**SCHEDULE 14**

**THIRD-PARTY REVENUE**

**1. Introduction**

1.1 This Schedule describes the process whereby the Contractor will seek to optimise the generation of Third-Party Revenues.

1.2 It is acknowledged that the Contractor has expertise, resources, and business contacts to enable the Contractor to research, market, evaluate, plan, and implement revenue generation opportunities. The Authority will act reasonably in co-operating with the Contractor in generating Third-Party Revenue opportunities subject always to the Authority's requirements set out in the Contract. When the Contractor makes proposals to the Authority for the generation of Third-Party Revenues, it will do so following the procedure set out in paragraph 7 to this Schedule.

1.3 Revenues received by the Contractor for Third-Party work shall be distributed in accordance with the terms of this Schedule.

2. **Conflict**

2.1 In the event of any conflict between the provisions of this Schedule and any other provisions of this Contract, the latter shall prevail; excepting the specific direction at paragraph 1.3 above.

3. **Rights and Obligations**

3.1 The Contractor shall use its best endeavours to identify and obtain Third-Party Revenues.

3.2 The Contractor shall have the right to decline Third-Party work if, in the Contractor's reasonable opinion:

a. it cannot agree reasonable commercial terms with a third party; or

b. it considers that it would unacceptably prejudice its ability to fulfil its obligations to perform the services set out in the Statement of Requirements*.*

3.3 The Authority shall have the absolute right to veto any third-party proposal which the Contractor submits to the Designated Officer for approval for any reason, including but not limited to (i) if it considers that entry into such third party work would not be appropriate for Red Air Assets primarily used for military purposes; or (ii) the Authority has security concerns relating to the third-party proposal; or (iii) the Authority believes that any such third party proposal may interfere with the operational imperatives of the Armed Forces; or (iv) that any such third party proposal may not be in the national interest.

3.4 A decision by the Authority to veto a proposal for Third-Party Revenue shall be final and conclusive. If the Authority exercises its right to veto the use of Red Air Assets for Third-Party Revenue generation after the Contractor has entered into a binding commitment with a third party having previously been given approval by the Authority for the activity during the Contract Term, any direct and reasonable costs which the Contractor incurs by way of liquidated damages for exercising a right to break a contract with a third party shall be reimbursed in full by the Authority (but reimbursement shall not be subject to the further addition of G&A overheads and profit) provided the Contractor takes all reasonable steps to mitigate its losses.

3.5 The Contractor undertakes to promptly and fully consult the Designated Officer if any proposed Third-Party Revenue work utilises Red Air Assets and approval by the Authority must be expressly given in writing.

3.6 The Contractor will not unlawfully tender to sell products or services or unlawfully offer a priced proposal for the sale of products or services using Red Air Assets.

3.7 The Contractor will have sole responsibility for the marketing, administration, performance, and management of contracts entered into with one or more third parties in connection with generating Third-Party Revenue (“Third-Party Revenue Contracts”). To avoid doubt, the Authority shall not be required to commit any resources to assist the Contractor in its Third-Party Revenue enterprises. The Authority's activities are confined to:

a. consenting (or otherwise) to the use of Red Air Assets for Third-Party Revenue generation;

b. providing (if asked) a letter to the Contractor or directly to a potential Third-Party customer of the Contractor, with regard to the nature and quality of services delivered to the Authority by the Contractor. Provision of such letter shall be at the Authority's sole discretion (acting reasonably) and shall take account of security, policy, and/or commercial factors.

3.8 If, for whatever reason, the Contractor makes a loss on any Third-Party Revenue venture, it shall not have any right to require that the Authority bear any share of such loss. To avoid doubt, all Third-Party Revenue activities shall be entirely at the Contractor's risk.

3.9 Unless specific agreement is obtained at the time of the Designated Officer agreeing to a Third-Party Revenue proposal submitted by the Contractor, there shall be no relaxation of the performance measurement requirements set out in Schedule 12 (Key Performance Indicators)to accommodate the unavailability of Red Air Assets to the Authority during the lead-up period to the Third-Party Revenue Contract, the duration of the contract itself, and any 'recovery' period immediately following performance of the contract. The Contractor shall have no right to claim any other relaxation of the terms of the Contract and no other relaxation of the Contract terms shall be permitted or deemed to be permitted without the prior written consent of the Authority (acting through the Air Commercial Branch).

3.10 The Contractor shall log all hours flown on Third-Party Revenue activities and shall report that information, together with a summary of sums credited to the Authority in the contract year and sums pending and owed to the Authority, and shall include these in the Annual Performance Report as part of the annual review process more specifically referred to in Schedule 10 (Governance).

4. **Price and Payment**

4.1 The amounts due to the Authority and the provisions regarding payment to the Authority of any such amounts due, in respect of any Third-Party Revenue activities conducted in line with the provisions of this Schedule are set out at paragraph 8 to this Schedule. Payments and interest accruing thereon shall be deemed to be a debt due and owing from the Contractor to the Authority.

5. **Fuel**

5.1 The Contractor shall reimburse the Authority for any fuel costs paid by the Authority and used by the Contractor for Third-Party Revenue Contracts together with any applicable G&A and profit applied by the Contractor.

6. **Replacement Value of Contract Loan GFE**

6.1 The Contractor may not utilise any GFE for the purposes of Third-Party Revenue without obtaining the prior written consent of the Authority and may only do so within the limits and parameters set out by the Authority. Should the Contractor utilise any GFE for Third-Party Revenue Contracts, the Contractor shall return such GFE to the Authority in the same condition as prior to utilisation. The Contractor shall be responsible for obtaining any necessary insurances for the use of GFE.

6.2 The Contractor shall be solely responsible for the replacement and / or reimbursement of costs of any GFE that it utilises for Third-Party Revenue in the event of any damage to and / or destruction of such GFE. For the avoidance of doubt, this shall include damage that may be considered ordinary wear and tear.

7. **Consultation Procedure**

7.1. The consultation procedure with regard to Third-Party Revenue opportunities shall operate in

accordance with the following broad principles:

a. The Contractor shall consult the Designated Officer as soon as reasonably possible after a Third-Party Revenue business opportunity potentially affecting Red Air Assets arises. The Contractor shall provide early notification to the Authority on the relevant Third-Party Revenue opportunities that it is exploring and considering.

b. Outline consent, to the pursuit of the opportunity should be sought from the Authority prior to the Contractor submitting a proposal response to a potential Third-Party customer for Third-Party Revenue activities. This shall typically be achieved through a standing agenda item at the Quarterly Progress Meetings and via the regular dialogue between the Contractor’s Ops Control team and JSATO.

c. If the outcome of the consultation is that Red Air Assets could be used and the Authority agrees in principle to provide outline consent to their use, taking account of the Authority's operational requirements, and subject to its rights under paragraph 3.3 of this Schedule to veto the proposal, then the Contractor shall negotiate with the third party to firm-up details of the proposal including timings of when the work will be done.

d. For the avoidance of doubt, outline consent given by the Authority for the use of Red Air assets for Third-Party Revenue activities, in accordance with Clause 7.1(c), shall not entitle the Contractor to a reimbursement by the Authority of any costs incurred by the Contractor should the Authority subsequently withdraw its consent for any reason, including pursuant to Clause 3.4.

e. As soon as reasonably possible after the Contractor has firmed-up the proposal with the third party, it will formally submit this to the Designated Officer, together with any supporting information which the Designated Officer reasonably requires. The Designated Officer shall act reasonably in considering and responding to the request.

f. The Contractor shall inform the Designated Officer of the outcome of its bid for the Third-Party Revenue activity, including any variations sought by the third party. Subject always to the provisions of the Contract, if the Contractor and the Designated Officer agree to the variations then the Contractor is free to perform the third-party work.

g. The Contractor and the Authority agree to act in good faith and in a timely manner in the exercise of the provisions and obligations outlined in this Schedule. Where the Contractor requires approval from the Authority under this Schedule, the Authority shall make reasonable endeavours, subject to being provided with all reasonable information from the Contractor, to respond to all requests for consent submitted by the Contractor in line with the provisions of this Schedule within Five (5) Business Days of the receipt of the request for consent from the Contractor. No response within such period shall not be deemed to be a consent by the Authority to any course of action by the Contractor.

8. **Calculation of Revenue Shares**

8.1. The Contractor shall fully consult the Designated Officer about proposals for such tasks, including the details on the alleviation sought, in accordance with the terms of Schedule of this Contract. The Contractor shall seek to obtain the best possible price from the Third-Party Revenue customer.

8.2 Redacted Under FOIA Section 43

8.3 Redacted Under FOIA Section 43

8.4 In the event that these baseline charge rates make a Third-Party Revenue opportunity unviable, the Contractor can notify the Authority and propose an alternative charge rate for Authority consideration and approval. For the avoidance of doubt, if the Authority reject the proposal, then standard charge rates are to apply. Subject to Conditions 8.2 and 8.3, any and all profits achieved through the performance of Third-Party Revenue Contracts shall be for the benefit of the Contractor only.

8.5 The following Annual Reconciliation process shall apply in respect of this Schedule:

a. The Contractor shall submit to the Authority an interim report on actual Third-Party revenue activities conducted for each Quarter within the Contract Term. This shall form part of the Quarterly Progress Meeting for this Contract.

b. The Contractor and the Authority shall undertake an annual reconciliation process to finalise agreement on all Third-Party Revenue activity for the relevant Contract Year. This shall take place as soon as reasonably possible following the completion of the relevant Contract Year. Agreement shall be reached within one (1) month of the annual reconciliation activity, or such other period as mutually agreed by the parties.

c. The payment due from the Contractor to the Authority for the agreed and finalised total charges for the relevant Contract Year shall be made on an annual basis. This shall be conducted by way of credit against the standing monthly payments due from the Authority to the Contractor under this Contract and the credit shall be applied on the next possible payment(s) due.