



**AGREEMENT FOR THE PROVISION OF CNS/ATM
FACILITIES AND SERVICES**

This Agreement is made on 6th April, 2005 between:

- (1) **Airports Authority of India**, an authority constituted under the Airports Authority of India Act, 1994 whose corporate office is at Rajiv Gandhi Bhavan, Safdarjung Airport, New Delhi - 110 003, India ("AAI"); and
- (2) **Bangalore International Airport Limited**, a company incorporated with limited liability under the Indian Companies Act, 1956, having its registered office at Khanija Bhavan, 49 Race Course Road Bangalore - 560 001, India ("BIAL").

The expressions "AAI" and "BIAL" shall wherever the context appears mean and include their respective successor-in-interest and permitted assigns and shall collectively be referred to as the "Parties" and individually as the "Party".

Whereas:

- (A) BIAL proposes to develop, design, finance, construct and complete a Greenfield airport at Devanahalli, near Bangalore in the State of Karnataka.
- (B) Pursuant to the Airports Authority of India Act, 1994 AAI is responsible for the provision of air traffic services within Indian airspace and at all civil airports in India.
- (C) In accordance with the above Act, AAI will provide air traffic services at the Airport on the terms and conditions set out in this Agreement.

It is agreed as follows:

1 Definitions and Interpretation

1.1 Definitions

In this Agreement unless the context otherwise requires:

"AAI Commissioning Services" means the services to be provided by AAI in accordance with Clause 4.3;



“AAI Equipment” means all equipment, other than the BIAL Equipment, required by AAI to enable AAI to perform the AAI Services in accordance with the provisions contained in the relevant ICAO Annexes and documents(as amended from time to time);

“AAI Operative Services” means the services to be provided by AAI in accordance with Clause 5.1;

“AAI Pre-Commissioning Services” means the services to be provided by AAI in accordance with Clause 3.2;

“AAI Services” means the AAI Pre-Commissioning Services, the AAI Commissioning Services and the AAI Operative Services;

“Affected Party” shall have the meaning given to it in Clause 9;

“Airfield Lighting System” means the lighting systems at the Airport (including those in respect of the runway, taxiway, apron and approach) required for the proposed aircraft operations and aerodrome category in accordance with the provisions contained in the relevant ICAO Annexes and documents(as amended from time to time);

“Airport” means the Greenfield international airport at Devanahalli, near Bangalore in the State of Karnataka and includes all its buildings, equipment, facilities and systems;

“Airport Opening Date” means the date upon which the commencement of commercial operation of the Initial Phase occurs;

“Airport Opening Target Date” means the date falling thirty three (33) months immediately after Financial Close.;

“Affiliate” means

- a) A Person that is a subsidiary of a Party
- b) A Person of which a Party is a subsidiary or
- c) A Person that is the subsidiary of a Person of which a Party is a subsidiary

For the purposes of this definition, a Person is a “subsidiary” of another Person if the latter owns legally or beneficially, directly or indirectly, the shares of the former that are sufficient to cast 51% or more of the votes under ordinary circumstances in a General Meeting of the Shareholders.

"BIAL Commissioning Obligations" means those obligations to be met by BIAL in accordance with Clause 4.2;

"BIAL Equipment" means the items set out in Part 1 of Schedule 1;

"BIAL Obligations" means the BIAL Pre-Commissioning Obligations, the BIAL Commissioning Obligations and the BIAL Operative Obligations;

"BIAL Operative Obligations" means those obligations to be met by BIAL in accordance with Clause 5.3;

"BIAL Pre-Commissioning Obligations" means those obligations to be met by BIAL in accordance with Clause 3.1;

"Chicago Convention" means the Chicago Convention 1944 as amended and/or supplemented from time to time; and references to an **"Annexe"** to the Chicago Convention shall mean such Annexe as amended and/or supplemented from time to time;

"Clearance" means the written consent, licence, approval, permit, ruling, exemption, no objection certificate or other authorisation or permission of whatsoever nature which is required to be obtained from and/or granted by GoI required from time to time in connection with the Project.

"CNS/ATM Services" means Communication, Navigation and Surveillance and Air Traffic Management Services as more particularly described in Schedule 3;

"Concession Agreement" means the Concession Agreement dated 5th July 2004 entered into between the Government of India and BIAL;

"Competent Authority" means any agency, authority, department, inspectorate, or statutory person (whether autonomous or not) established under the laws of India;

"Debt" means the outstanding debt due to the Lenders of BIAL under the Financing Agreements for the project;

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

"Effective Date" shall have the meaning given to it in Clause 2.3;

"EPC Contractors" means Larsen & Toubro Limited, Siemens India Limited and Siemens AG;

"EPC Contracts" means the agreements entered into or to be entered into between BIAL and the EPC Contractors under which the EPC Contractors will design, procure, construct and complete the Airport;

"Existing Airport" means the existing airport in Bangalore known as the HAL airport located at Vimanapura, Bangalore;

"Expansion" means the expansion of the facilities at the Airport from time to time as per the Master Plan.

"Facility" means the air traffic services complex to be constructed by BIAL at the Airport, which shall include a control tower, technical block and office accommodation for AAI personnel with provision for Air-conditioning, continuous supply of electricity & water and house-keeping,

"Financial Close" means the date upon which the Financing Agreements (insofar as they relate to the development and construction of the Initial Phase) have been executed and delivered by all the parties thereto and conditions precedent there under shall have been fulfilled to such extent as may be necessary to permit BIAL to have immediate access, subject only to giving the notices of drawdown required thereby, to funding required by BIAL;

"Financing Agreements" means any of (i) BIAL's agreements with Lenders for making available to BIAL of debt and (ii) the security documents, direct agreements and other ancillary undertakings in favour of Lenders, required pursuant to the agreements referred to in (i) above.

"Force Majeure" shall have the meaning set out in Schedule 4;

"Future Commissioning Date" means the date on which any Future Commissioning Period shall commence as notified to AAI by BIAL pursuant to Clause 4.1;

"Future Commissioning Period" means any Future Commissioning Period as may be agreed between the Parties in respect of any additional AAI Equipment required for any expansion of the Airport;

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

"Initial Commissioning Date" means the date on which the Initial Commissioning Period shall commence, as notified to AAI by BIAL pursuant to Clause 4.1;

"Initial Commissioning Period" means the period of three (3) months commencing on the Initial Commissioning Date;

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

"Incident Reporting Procedure" means the procedure to be agreed from time to time by AAI and BIAL for reporting incidents and emergencies;

"Initial Phase" means the design, financing, construction, completion and commissioning of the initial phase of the Airport as provided for in the Concession Agreement;

"Land Lease Agreement" means the agreement dated 20th January 2005 entered into between the Karnataka State Industrial Investment and Development Corporation Limited (KSIIDC) and BIAL pursuant to which KSIIDC has agreed to grant to BIAL leasehold rights and interests in the Site;

"Lenders" means the banks, financial institutions, NBFC, and similar bodies to whom debt is owed under the Financing Agreements for financing (which shall for these purposes include any re-financing) the initial phase;

"Loss" means any losses, liabilities, costs, expenses, claims, proceedings, actions, demands, obligations, deficiencies, lawsuits, judgments, injunctions, awards or damages;

"Office Accommodation" means the accommodation and car parking spaces as set out in Schedule 2 to this Agreement;

"Operating Reporting Procedure" means the procedure to be agreed from time to time by AAI and BIAL for the communication of information regarding the day to day discharge of provision relating to the AAI Services and the BIAL Obligations;

"Personnel" means AAI personnel performing the CNS/ATM Services;

"Project" means the design, financing, construction, completion, commissioning, maintenance, operation, management and development of Airport.

"RESA" or "Runway End Safety Area" means an area symmetrical about the extended runway centre line and adjacent to the end of the strip primarily intended to reduce the risk of damage to an aeroplane undershooting or overrunning the runway

"Route Navigation Facilities Charges" means amounts charged by AAI to airlines and/or aircraft operators for the provision of Route Navigation Facilities in accordance with the current orders of AAI;

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

"Service Provider Right Holders" shall have the meaning given to it in the Concession Agreement;

"Site" means the land in which BIAL has or shall have a leasehold interest pursuant to the Land Lease Agreement and measuring approximately 4050 acres in area, on under and over which the Airport is to be constructed;

"State Support Agreement" means the agreement dated 20th January 2005 entered into between the Government of Karnataka and BIAL;

"Target Commissioning Date" shall have the meaning given to it in Clause 4.1;

"Terminal Navigational Landing Charges" means amounts charged or to be charged by AAI to airlines for the provision of CNS/ATM Services.

1.2 Interpretation

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

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

1.2.2 Reference to a "judgment" includes any order, injunction, determination, decree or other judicial or arbitral tribunal measure in the Indian jurisdiction which is final and binding;

1.2.3 A reference to a "law" includes common law, the Constitution of India and any decree, judgment, legislation, order, ordinance, regulation, by-law, statute, notification, circular, guideline, statutory instrument or other legislative measure, in each case of any jurisdiction whatever (and "lawful" and "unlawful" shall be construed accordingly);

- 1.2.4 References in the singular shall include references in the plural and vice versa;
- 1.2.5 A reference to a "day" means a calendar day;
- 1.2.6 References to a particular Clause, paragraph, sub-paragraph or Schedule shall, except where the context otherwise requires, be a reference to that Clause, paragraph, sub-paragraph or Schedule in or to this Agreement;
- 1.2.7 The headings are inserted for convenience and are to be ignored for the purposes of construction;
- 1.2.8 Terms defined in the Schedules hereto shall have the meanings ascribed thereto in the Schedules when used elsewhere in this Agreement;
- 1.2.9 The Schedules to this Agreement form part of this Agreement and will be of full force and effect as though they were expressly set out in the body of this Agreement;
- 1.2.10 Any reference to any agreement, deed, instrument, licence code or other document of any description shall be construed, at the particular time, as a reference to that agreement, deed, instrument, licence code or other document as the same may then have been amended, varied, supplemented, modified, suspended or novated;
- 1.2.11 The words "written" and "in writing" include a facsimile transmission and any means of reproducing works in a tangible and permanently visible form;
- 1.2.12 The words "include" and "including" are to be construed without limitation;
- 1.2.13 References to "construction" include, unless the context otherwise requires, design, procurement, delivery, installation, testing, completion, commissioning and other activities incidental to the process of construction;
- 1.2.14 References to a party shall include its successors and permitted assigns.

2 Conditions Precedent

2.1 Conditions Precedent to Services

The provisions of this Agreement (other than those contained in Clauses 1, 2, 10 to 18 inclusive which shall be binding on the parties as from the date of this Agreement) shall take effect and become binding on the parties from the date on which the following conditions precedent shall have been satisfied in full:

- (i) The receipt by AAI of irrevocable notice from BIAL that the Concession Agreement has been executed and delivered by all the parties thereto and all the conditions precedent set out therein shall have been satisfied or waived which notice shall be final and binding on the Parties;
- (ii) The receipt by AAI of irrevocable notice from BIAL that the EPC Contracts has been executed and delivered by all the parties thereto and all the conditions precedent set out therein (excluding any condition precedent relating to this Agreement) shall have been satisfied or waived which notice shall be final and binding on the Parties;
- ^{SP} (iii) The receipt by AAI of irrevocable notice from BIAL that Financial Close has occurred which notice shall be final and binding on the Parties, Provided that

(a) any such condition precedent may be waived by agreement in writing between AAI and BIAL and (b) BIAL may unilaterally waive at any time any of the conditions precedent set out above by notice to AAI.

2.2 Non-fulfilment of Conditions Precedent

2.2.1 Termination on Non-fulfilment

If the conditions precedent set out in Clause 2.1 have not been satisfied in full or not been waived by the date falling six (6) months after the date of this Agreement, BIAL and AAI shall, subject to Clause 2.2.2, have the right to terminate this Agreement by giving twenty-one (21) days' notice in writing to the other Party and upon expiry of such notice this Agreement shall terminate.

2.2.2 Extension of Time for Fulfillment

At any time prior to the date specified in Clause 2.2.1, the Parties shall have the right to extend the date for satisfaction or waiver of the conditions precedent by a further three (3) months by mutual agreement.

2.3 Effective Date

Subject to Clause 2.1, this Agreement will become effective on the date of signature hereof by the Parties hereto (the "Effective Date").

3 Scope of Services - Pre-Commissioning Phase

3.1 BIAL Pre-Commissioning Obligations

Following the Effective Date, BIAL shall:

- (i) Design and construct, at its own cost (such expenditure forming part of the Contract Price (as that term is defined in the EPC Contracts)), by no later than 180 days prior to the Initial Commissioning Date, the Facility except the provision of Air Conditioning which shall be provided 90 days prior to the Initial Commissioning Date ;
- (ii) Design, acquire and install, at its own cost (such expenditure forming part of the Contract Price (as that term is defined in the EPC Contracts)), the BIAL Equipment, which shall be owned by BIAL, on the Site, or if required in connection with the approach to the Airport, off the Site. AAI shall not be responsible for the testing and/or commissioning of the BIAL Equipment, which shall be the responsibility of BIAL. If required by BIAL, BIAL shall co-ordinate with AAI the calibration flights to enable BIAL to calibrate BIAL Equipment;
- (iii) Install at its own cost (such expenditure forming part of the Contract Price (as that term is defined in the EPC Contracts)), the provision for water, power & Air-conditioning, telephone, crash alarm and other service media as are necessary and to be mutually agreed, to operate the Facility;
- (iii) Ensure that the BIAL Equipment is installed, tested and commissioned, at its own cost, (such expenditure forming part of the Contract Price (as that term is defined in the EPC Contracts)) by the Initial Commissioning Date or Future Commissioning Date, in the case of any additional BIAL Equipment required for any expansion of the Airport; and

- (iv) Identify to AAI the interfaces between the AAI Equipment and the BIAL Equipment.
- (v) Provide AAI with such access to the Airport or its Personnel, vehicles and agents as AAI reasonably requires for the performance of the AAI Pre-Commissioning Services;

3.2 AAI Pre-Commissioning Obligations

Following the Effective Date AAI shall:

- (i) At its own cost, design, procure and install the AAI Equipment, which shall be owned by AAI, in the Facility, on the Site, or if required in connection with the approach to the Airport off the Site.
- (ii) At its own cost, ensure that the AAI Equipment is installed, tested and commissioned by the Initial Commissioning Date or Future Commissioning Date, in the case of any additional AAI Equipment required for any expansion of the Airport;
- (iii) Coordinate and ensure compatibility between AAI and BIAL equipments and interfaces. In respect of requirement of interfaces by either party, the costs for the said interface(s) shall be borne by the respective Party.

3.3 Co-ordination

AAI and BIAL acknowledge that, in order for either party to comply with its obligations under Clauses 3.1, 3.2, 4.2, 4.3, 5.1, 5.2 and 5.3 of this agreement, each Party will need to co-ordinate with the other and to that effect:

- (i) The Parties shall establish a Joint Co-ordination Committee-CNS/ATM ("JCC-CNS/ATM") which shall meet in Bangalore on a quarterly basis or on a more regular basis if required to be called-for by any member of JCC-CNS/ATM;
- (ii) The JCC- CNS/ATM shall be chaired by BIAL;
- (iii) The JCC-CNS/ATM shall comprise of four members with each Party nominating and appointing two members. The Parties shall have deemed to have delegated to the members of JCC-CNS/ATM full authority to represent and bind the respective Party in respect of all matters being put-before JCC-CNS/ATM. The Committee members can also nominate and propose alternate names of members to attend the meeting.
- (iv) If the JCC-CNS/ATM is unable to reach a conclusion on any matter in a manner that is satisfactory to the Parties, either Party shall be entitled, in the first instance, to refer such matter to the Chief Executive Officer of BIAL and the Chairman of AAI. If the aforesaid Senior Executives are unable to resolve the matter within 15 business days from the date such matter was referred to them, then either Party shall be entitled to refer the matter for resolution under Clause 12. Should an urgent decision be required to be taken in the interest of the early completion of the Airport and should it not be possible to comply with the above provision in due time, the decision shall be taken by the Chairman whether or not in consultation with AAI Chairman and Chief Executive Officer of BIAL which shall be binding on the Parties. In case of disapproval of either of the Parties, the same shall be settled in accordance with Clause 12. This shall

be without prejudice to each Party's rights and obligations under this Agreement.

4 Scope of Services - Commissioning Phase

4.1 Commencement of Initial Commissioning Period and Future Commissioning Period

- 4.1.1 BIAL shall, as soon as practicable and at the latest by the date falling three hundred and sixty five days (365) days from the Effective Date notify AAI of the date upon which BIAL anticipates the Initial Commissioning Period will commence (the "Target Commissioning Date").
- 4.1.2 BIAL shall further notify AAI at least one hundred and eighty (180) days prior to the Target Commissioning Date notified by BIAL to AAI pursuant to Clause 4.1.1 above of the date on which BIAL then anticipates the Initial Commissioning Date will occur and the Target Commissioning Date shall be revised accordingly.
- 4.1.3 BIAL shall notify AAI at least three hundred and sixty five days prior to the date on which BIAL anticipates any Future Commissioning Date will occur.

4.2 BIAL Commissioning Obligations

- 4.2.1 At least thirty (30) days prior to the Initial Commissioning Date or Future Commissioning Date, as the case may be, BIAL shall confirm in writing to the AAI that:
- (i) The runway, taxiway, apron and approach in respect of the Initial Phase shall be constructed by the Initial Commissioning Period in accordance with the relevant provisions contained in the relevant ICAO Annexes and documents(as amended from time to time) as appropriate for the proposed aircraft operation at the Airport and shall be available for aircraft operation by the Airport Opening Date ;
 - (ii) The strips, shoulders, stop way and RESA for runway and strips & shoulders for taxiways for the Initial Phase shall be constructed by the Initial Commissioning Period and thereafter shall be maintained in accordance with the relevant provisions contained in the relevant ICAO Annexes and documents(as amended from time to time) as appropriate for the proposed aircraft operation;
 - (iii) From the Initial Commissioning Period the obstacle limitation surfaces of the Airport and approach and take-off area shall be maintained free from obstructions or the obstructions shall be limited to the permissible limits in accordance with the relevant provisions contained in the relevant ICAO Annexes and documents(as amended from time to time);
 - (iv) From the Initial Commissioning Period the appropriate category of rescue and fire fighting services shall be made available in accordance with the relevant provisions contained in the relevant ICAO Annexes and documents(as amended from time to time);

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- (v) From the Initial Commissioning Date BIAL shall provide adequate space in the Fire Watch tower to enable AAI Personnel to establish an alternative facility for the provision of CNS/ATM Services in case of any contingency situation;
- (vi) From the Airport Opening Date appropriate arrangements shall be in place at the Airport to prevent bird/animal nuisance in and around the operational area.

4.2.2 During the Initial Commissioning Period or Future Commissioning Period, as the case may be, BIAL shall:

- (i) Within fourteen (14) days of the commencement of the Initial Commissioning Period or Future Commissioning Period, as the case may be, confirm in writing to AAI that the BIAL Equipment has been supplied and installed. BIAL shall also confirm in writing to the AAI that by the Airport Opening Date such equipment required for the Initial Phase has been tested and approved for operations;
- (ii) Provide AAI with such access to the Airport for its Personnel, vehicles and agents as AAI reasonably requires for the performance of the AAI Commissioning Services;
- (iii) Provide AAI with a continuous supply of electrical power and water sufficient to enable it to perform the AAI Commissioning Services and AAI shall pay BIAL for the actual consumption on cost recovery basis.
- (iv) To the extent that AAI determines that, as a result of the expansion of the Airport, additional standby supplies of electrical power are required at the Airport, AAI shall notify BIAL of its additional requirements and the Parties shall meet to discuss and seek to reach agreement regarding the additional standby supply required by AAI; and
- (v) Provide AAI and/or its Personnel with such information as they may reasonably require for the performance of the AAI Commissioning Services.

4.3 AAI Commissioning Services

4.3.1 During the Initial Commissioning Period and any Future Commissioning Period, AAI shall, at its own cost:

- (i) Within fourteen (14) days of receipt of the notice received from BIAL in accordance with Clause 4.2.1 confirm in writing to BIAL that all the AAI Equipment has been supplied and installed and that the AAI Equipment is compatible with the equipment provided by the EPC Contractors;
- (ii) Test and commission all AAI Equipment such that it is fully operational;
- (iii) Take all steps necessary to integrate the AAI Equipment with any relevant air navigation and meteorological equipment and systems operated by AAI;
- (iv) Carry out such calibration flights as are necessary to commission the AAI Equipment and, to the extent practicable, shall coordinate those flights with BIAL to enable BIAL to calibrate the BIAL Equipment at the

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same time. For the avoidance of doubt, AAI shall not be liable for the cost incurred by BIAL to calibrate the BIAL Equipment;

- (v) Where appropriate, assist DGCA in the performance of any checks and procedures which are required to be performed to commission the Airport;
- (vi) Prepare all such procedures, manuals and charts related to the AAI Services as are necessary in order to ensure the safe operation of aircraft at the Airport and in the airspace in the vicinity of the Airport;
- (vii) Mutually agree with BIAL the Operating Reporting Procedure and the Incident Reporting Procedure; and
- (viii) Provide BIAL and other agencies with such assistance as may be reasonably required during any trial operations at the Airport.

4.3.2 AAI shall, during performance of the AAI Commissioning Services, provide such reasonable assistance as may be necessary to the EPC Contractors to ensure that the AAI Equipment is adequately integrated with the BIAL Equipment.

4.3.3 Following performance of the AAI Commissioning Services in accordance with Clause 4.3.1 and prior to the end of the Initial Commissioning Period or Future Commissioning Period, as the case may be, AAI shall confirm to BIAL in writing that the AAI Equipment is fully operational and integrated with the BIAL Equipment and that the AAI Equipment is such that AAI can perform the AAI Operative Services in accordance with the relevant standards prescribed in the relevant ICAO Annexes and documents(as amended from time to time).

5 Scope of Services - Operation Phase

5.1 AAI Operative Services

AAI shall at all times (including twenty-four hours each day), from and including the Airport Opening Date, in accordance with the relevant standards prescribed in the relevant ICAO Annexes and documents(as amended from time to time) and at its own cost:

- 5.1.1 Provide the CNS/ATM Services as defined in Scheduled 3;
- 5.1.2 Maintain the AAI Equipment including carrying out periodic flight calibration of the AAI Equipment and other tests;
- 5.1.3 Upgrade the AAI Equipment from time to time (i) as a minimum to comply with the relevant provisions contained in the relevant ICAO Annexes and documents(as amended from time to time); and (ii) as a result of the expansion/ up gradation of the airport required by BIAL.
- 5.1.4 Purchase at its own cost such equipment as may be required from time to time to enable AAI to provide the CNS/ATM Services at the Airport..
- 5.1.5 Procure meteorological facilities and services for provision of CNS/ATM services at the Airport in accordance with the practices established or recommended from time to time pursuant to the Chicago Convention and on the same terms as AAI provides such services at all other Major AAI airports

(as defined in the concession agreement)) till such time that GOI decides to nominate some other agency in place of AAI.

- 5.1.6 Relocate AAI Equipment for its operative convenience provided such relocation does not affect the BIAL obligations and or smooth operation of the airport.

5.2 ATM - En-route and other Services

If AAI requires, it may at its own cost, subject to receiving the prior consent of BIAL, which will not be unreasonably withheld, situate at the Airport or on the Site any radars, equipment, buildings, works or facilities necessary for the provision of en-route air navigation services. In situating such radars, equipment, buildings, work or other facilities at the Airport, AAI shall take appropriate measures to avoid any disruption to the normal operation of the Airport. For avoidance of doubt, AAI shall not be held liable for any disruption in the normal operation of the Airport arising on account of actions directly attributable to BIAL.

5.3 BIAL Operative Obligations

Following the Airport Opening Date, BIAL shall:

- 5.3.1 Ensure that the runway, taxiway, apron and approach for the Initial Phase have been constructed and shall be maintained in accordance with the relevant provisions contained in the relevant ICAO Annexes and documents(as amended from time to time) as appropriate for the proposed aircraft operation at the Airport and are available for aircraft operation;
- 5.3.2 Ensure that the strips, shoulders, stop way and RESA for runway and strips and shoulders for taxiways for the Initial Phase have been constructed and shall be maintained in accordance with the relevant provisions contained in the relevant ICAO Annexes and documents(as amended from time to time) as appropriate for the proposed aircraft operation;
- 5.3.3 Ensure that the obstacle limitation surfaces of the Airport and approach and take-off area shall be maintained free from obstructions or the obstructions shall be limited to the permissible limits in accordance with the relevant provisions contained in the relevant ICAO Annexes and documents(as amended from time to time);
- 5.3.4 Ensure that the sensitive and critical areas as identified by AAI for the various CNS/ATM equipment/ facilities shall be maintained free of any obstruction and no obstruction shall be allowed in these zones which may hamper the functioning of these equipment/ facilities and endanger the safety of aircraft operations.
- 5.3.5 Ensure that the appropriate category of rescue and fire fighting services shall be made available and maintained in accordance with the relevant provisions contained in the relevant ICAO Annexes and documents(as amended from time to time);
- 5.3.6 Ensure that appropriate arrangements are in place at the Airport to prevent bird/animal nuisance in and around the operational area.
- 5.3.7 Ensure that suitable contingency arrangements are in place at the Airport to deal with the following events:

- (i) removal of disabled aircraft from the runway;
 - (ii) bomb threat to aircraft or the Airport;
 - (iii) aircraft accidents in and around the vicinity of the Airport;
 - (iv) non-scheduled aircraft forced to land at the Airport;
 - (v) fires at the Airport;
 - (vi) natural calamities and disasters;
 - (vii) strikes at the Airport;
 - (viii) Unlawful interference with Civil Aviation;
- 5.3.8 Ensure that emergency alarm bells have been installed to link the Facility to the emergency services (fire, medical and police) and to the Airport manager;
- 5.3.9 Provide AAI with such access to the Airport for its Personnel, Vehicles and agents as AAI reasonably requires for the performance of the AAI Operative Services;
- 5.3.10 Provide AAI with a continuous supply of electrical power and water sufficient to enable it to perform the AAI Operative Services and AAI shall reimburse BIAL the costs it incurs in procuring such services.
- 5.3.11 To the extent that AAI determines that, as a result of the expansion of the Airport, additional standby supplies of electrical power are required at the Airport, AAI shall notify BIAL of its additional requirements and the Parties shall meet to discuss and seek to reach agreement regarding the additional standby supply required by AAI;
- 5.3.12 provides AAI and/or its Personnel with such information as they reasonably require for the performance of the AAI Operative Services;
- 5.3.13 Make the Office Accommodation and the Facility available at all times to AAI Personnel and agents of AAI deployed at the Airport in the provision of the AAI Services;
- 5.3.14 At its cost, maintain the Airfield Lighting System, the main and standby power supply systems in accordance with the relevant standards prescribed in the relevant ICAO Annexes and documents(as amended from time to time);
- 5.3.15 Ensure that its employees and agents report, in accordance with the Operating Reporting Procedure, any failure or defects in the Airfield Lighting System and the non-availability of any BIAL Equipment to AAI as soon as they become aware of such failure or defect;
- 5.3.16 Notify AAI of any proposed closure or withdrawal of any infrastructure or facilities provided by BIAL, except in an emergency, as per Operating Reporting Procedure as mutually agreed between the Parties in writing as amended from time to time ;
- 5.3.17 On the instruction of AAI, remove, at BIAL's cost, any obstructions from the runway or the movement areas and ensure that its employees and agents notify AAI, in accordance with the Operating Reporting Procedure or Incident

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Reporting Procedure, as the case may be, on becoming aware of any such obstruction;

5.3.18 At its cost, relocate AAI Equipment for the reasons of any alteration or modification at the airport.

5.3.19 In case of an upgrade or expansion bear the difference in costs for AAI equipment which is over and above ICAO recommendations and which is requested by BIAL.

6. Variations to the Facility

6.1. Request for Variation

If AAI requires any alteration or variation to the Facility and/or the Office Accommodation after the Effective Date then it shall notify BIAL in writing of such requirements providing full details of the alteration or variation being requested and the reasons for such alteration or variation.

6.2. Variations not affecting BIAL's Costs

If the alteration or variation requested by AAI pursuant to Clause 6.1 will not increase BIAL's cost of construction of, and will not impact, delay or disrupt, the Initial Phase, then BIAL shall take such steps as are reasonably necessary to implement the variation.

7. Revenues and Charges

7.1 Route Navigation Facilities Charges

AAI shall, in consideration of it performing the relevant services, be entitled to recover the Route Navigation Facilities Charges directly from airlines.

7.2 Terminal Navigational Landing Charges

Terminal Navigational Landing Charges payable by airlines shall be paid directly by the airlines to AAI and BIAL shall incur no liability in respect of such charges.

7.3. Collection

The failure by AAI to collect and/or any airline to pay either the Route Navigation Facilities Charges or the Terminal Navigational Landing Charges shall not excuse AAI in any way whatsoever or howsoever from the performance of the AAI Services or its obligation to pay the fee set out in Clause 7.4. Provided in the event of failure by any particular airline(s) repeatedly defaulting in paying Route Navigation Facilities Charges and/or the Terminal Navigational Landing Charges to AAI, AAI shall have all the rights not to provide AAI Services to such airline(s) and that it shall not amount to default on the part of AAI in the performance of the AAI Services, as provided in this agreement.

7.4. Rental Fee payable by AAI

AAI shall pay a rental fee to BIAL in consideration for providing the Facility and office space as set out in Schedule 2. The rental rate shall be calculated on cost recovery basis and mutually agreed. It shall not exceed the rental rate applicable to other similar Government agencies. The lease rental shall be payable in advance on a quarterly basis effective from the Airport Opening Date until the termination of this Agreement. The rental fee shall not be increased by more than 10% once in every three years.

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8. Standards of Services and Failure to Perform

8.1 Standards of Services

AAI shall at all times provide the AAI Services in accordance with the relevant standards prescribed in the relevant ICAO Annexes and documents(as amended from time to time) and shall not require BIAL to incur any expense in relation to the provision of AAI Services or AAI Equipment.

8.2 Non-Interference

AAI shall not, and shall ensure that, its Personnel, and agents do not Intervene in, interrupt or cause any disruption to the design, construction, commissioning, completion, development, financing and/or maintenance of the Airport and following the Airport Opening Date, and except as is necessary for the provision of the AAI Services, Intervene in or interrupt in any way the operation of the Airport.

8.3 Indemnity

8.3.1 Each Party shall indemnify, defend and hold harmless the other Party and its contractors, principals and agents, from and against any and all payments equal to the loss, cost, expense, liability or damage asserted against, imposed upon or incurred by the suffering Party and its contractors, principals and agents by reason of failure or delay or resulting from claims of third parties arising directly or indirectly, in whole or in part out of the performance (whether by act or omission) of either Party's obligations (the occurrence of an event of a Force Majeure being exempted), including claims for injury towards death of persons or for Loss or claims for Loss of damage to property.

In the event AAI fails to perform its pre commissioning obligations under this agreement, AAI will indemnify BIAL against the consequences of failure or delay in the pre commissioning performance of AAI's obligations and shall pay to BIAL within thirty (30) days of request for such payment, sums equal to 0.1% of the estimated investments by AAI under this agreement per day subject to a maximum cap of 5 % of the estimated investments by AAI.

8.3.2 Liability

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

9. Force Majeure

9.1 Force Majeure

Clause 9 shall apply if the performance by any party (the "Affected Party") of its obligations under this Agreement is prevented, hindered or delayed in whole or in part by reason of Force Majeure as defined in Schedule 4.

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9.2 Consequences of Force Majeure

9.2.1 Performance Obligation

The Affected Party shall not be liable for any failure to comply, or delay in complying, with any obligation under or pursuant to this Agreement and it shall not be required to perform its obligations to the extent that such failure or delay has been caused directly by any event of Force Majeure and, in particular, but without limitation, the time allowed for performance of any such obligations shall be extended accordingly.

9.2.2 Notification

If the Affected Party claims that it has been prevented from fulfilling any of its obligations under this Agreement by reason of any event of Force Majeure, it shall notify the other Parties as soon as reasonably practicable in writing, stating the basis for the claim and the consequences.

9.2.3 Mitigation

The Affected Party shall take all reasonable steps to mitigate the effect of the event of Force Majeure.

10 Termination

10.1 BIAL Termination Events

AAI shall be entitled to issue a notice of termination to BIAL, if:

- (i) BIAL fails to pay when due and payable any amount payable to it under this Agreement and such failure is not remedied within twenty (20) days of receipt of a notice from AAI specifying the default and requiring it to be remedied;
- (ii) An order being made or a resolution being passed for the liquidation, bankruptcy or dissolution of BIAL which is not, if capable of being so, discharged or, as the case may be, revoked within ninety (90) days thereafter,
- (iii) BIAL fails to perform or comply with any obligation in this Agreement (other than an obligation to pay money) to an extent which has a material and adverse effect on the rights and obligations of AAI and if capable of being remedied, such failure continues for a period of 7 days after receipt of notice from AAI, specifying the default and requiring it to be remedied. Provided that AAI shall not be entitled to issue such notice of termination if the events and/or circumstances set out at (i), (ii) and/or (iii) above are the result and/or consequence of Force Majeure and/or a failure and/or breach and/or any delay by Gol in the performance of its obligations under the Concession Agreement and/or a failure and/or a breach and/or any delay by the Government of Karnataka or the Karnataka State Industrial Investment and Development Corporation Limited in the performance of their respective obligations under the State Support Agreement and Land Lease Agreement, and/or a failure by AAI to comply with the AAI Obligations.

And further provided in each case that timely remedial action by BIAL has not been prevented by Gol, the Government of Karnataka, the Karnataka State Industrial Investment and Development Corporation Limited or AAI.

10.2: AAI Termination Events

BIAL shall be entitled to issue a notice of termination to AAI, if:

- (i) AAI fails to perform or comply with any obligation in this Agreement (other than an obligation to pay money) otherwise than by virtue of an event of Force Majeure duly notified under Clause 9.2.2 or a failure by BIAL to meet the BIAL Obligations, and, if capable of being remedied, such failure continues for a period of 7 days after receipt of a notice from BIAL, specifying the default and requiring it to be remedied;
- (ii) AAI fails to pay when due and payable any amount payable by it under this Agreement and such failure is not remedied within twenty (20) days of receipt of a notice from BIAL specifying the default and requiring it to be remedied;

10.3: Effect of a Termination Notice

If a notice of termination is served by AAI or BIAL pursuant to this Clause 10, then at any time after the expiry of a period of Ninety (90) days after the date of service of the notice of termination, unless the circumstances giving rise to the issue of the notice of termination have been fully remedied or have ceased to apply, the Party that issued the notice of termination may terminate this Agreement with immediate effect..

10.4: Consequences of Termination

If this Agreement terminates pursuant to this Clause 10.2 by BIAL and to ensure that the operations of the Airport is not closed down on account of non-availability of AAI Services, AAI shall forthwith hand-over to Gol all AAI Equipment, manuals, charts and other memoranda prepared by AAI in the performance of AAI Services in "as-is-where-is" condition on mutually agreed terms in order to enable Gol to immediately act in accordance with Section 38 of AAI Act, 1994. AAI shall render all necessary co-operations to Gol to achieve the aforesaid purpose.

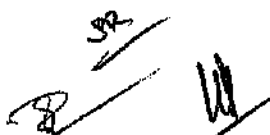
Thereafter it shall be the sole discretion of BIAL to consult Gol to take appropriate steps that it deems fit in order to be rendered, through a third party, the services equivalent to AAI Services provided by AAI in the Airport. AAI shall render all necessary co-operations to BIAL to achieve the aforesaid purpose.

This shall be without prejudice to either Party's right or remedies available under this Agreement.

11 Assignment

11.1 Assignment by AAI

Notwithstanding anything herein to the contrary, AAI shall not assign or otherwise transfer all or any of its rights or obligations under this Agreement without the prior written consent of BIAL provided such assignment or transfer of AAI's rights or



obligations is pursuant to the enactment of statute. Such assignee or transferee shall be bound by the terms and conditions of this Agreement.

11.2 Assignment by BIAL

Notwithstanding anything herein to the contrary, but subject to Clause 15.3, BIAL shall not assign or otherwise transfer all or any portion of its rights or obligations under this Agreement without the prior written consent of AAI; provided, however, that BIAL may, without such prior written consent, but upon prior written notice to AAI:

- (i) Transfer all or substantially all of its rights and obligations hereunder to an Affiliate of BIAL;
- (ii) Transfer all or any part of its rights and obligations hereunder to a purchaser of ownership interests in BIAL;
- (iii) Transfer to Lenders to BIAL, BIAL's rights under this Agreement as collateral security for amounts payable under any financing agreement under which BIAL has borrowed money; or
- (iv) Transfer all or substantially all of its rights and obligations hereunder to Gol pursuant to the terms of the Concession Agreement.

12 Dispute Resolutions

12.1 Negotiation and Conciliation

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

12.2 Reference to Arbitrator



Subject to anything contained in the relevant Independent Regulatory Authority legislation regarding the settlement of disputes, any Dispute which the Parties are unable to resolve pursuant to Article 12.1 within sixty (60) days (or such longer period as the Parties may agree) of the written notification by one Party to the other of the existence of a Dispute shall be finally determined by arbitration in accordance with the Indian Arbitration and Conciliation Act 1996 ("Act") and/or any statutory modification thereof and in accordance with the UNCITRAL rules (the "Rules") by three arbitrators appointed in accordance with the Act.

12.3 Miscellaneous

The venue of arbitration shall be New Delhi. Each Party shall pay the expenses of the arbitration in accordance with the Rules and the eventual liability for the costs shall be in terms of the arbitral award. No arbitrator shall be the present or former employee or agent of, or consultant or counsel to either Party or in any way related or closely connected with the Parties. The language of the arbitration shall be English.

12.4 Decision/Award

Any decision or award of an arbitral tribunal appointed pursuant to this Clause 12 shall be final and binding upon the Parties. The Parties waive any rights to appeal or any

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review of such award by any court or tribunal of competent jurisdiction insofar as such waiver can validly be made. The Parties agree that any arbitration award made may be enforced by the Parties against assets of the relevant Party, wherever those assets are located or may be found, and judgement upon any arbitration award (wherever necessary) may be entered by any court of competent jurisdiction thereof. The Parties expressly submit to the jurisdiction of any such court for the purposes of enforcement of any arbitration award.

13 Notices

13.1 Communications In writing

Except in respect of the Operating Reporting Procedure and Incident Reporting Procedure, any communication to be made under or in connection with this Agreement shall be made in writing and, unless otherwise stated, may be made by fax or letter.

13.2 Addresses

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

BIAL:

Bangalore International Airport Limited
Khanija Bhavan, No: 49, Race Course Road
Bangalore - 560 001
India
Fax: [080 22081284]

Attention: CEO

AAI:

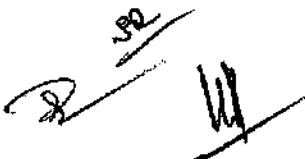
Rajiv Gandhi Bhavan
Safdarjung Airport
New Delhi - 110 003
India
Fax: [011 24641088]

Attention: Chairman

or any substitute address, fax number or department or officer as the party may notify to the other parties, by not less than five business days' notice.

14 Deemed Delivery

Subject as otherwise provided in this Agreement, any communication under or pursuant to this Agreement shall be deemed to be received by the recipient (if sent by fax) on the next working day in the place to which it is sent or (in any other case) when left at the address required by Clause 13.2 or within 10 such working days after being sent by registered post (by airmail if to another country) postage prepaid and addressed to that address. For these purposes, working days are days other than Saturdays, Sundays and gazetted holidays.

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15 Miscellaneous

15.1 Severability

The invalidity or unenforceability, in whole or in part, of any of the foregoing sections or provisions of this Agreement shall not affect the validity or enforceability of the remainder of such sections or provisions. In the event any material provision of this Agreement is held invalid or unenforceable, the parties shall promptly renegotiate in good faith new provisions to replace such invalid or unenforceable provision so as to restore this Agreement as nearly as possible to its original intent and effect.

15.2 Entire Agreement

This Agreement, including any Schedules or exhibits hereto, contains the entire agreement between AAI and BIAL with respect to the subject matter of this Agreement and supersedes all other agreements, whether written or oral, with respect to such subject matter.

15.3 Amendment

No modification, amendment, or other change will be binding on any party unless consented to in writing by both parties.

15.4 Additional Documents and Actions

Each party agrees to execute and deliver to the other party such additional documents, and to take such additional actions and provide such cooperation, as may be reasonably required to consummate the transactions contemplated by, and to effect the intent of, this Agreement.

15.5 Direct Agreement

AAI shall, upon a request from the Lenders enter into a Direct Agreement with the Lenders substantially in the form attached as Schedule 5 to this Agreement whereby, amongst other things, AAI agrees to give prior notice of any intention it may have to exercise its rights of termination under the Agreement, to allow such Lenders the right to cure a default on the part of BIAL, and/or to allow such Lenders under certain circumstances to substitute themselves or appoint a third party substitute to carry out the obligations and enjoy the benefits of BIAL under the Agreement.

15.6 Interest for Late Payment

Any amount properly due to a Party pursuant to this Agreement and remaining unpaid after the date when payment was due shall bear interest (both before and after judgment), such interest to accrue from day to day from the date such payment was due until such amount is paid in full at a rate of two (2) percentage points above the Reserve Bank of India Prime Lending Fee in effect from time to time.

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15.7 No Partnership

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

15.8 No Third Party Beneficiary

This Agreement is for the sole and exclusive benefit of the Parties hereto and, except for the rights expressly granted to the Lenders hereunder, shall not create a contractual relationship with, or cause of action in favour of, any third party.

15.9 Counterparts

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement.

15.10 Time is of the Essence

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

15.11 Computation of Time

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

16 Governing Language

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

17 Governing Law

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

18 Covenants by AAI

AAI unconditionally and irrevocably:

- (i) agrees that, should any proceedings be brought against it or its assets in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity from such proceedings shall be claimed by or on behalf of itself or with respect to its assets;

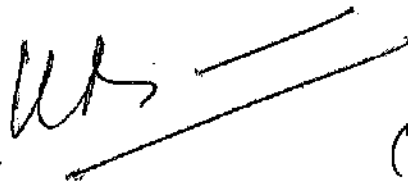


- (ii) consents generally in respect of the enforcement of any judgment or award against it in any such proceedings in any jurisdiction to the giving of any relief or the issue of any process in connection with such proceedings (including the making, enforcement or execution of any such judgment or award or any order arising out of any such judgment or award against or in respect of any property whatsoever irrespective of its use or intended use).

In witness whereof this Agreement has been entered into on the date stated at the beginning.

SIGNED by on behalf of
AAI:

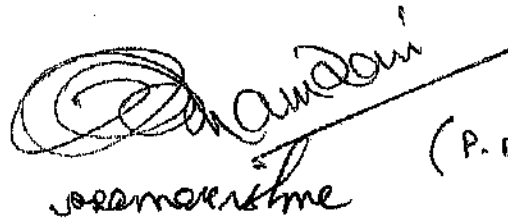
}



(K. Ramalingam)

SIGNED by on behalf of
BIAL:

}



(P. Bhanubani)

(A. Ramakrishna)

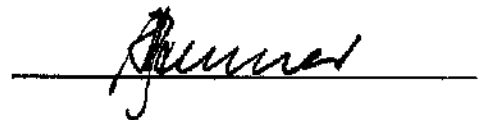
Witnessed by:

(1)



(V.D.V. Prasad Rao)

(2)



(Albert Brunner)

Schedule 1
Part 1: BIAL Equipment

1. Runway
2. Runway lighting and marking
3. Taxiway
4. Taxiway lighting and marking
5. Signage
6. Apron
7. Apron lighting and marking
8. Facility
9. Civil works (foundation only) related to AAI Equipment
10. PAPI and approach lighting
11. Aerodrome beacon (on the tower)
12. Landing day and night marking
13. Wind direction indicator
14. isolation bay
15. Secondary power supply
16. Hot lines between ATC and airport fire brigade
17. Crash bell, cabling and siren
18. Control panel and monitoring system for airfield lighting
19. upgrade visual aids (future)
20. Approach roads to the operational area besides approach roads to at site airport navigation aids.

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Part 2: AAI Equipment

AAI would provide the CNS-ATM equipment in accordance with the provisions contained in the relevant ICAO Annexure and documents (as amended from time to time) as required for the proposed aircraft operations.

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Schedule 2

Office Accommodation, Car Parking and Standby Power Supply

1. Tower – BIAL shall make available an area of 363square meters
2. Offices - BIAL shall make available an area of 2064square meters
3. Car Parking – BIAL shall make avallable 5 (five) car parking spaces at the Airport
4. Standby Supply: BIAL shall make available to AAI 247KVA of standby electrical capacity at the Airport for provision of the AAI Services.

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Schedule 3
CNS/ATM Services

AAI shall provide and coordinate the following services at the Airport as appropriate to the airspace configuration within the lateral and vertical limits of such air space:

- (i) Aerodrome Control Service including surface movement control or ground control;
- (ii) Approach Control/Approach Radar Control Service;
- (iii) Area Control/Area Radar Control Service (if planned) and ;
- (iv) Associated services such as aeronautical Information Service, Flight Information Service, Advisory Service, Alerting Service and Search & Rescue Coordination Services as appropriate,

all in accordance with the provisions contained in the relevant ICAO Annexes and documents(as amended from time to time) and as required for the proposed aircraft operations

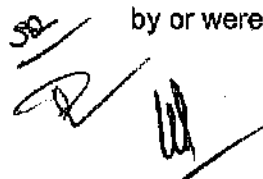
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Schedule 4 Definition of Force Majeure

In this Agreement, "Force Majeure" means any act, event or circumstance or a combination of acts, events and circumstances, referred to in paragraph (A) which are beyond the reasonable control of the Affected Party and which the Affected Party could not have prevented by Good Industry Practice or by the exercise of reasonable skill and care in relation to the construction of any facilities, and which, or any consequences of which prevent, hinder or delay in whole or in part the performance by any Party of its obligations under this Agreement.

"Force Majeure" includes the following events and circumstances to the extent that they, or their consequences, satisfy the above requirements:

- (A) Acts, events or circumstances of the following types:
- (i) Strikes, lock-outs or other industrial action or labour disputes involving any party or its contractors, or their respective sub-contractors, servants or agents, in any such case employed on the execution of work within India or the supply of goods or services within India;
 - (ii) Lightning, earthquake, tempest, cyclone, hurricane, whirlwind, storm, flood, washout, land slide, soil erosion, subsidence, drought or lack of water, and other unusual or extreme adverse weather or environmental conditions or actions of the elements, meteorites or objects falling from aircraft or other aerial devices, the occurrence of pressure waves caused by aircraft or other aerial devices travelling at supersonic speeds, fire or explosion, chemical or radioactive contamination or ionising radiation (excluding circumstances where the source or cause of the explosion or contamination or radiation is brought or has been brought onto or near the Site by the Affected Party or those employed or engaged by the Affected Party unless it is or was essential for the construction or operation of any part of the Airport);
 - (iii) Any accidents at the Airport;
 - (iv) Any accidental loss of or damage to cargo in the course of transit by any means and intended for incorporation into the Airport, occurring prior to the Airport Opening Date;
 - (v) Loss of or serious accidental damage to the Airport;
 - (vi) Epidemic;
 - (vii) Act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, bombs or civil commotion;
 - (viii) Sabotage, terrorism or the threat of such acts;
 - (ix) Act of God; or
 - (x) Any act, event or circumstance of a nature analogous to the foregoing;
- (B) provided that none of the following matters or their consequences shall be capable of constituting or causing Force Majeure:
- (i) Failure or inability to make any payment; or
 - (ii) The effects of market conditions unless such market conditions were themselves caused by or were a result of a Force Majeure event.

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- (C) And further provided that an act, event or circumstance referred to in paragraph (A) above which primarily affects a third party or third parties (including without limitation, the construction, contractor or operator(s) of the Airport, an affiliate of a Party or a Party's or its affiliate's subcontractors) which prevents, impedes or delays a Party in the performance of its obligations, shall constitute Force Majeure hereunder as to such Party as appropriate if and to the extent that it is of a kind or character that, if it had happened to the Party wishing to rely on this Clause, would have come within the definition of Force Majeure under this Schedule 4.

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**Schedule 5 (to be in the same format as agreed in the CA)
Form of AAI Direct Agreement**

Bangalore International Airport Limited
Khanija Bhavan, Ground Floor,
49 Race Course Road,
Bangalore - 560 001

[Date]

[The Secretary]
Airports Authority of India
Rajiv Gandhi Bhavan
Safdarjung Airport Complex
New Delhi 110 003

Dear [Mr. Secretary:]

We refer to the Agreement for the Provision of CNS/ATM Facilities and Services (the "CNS/ATM Agreement") dated [] between the Airports Authority of India ("AAI") and Bangalore International Airport Limited (the "Company").

As contemplated in the CNS/ATM Agreement, the Company proposes to enter into the Financing Agreements (as defined in the CNS/ATM Agreement and copies of which have been delivered to you), pursuant to which the Secured Parties (as defined below) have agreed to provide financing to the Company for the development of a Greenfield airport at Devanahalli, near Bangalore in the State of Karnataka.

As security for such financing, we hereby notify you that pursuant to the mortgage (the "Mortgage") to be entered into in favour of [] as trustee (the "Mortgage Trustee") for the benefit of certain banks and financial institutions (the "Lenders") the Company has granted to the Mortgage Trustee for the benefit of the Lenders a first priority security interest in all of the assets of the Company (the "Collateral"), including, inter-alia, the CNS/ATM Agreement.

The Lenders together with the Mortgage Trustee are herein called the "Secured Parties".

The Company requests that, by signing and returning the enclosed copy of this acknowledgment and consent (the "Agreement"), AAI confirm and agree, for the benefit of the Secured Parties, the following:

- (a) AAI
- (i) Acknowledges receipt of a copy of the Mortgage,
 - (ii) Consents to the assignment (and to the extent not capable of assignment under the Mortgage, the charge) under the Mortgage for the benefit of the Secured Parties of all of the Company's right, title and interest in the CNS/ATM Agreement as security for the obligations due to the Secured Parties,

- (iii) Agrees that such assignments (or charge as the case may be) do not or will not contravene or violate the CNS/ATM Agreement and
 - (iv) Agrees that its execution and delivery of this Agreement constitutes its proper written consent to such assignment (or charge as the case may be) and prospective assignment as provided for in Clause 13.2 of the CNS/ATM Agreement.
- (b) AAI agrees that:
- (v) If the Mortgage Trustee has elected to exercise its rights pursuant to the security interests granted by the Company to have itself or its designee substituted for the Company under the CNS/ATM Agreement, then such Mortgage Trustee or its designee shall be substituted for the Company; and
 - (vi) If the Mortgage Trustee shall sell or otherwise dispose of all or any part of the Collateral pursuant to the exercise of remedies under the security interests granted by the Company (whether by foreclosure or otherwise), the purchaser shall, at the request of the Mortgage Trustee and with the prior written consent of AAI, which consent shall not be unreasonably withheld, be substituted for the Company under the CNS/ATM Agreement, and in either case, the substituted party will succeed to all rights, title and interest of the Company with respect to such Collateral sold or disposed of under the CNS/ATM Agreement and may perform and shall be entitled to the benefits of the CNS/ATM Agreement as if it were the Company under the CNS/ATM Agreement.
- (c) AAI agrees that it will pay monies due to the Company under the CNS/ATM Agreement exclusively for deposit directly and in immediately available funds to such account in [Bangalore] as the Mortgage Trustee may from time to time direct (and the Company hereby authorises and directs AAI to make such payments as aforesaid). In the event of exercise by the Mortgage Trustee or its designee of its rights pursuant to the security interests granted by the Company, AAI will comply with any and all written instructions received from the Mortgage Trustee to pay monies due from AAI under the CNS/ATM Agreement directly to or to the order of the Mortgage Trustee in lieu of paying such monies to the account designated in the previous sentence (all other terms and conditions of such payments shall remain as provided in the previous sentence) and in full satisfaction of its obligations to pay these amounts to the Company.
- (d) AAI agrees that it will recognise the Mortgage Trustee as the true and lawful attorney of the Company pursuant to the Mortgage.
- (e) AAI agrees that it shall not terminate the CNS/ATM Agreement or suspend performance of its obligations there under without issuing a Notice to the Mortgage Trustee.
- (f) AAI agrees that the Mortgage Trustee shall be entitled at any time to take or procure the taking of action consistent with the terms of the CNS/ATM Agreement as may be necessary to remedy the event which has given rise to the Notice.
- (g) This Agreement shall be governed by and construed in accordance with the laws of India.
- (h) Any dispute or difference arising out of or in connection with this Agreement, shall regardless of the nature thereof, be referred to dispute resolution pursuant to the provisions of Clause 14 of the CNS/ATM Agreement, which provisions are incorporated herein by reference and made a part hereof as if such provisions were fully set forth herein.

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- (i) The provisions of Clause 18 (Sovereign Immunity) of the CNS/ATM Agreement shall apply to this Agreement and are incorporated herein by reference and made a part thereof as if such provisions were fully set forth herein.
- (j) This Agreement will terminate without further action by any party hereto on the date on which there is no outstanding debt owed to the Lenders.
- (k) This Agreement shall become effective on the Effective Date.

Yours faithfully,

**Bangalore International
Airport Limited**

By _____

Name:

Title:

Airports Authority of India hereby acknowledges and agrees to be bound by the foregoing terms of this Agreement as of this [] day of [].

By _____

Name:

Title:

Acknowledged, accepted and agreed as of the date this Agreement is executed by Airports Authority of India.

[], as Mortgage Trustee.

By _____

Name:

Title:



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