc. of the State, the Local Governments Relevant to the Airport or the Preferred Negotiation Right Holder's Members (including heads and employees of the

State and the Local Governments Relevant to the Airport as well as officers of the Preferred Negotiation Right Holder's Members) or specialists, such as attorneys, certified public accountants and licensed tax accountants of the State, Local Governments Relevant to the Airport or the Preferred Negotiation Right Holder's Members, who need to know such information, or (ii) the parent companies, subsidiaries, affiliates of the Preferred Negotiation Right Holder's Members, and other companies or entities which were agreed in advance with the State as associated companies, or their employees etc. or specialists, such as attorneys, certified public accountants and licensed tax accountants, which and who need to know such information, on the condition that they assume the same confidential obligation as the State and the Preferred Negotiation Right Holder's Members assume.

Article 12 (Effective Term of the Agreement)

1. Unless otherwise agreed, the effective term of the Agreement shall commence from the date of its execution until the Airport Operating Business Commencement Date (as defined in the Project Agreement). However, if the Project Agreement is not executed, the effective term of the Agreement shall expire on the date on which the State determines that there are no prospects for execution of the Project Agreement and notifies the Representative Company thereof. Notwithstanding expiration of the effective term of the Agreement, the effect of the provisions of the following paragraph, the preceding two articles and Article 14 shall survive.

2. If a Voting Shareholder requests prior approval of the State to dispose of the Voting Shares after expiration of the Agreement, the State shall, in general, approve the disposal after consultation with the relevant government institutions if all the terms indicated in Article 6, paragraph 3 are satisfied.

Article 13 (Consultation)

The State and the Preferred Negotiation Right Holder's Members shall consult each other as necessary to decide on any matters that are not provided in the Agreement or if any queries concerning the Agreement arise.

Article 14 (Governing Law and Jurisdiction)

The Agreement shall be construed in accordance with the laws of Japan. The Tokyo District Court shall have the exclusive jurisdiction for the first instance for all disputes arising in connection with the Agreement.

IN WITNESS WHEREOF, the Agreement shall be prepared in [] originals, signed and sealed by the State, the Representative Company and each Preferred Negotiation Right Holder's Member, and each party shall retain one original. With respect to the State, the Director General of the Civil Aviation Bureau of the Ministry of Land, Infrastructure, Transport and Tourism shall sign and seal the Agreement representing the Civil Aviation Bureau of the Ministry of Land, Infrastructure, Transport and Tourism and the Osaka Regional Civil Aviation Bureau of the Ministry of Land, Infrastructure, Transport and Tourism.

August [DD], 2017

State:

Address: 1-3, Kasumigaseki 2 chome, Chiyoda-ku, Tokyo
Director General of the Civil Aviation Bureau [name]

Representative Company: []

Address: []
President and Representative Director [name]

Preferred Negotiation Right Holder's Member: []

Address: []
President and Representative Director [name]

Exhibit 1 Capital Contribution and Personnel Dispatch Agreement (Draft)

Kagawa Prefecture and Takamatsu City (hereinafter collectively referred to as the “Local Governments Relevant to the Airport”), and [], [] and [] (hereinafter collectively referred to as the “Preferred Negotiation Right Holder’s Members”) hereby execute the Capital Contribution and Personnel Dispatch Agreement (this “Agreement”) pursuant to Article 4, paragraph 1 of the Qualified Project Etc. for Takamatsu Airport Operation Basic Agreement executed as of August [DD], 2017 by and among the Civil Aviation Bureau of the Ministry of Land, Infrastructure, Transport and Tourism and the Osaka Regional Civil Aviation Bureau of the Ministry of Land, Infrastructure, Transport and Tourism and the Preferred Negotiation Right Holder’s Members (meaning the basic agreement whose copy is attached hereto as the Attachment; hereinafter referred to as the “Basic Agreement”), for the purpose of implementing the capital contribution and the personnel dispatch by and from the Local Governments Relevant to the Airport to [[]/the SPC to be incorporated by the Preferred Negotiation Right Holder’s Members]⁸ (hereinafter referred to as the “SPC”) for the implementation of the Qualified Project Etc. for Takamatsu Airport Operation (hereinafter referred to as the “Project”).

Article 1 (Definitions)

1. Unless otherwise set out in this Agreement, the terms defined in the Basic Agreement shall have the same meanings herein as given in the Basic Agreement.
2. The headings in this Agreement are for convenience of reference only and shall have no effect on the interpretation of the provisions hereof.

Article 2 (Capital Contribution and Personnel Dispatch)

1. The Local Governments Relevant to the Airport and the Preferred Negotiation Right Holder’s Members hereby agree to implement or have the SPC implement the matters set out in the following items:
 - (1) (i) After incorporation of the SPC, the Local Governments Relevant to the Airport shall, by one month prior to the Airport Operating Business Scheduled Commencement Date, give the Preferred Negotiation Right Holder’s Members notice of request for allocation of Voting Shares (including the breakdown of

⁸ Depending on the timing of execution of this Agreement, if this Agreement is executed after incorporation of the SPC, the name of the SPC will be indicated.

- share allocation to each Local Government Relevant to the Airport), to the extent not exceeding 10% of the Voting Shares issued and outstanding after such allocation to the Local Governments Relevant to the Airport.
- (ii) Upon receipt of the notice of request for allocation set out in (i) above, the Preferred Negotiation Right Holder's Members shall, as soon as practically possible (but no later than the Airport Operating Business Scheduled Commencement Date), have the SPC issue new Voting Shares not exceeding 10% of the Voting Shares issued and outstanding after the allocation to the Local Governments Relevant to the Airport at the same price as the issuance price of the Voting Shares at the time of the incorporation of the SPC and shall have the SPC allocate all of such new Voting Shares to the Local Governments Relevant to the Airport. If the Preferred Negotiation Right Holder's Members do not receive the notice of request for allocation set out in (i) above by one month prior to the Airport Operating Business Scheduled Commencement Date, the Preferred Negotiation Right Holder's Members shall have no obligation under this item.
 - (iii) The Local Governments Relevant to the Airport shall make necessary capital contributions for the issuance and allocation of new Voting Shares set out in (ii) above.
- (2) (i) After incorporation of the SPC, the Local Governments Relevant to the Airport shall, by one month prior to the Airport Operating Business Scheduled Commencement Date, notify the Preferred Negotiation Right Holder's Members that their personnel (who shall be persons having extensive experience with respect to airport and tourism policies) are dispatched as one part-time director and one full-time employee of the SPC and which personnel will be actually dispatched.
 - (ii) The Preferred Negotiation Right Holder's Members shall, promptly after receipt of the notice set out in (i) above (but no later than the Airport Operating Business Scheduled Commencement Date), have the SPC conduct the procedures necessary to accept the dispatched personnel. If the Preferred Negotiation Right Holder's Members do not receive the notice set out in (i) above by one month prior to the Airport Operating Business Scheduled Commencement Date, the Preferred Negotiation Right Holder's Members shall have no obligation under this item.
 - (iii) The Local Governments Relevant to the Airport shall dispatch their personnel promptly after completion of the procedures set out in (ii) above.

2. For the issuance and allocation of new Voting Shares set out in item (i) of the preceding paragraph, the Local Governments Relevant to the Airport shall submit the State a covenant document in the form set out in **Exhibit 3** attached to the Basic Agreement simultaneously with the allocation of such new Voting Shares to the Local Governments Relevant to the Airport.

3. Notwithstanding paragraph 1, the Preferred Negotiation Right Holder's Members shall have no obligation to complete, or to have the SPC complete, the capital contribution and the personnel dispatch set out in each item of paragraph 1 (hereinafter referred to as the "Capital Contribution and Personnel Dispatch"), if:

- (1) it becomes impossible to complete the Capital Contribution and Personnel Dispatch by the Airport Operating Business Scheduled Commencement Date due to any reason attributable to the Local Governments Relevant to the Airport such as the Local Governments Relevant to the Airport delay in making their decisions or completing their procedures;
- (2) it becomes impossible to complete the Capital Contribution and Personnel Dispatch by the Airport Operating Business Scheduled Commencement Date due to any of Force Majeure (as defined in the Project Agreement); or
- (3) in addition to the cases set out in the preceding two items, the Project Agreement is not executed or has been terminated before completing the Capital Contribution and Personnel Dispatch.

4. The Local Governments Relevant to the Airport and the Preferred Negotiation Right Holder's Members shall consult each other in good faith in order to execute an agreement between the Local Governments Relevant to the Airport and the SPC concerning the terms and conditions of the dispatch of their personnel stipulated in paragraph 1, item (2), such as the details of the personnel to be dispatched, the terms of employment after the dispatch, cost sharing, the period of dispatch, and replacement of the personnel after a given period of time.

Article 3 (Termination of this Agreement)

1. This Agreement shall terminate upon either:

- (1) completion of the Capital Contribution and Personnel Dispatch pursuant to Article 2, paragraph 1; or
- (2) falling under any of the items of Article 2, paragraph 3.

2. The Local Governments Relevant to the Airport and the Preferred Negotiation Right Holder's Members may not terminate this Agreement except for the cases set out in the preceding paragraph.

Article 4 (Expenses for this Agreement)

The parties hereto shall bear their expenses incurred for the execution and performance of this Agreement, respectively.

Article 5 (No assignment of rights and obligations)

The Local Governments Relevant to the Airport and the Preferred Negotiation Right Holder's Members shall not assign the status, rights or obligations under this Agreement to a third party, have a third party assume them, create security in them for a third party or otherwise transfer them to a third party.

Article 6 (Confidential obligations)

1. The Local Governments Relevant to the Airport and the Preferred Negotiation Right Holder's Members shall not disclose any information received from the other party in relation to the execution and performance of this Agreement (hereinafter referred to as the "Confidential Information") without prior written consent of the other party to any third party (excluding (i) employees of the State or the Local Governments Relevant to the Airport (including the heads of such local governments), or officers and employees of the parent companies, subsidiaries, affiliates and other associated companies and entities of the Preferred Negotiation Right Holder's Members and (ii) specialists, such as attorneys, certified public accountants and licensed tax accountants, of the State, the Local Governments Relevant to the Airport and the Preferred Negotiation Right Holder's Members, who need to know the Confidential Information for the execution and performance hereof).

2. Notwithstanding the preceding paragraph, the Local Governments Relevant to the Airport and the Preferred Negotiation Right Holder's Members may disclose information in relation to this Agreement only if such information:

- (1) is already in the public domain at the time of its disclosure;
- (2) enters the public domain due to any reason not attributable to the receiving party after its disclosure;
- (3) is duly acquired by the receiving party from a third party without owing any

- confidential obligation; or
- (4) is required to be disclosed by laws and regulations or by order of a court, competent government authority, or other similar institution (including, but not limited to, financial instruments exchanges and financial instruments firms associations).

3. The provisions of preceding two paragraphs shall remain effective regardless of performance or termination of this Agreement by the Local Governments Relevant to the Airport and the Preferred Negotiation Right Holder's Members.

Article 7 (Entire Agreement)

This Agreement constitutes the entire agreement between the parties hereto regarding the subject matter set out in Article 2 hereof and all prior agreements, understandings and other arrangements between the parties relating to the subject matter shall cease to be effective upon execution of this Agreement.

Article 8 (Governing Law)

This Agreement shall be governed by the laws of Japan.

Article 9 (Jurisdiction)

The Tokyo District Court shall have exclusive jurisdiction for the first instance for any dispute or lawsuit arising in connection with this Agreement.

IN WITNESS WHEREOF, this Agreement shall be prepared in [] originals, signed and sealed by each Local Government Relevant to the Airport and each Preferred Negotiation Right Holder's Member, each of them retaining one original.

[MM/DD/YYYY]

Kagawa Prefecture

Address: []

Governor of Kagawa Prefecture:[]

Takamatsu City

Address: []

Mayor of Takamatsu City: []

Representative Company: []

Address: []

President and Representative Director: []

Preferred Negotiation Right Holder's Member: []

Address: []

President and Representative Director: []

Attachment

(*Attach a copy of the Basic Agreement.)

Exhibit 2 List of contributions to be made by the Preferred Negotiation Right Holder's Members at the time of incorporation of the SPC

Exhibit 3 Form of Shareholder's Covenant

Shareholder's Covenant

[MM/DD/YYYY]

To: The Director General of the Civil Aviation Bureau
of the Ministry of Land, Infrastructure, Transport and Tourism
[Mr. /Ms. Name of Director]

Address:

Representative Director⁹:

[name of company] (the "Company"¹⁰) covenants or represents and warrants to the State on the following matters as of the date written above. Unless otherwise expressly defined, the terms used in this Shareholder's Covenant (this "Covenant") shall have the meanings defined in the [Qualified Project Etc. for Takamatsu Airport Operation Basic Agreement between the State, and [name of entity] and [name of entity]/Qualified Project Etc. for Takamatsu Airport Operation Agreement to Implement Right to Operate Public Facility Etc. to be executed between the State and [name of entity] (the "SPC")]¹¹.

1. The SPC is a stock company (*kabushiki kaisha*) under the Companies Act duly incorporated on [MM][DD], 2017 and validly existing as of the date above written.
2. The Company shall obtain prior written approval from the State if it intends to assign, pledge or otherwise establish security rights on (hereinafter collectively referred to as "to dispose of") the Voting Shares (including securities, if any, that were issued

⁹ If this Covenant is submitted by one of the Local Governments Relevant to the Airport which is a shareholder, the title will be changed to the title name of the head of the local government.

¹⁰ If this Covenant is submitted by one of the Local Governments Relevant to the Airport which is a shareholder, this term will be changed to the one corresponding to the name of the local government. The same shall apply hereinafter all of the "Company".

¹¹ Either of these agreements which is effective as of the time of submission of this Covenant shall be referred.

which could be converted or exchanged with the Voting Shares or represent rights to receive the Voting shares; hereinafter the same shall apply in this article) to a third party other than (i) another Voting Shareholder and (ii) any person, if any, to whom the Voting Shareholder may dispose of its Voting Shares as approved in advance by contract etc. executed with the State.¹² If the Company disposes of the Voting Shares in breach of these obligations, the Company shall pay a penalty equivalent to the price of disposal of the Voting Shares.

3. If the Company intends to dispose of its Voting Shares after obtaining approval from the State in accordance with the preceding item, it shall ensure that the party to whom the Voting Shareholder disposes of its Voting Shares submits to the State in advance a covenant document with the same content as this Covenant.

4. If the SPC intends to issue new Voting Shares, the Company shall exercise its voting rights at the shareholders' meeting to approve the issuance after obtaining prior written approval from the State. (However, if the SPC intends to issue new Voting Shares to the Voting Shareholders, the Company may freely exercise its voting rights at the shareholders' meeting to approve such issuance.

5. The Company shall not dispose of its Voting Shares to a person who does not satisfy any of the following requirements.

- (i) A person who does not fall under Articles 70 and 71 of the Order of Budget, Settlement and Accounting (Imperial Ordinance No. 165 of 1947);
- (ii) A person who does not fall under the grounds for disqualification of a private business operator to implement a qualified project stipulated in Article 9 of the PFI Act; or
- (iii) A person against whom a petition for the commencement of reorganization proceedings under the Corporate Reorganization Act (Act No. 154 of 2002) or rehabilitation proceedings under the Civil Rehabilitation Act (Act No. 225 of 1999) has not been filed.

6. An operator of air transport services as defined in Article 2, paragraph (18) of the Civil Aeronautics Act (Act No. 231 of 1952), or its parent company or their subsidiaries

¹² If a scheme to indirectly hold the SPC shares is to be adopted in accordance with the proposal from the Preferred Negotiation Right Holder, the scope of limiting the disposal shall be revised accordingly.

(hereinafter collectively referred to as the “Air Carriers”), or affiliates (including their subsidiaries) of the Air Carriers are not Voting Shareholders.

7. The total number of the Voting Shares held by local public entities (meaning the local public entities stipulated in Article 1-3 of the Local Autonomy Act (Act No. 67 of 1947); the same shall apply hereinafter) does not exceed 10% of the number of the Voting Shares issued and outstanding.

8 The personnel dispatch by local public entities to the SPC are only a part-time director (one or less) and a full-time employee (one or less) of the SPC.

9. The Company shall not dispose of the shares in a manner breaching the requirements set out in item 6 or 7, or exercise the voting rights at the shareholders’ meeting or otherwise act in a way that would result in a breach of the requirement set out in the preceding items.

10. If the Company executes a shareholders agreement (meaning all the agreements concerning the contribution ratio or voting rights ratio of the Voting Shareholders in the SPC or operation of the SPC to be executed between two or more Voting Shareholders or Non-Voting Shareholders) or makes any amendment thereto after execution thereof, it shall submit a copy of the agreement to the State (and if the agreement is terminated or expired, it shall notify the State thereof).

11. [The Company shall not disclose any matters concerning this Covenant to a third party or use the matters for any purpose other than those stipulated herein without obtaining consent from the State, unless: (i) the disclosure is ordered by a court, competent government authority, financial instruments exchange or financial instruments firms association, required by laws and regulations or necessary for obtaining financing for the Project by the Company, or (ii) the disclosure is made to (a) employees etc. (including officers) of the Company or specialists, such as attorneys, certified public accountants and licensed tax accountants of the Company, who need to know such information or (b) companies etc. of the Company which were agreed in advance with the State as parent company, subsidiaries, affiliates and other associated companies or entities, or their employees etc. or specialists, such as attorneys, certified public accountants and licensed tax accountants, which and who need to know such information, on the condition that they assume the same confidential obligation as the

Company assumes.]¹³

12. This Covenant shall be construed in accordance with the laws of Japan. The Tokyo District Court shall have the exclusive jurisdiction for the first instance concerning all litigation arising in connection with this Covenant.

¹³ If this Covenant is submitted by one of the Local Governments Relevant to the Airport which is a shareholder, this item will be revised as follows:
“[Name of local government] shall not disclose any matters concerning this Covenant to a third party or use the matters for any purpose other than those stipulated herein without obtaining consent from the State, unless the disclosure is ordered by a court, required by laws and regulations, or the disclosure is made to employees etc. (including the head) of [Name of local government] or specialists, such as attorneys, certified public accountants and licensed tax accountants of [Name of local government], who need to know such information on the condition that they assume the same confidential obligation as [Name of local government] assumes.”