

State Support Agreement

In relation to the Modernisation and Restructuring

of the

Mumbai Airport.

between

THE PRESIDENT OF INDIA

on behalf of

THE GOVERNMENT OF INDIA

and

Mumbai International Airport Private Ltd.

26th April, 2006



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STATE SUPPORT AGREEMENT

This State Support Agreement is made in Delhi on the 26th day of April 2006

BETWEEN:

1. **THE PRESIDENT OF INDIA** acting through the Secretary, Ministry of Civil Aviation of Government of India (hereinafter referred to as "GOI" which expression shall be deemed to include its successors and permitted assigns), of the one part; and
2. **Mumbai International Airport Pvt. Ltd.** a company incorporated in India under the Indian Companies Act, 1956, having its registered office at CSI Airport, Mumbai (hereinafter referred to as the "JVC", which expression shall be deemed to include its successors and permitted assigns), of the other part.

GoI and the JVC are hereinafter collectively referred to as "Parties" and individually as "Party".



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WHEREAS:

- (A) GOI, as part of its policy of liberalization entrusted the functions of management of airports in India to the Airports Authority of India (hereinafter AAI) established under the Airports Authority of India Act, 1994.
- (B) In furtherance of the aforesaid policy, the AAI searched for private participants competent and desirous to operate, maintain, develop, design, construct, upgrade, modernize, finance and manage **Chattarpati Shivaji International Airport, Mumbai** (hereinafter the Airport).
- (C) A special purpose vehicle company (hereinafter the JVC) has been incorporated for the aforesaid purpose with AAI and the private participants as shareholders.
- (D) AAI and JVC have entered into an Operation, Management and Development Agreement (hereinafter the OMDA) whereby they have agreed upon the terms and conditions upon which the JVC shall operate, finance and manage etc. the Airport.



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- (E) In consideration of the JVC having entered into OMDA and to enhance the smooth functioning and viability of the JVC, in addition to the obligations of the AAI under the OMDA, the GOI is agreeable to provide some support to the JVC.

NOW IT IS HEREBY AGREED as follows:

CLAUSE 1
DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, except to the extent that the context requires otherwise, the following terms shall have the following meaning:

"AAI Representative" shall mean the representative nominated by AAI, from time to time, in accordance with the OMDA;

"Aeronautical Charges" shall be the charges to be levied at the Airport by the JVC for the provision of Aeronautical Services (and consequent recovery of costs relating to Aeronautical Assets);

"Agreement" or "this Agreement" shall mean this State Support Agreement;

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"Airport Co-ordination Committee" shall have the meaning ascribed to the term in Clause 5.2;

"Amendment Notice" shall have the meaning ascribed to the term in Clause 10.2 hereunder;

"Animal Quarantine Services" shall mean the quarantine services (forming part of the GOI Services) as set out in Schedule 4 attached hereto;

"Animal Quarantine Services Representative" shall mean the authorized representative of the quarantine department, nominated by GOI, from time to time, on the Joint Co-ordination Committee;

"Arbitral Tribunal" shall have the meaning ascribed to the term in Clause 9.3.2 hereunder;

"Change in Law" means the occurrence of any of the following (other than in respect of any tax laws or any environmental laws) after the last date of submission of a binding offer or bid for the Airport by the Private Participants during the competitive bidding process initiated by the AAI for the purposes of selection of the Private Participants (the **"Bid Date"**);

- (a) the modification, amendment, variation, alteration or repeal of any existing Indian Law or the enactment of any new Indian Law;
- (b) the commencement of any Indian Law, which has not yet come into effect except to the extent where such Indian Law was introduced in the central legislature (as a bill) or enacted, prior to the Bid Date, with a commencement date after the date hereof and such Indian Law takes effect on that commencement date without any material amendment;
- (c) a change in the interpretation, application or enforcement of any Indian Law by the Supreme Court of India;
- (d) after the date of grant of any Clearance a change in the terms and conditions attaching to such Clearance or the attachment of any new terms or conditions or such Clearance ceasing in part or in whole to remain in full force and effect otherwise than on account of any action or inaction of the JVC;

Provided however that the creation or introduction of a Regulatory Authority (including the framing of rules and regulations in relation thereto or thereunder) having jurisdiction over the Airport shall not constitute a Change in Law.



Provided further an event, the adverse effect of which has been insured against or could have been insured against in accordance with Good Industry Practice, shall not constitute Change in Law.

"Compensation Notice" shall have the meaning ascribed to the term in Clause 10.4 hereunder;

"Customs Control" shall mean customs related services as set out in Schedule 2 attached hereto;

"Customs Control Representative" shall mean the representative of the Customs Control department, holding the rank of at least Commissioner, nominated by GOI, from time to time, on the Joint Co-ordination Committee;

"Economic Regulatory Authority" shall have the same meaning as ascribed to the term in Clause 3.1.1 hereunder;

"Facilitation Component" shall have the meaning ascribed to the term in Clause 3.1A.1 hereunder;

"GOI" shall have the same meaning ascribed to the term in the preamble of this Agreement;

"GOI Representative" shall mean the authorized representative of GOI, nominated by GOI, from time to time;

"GOI Services" shall have the meaning ascribed to the term in Clause 3.3.1 hereunder;

"GOI Support" shall have the meaning ascribed to the term in Clause 3 of this Agreement;

"Health Services" shall mean the health services (forming part of the GOI Services) as set out in Schedule 5 attached hereto;

"Health Services Representative" shall mean the authorized representative of the health department, nominated by GOI, from time to time, on the Joint Co-ordination Committee;

"Immigration Services" shall mean the immigration services (forming part of the GOI Services) as per Applicable Law;



"Immigration Services Representative" shall mean the authorized representative of the immigration department, nominated by **GOI**, from time to time, on the Joint Co-ordination Committee;

"Indian Law" shall mean any law in force in the territory of India as enacted by the Parliament of India (and not by any state legislature);

"Joint Co-ordination Committee" shall have the meaning ascribed to the term in Clause 5.1.1 hereunder;

"JVC" shall have the meaning ascribed to the term in the preamble of this Agreement;

"JVC Representative" shall mean the representative(s), holding the rank of at least director, nominated by the JVC, from time to time, on the Joint Co-ordination Committee and the Airport Co-ordination Committee;

"Meteorological Services" shall mean the meteorological services (forming part of the **GOI Services**);

"Meteorological Services Representative" shall mean the authorized representative of the meteorological services department, nominated by **GOI**, from time to time, on the Joint Co-ordination Committee;

"Operation, Management and Development Agreement" or **"OMDA"** means the operation management and development agreement entered into, on or about the date hereof, between **AAI** and the JVC;

"Passenger Service Fee" shall mean the fees charged per embarking passenger at the Airport as per the provision of Schedule 8 appended hereto;

"Plant Quarantine Services" shall mean the quarantine services (forming part of the **GOI Services**) as set out in Schedule 3 attached hereto;

"Plant Quarantine Services Representative" shall mean the authorized representative of the quarantine department, nominated by **GOI**, from time to time, on the Joint Co-ordination Committee;

"Private Participants" shall have the same meaning ascribed to the term in the Shareholders Agreement entered into, on or about the date hereof, between **AAI**, the JVC and other proposed shareholders of the JVC (parties thereto);



"Project" means the design, development, construction, modernization, upgradation, finance, management, operation and maintenance of the Airports as provided for under the OMDA;

"Regulatory Authority" means any independent regulatory authority set up/ to be set up in India for the regulation of any aspect of airports. It is clarified that the Economic Regulatory Authority shall be a Regulatory Authority when constituted;

"Reserved Activities" shall mean customs, immigration, security at the Airport in respect of Aeronautical Assets and related services only (and specifically excluding areas removed from the vicinity of Aeronautical Assets), Health, meteorology, plant and animal quarantine, CNS/ATM Services and other statutory or sovereign functions, as per Applicable Law;

"Security Component" shall have the meaning ascribed to the term in Clause 3.1A.1 hereunder;

"Security Services" shall mean the security services (forming part of the GOI Services);

"Security Services Representative" shall mean the authorized representative of the security services department, nominated by GOI, from time to time, on the Joint Co-ordination Committee;

"State Government Representative" shall mean the authorized representative of the Maharashtra Government, nominated by the Maharashtra Government, from time to time;

"Term" shall have the meaning as ascribed to the term in Clause 7.1 hereunder;

"Third Party" shall mean any Entity not party to this Agreement;

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

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



CLAUSE 2 EFFECTIVE DATE

- 2.1 The provisions of this Agreement (other than those contained in Clauses 1, 2, 3.5, 3.6, 3.7, 3.8, 7, 8, 9, 11 and 12, which are, accordingly, binding on the Parties as from the date of this Agreement) shall take effect and become binding on the Parties from the Effective Date.
- 2.2 This Agreement shall terminate forthwith in the event the OMDA is terminated for non-fulfillment of the conditions precedent thereto, without any consequent cost or consequence upon either Party.

CLAUSE 3 GOI SUPPORT

In consideration for the JVC entering into the OMDA and the covenants and obligations set out therein, GOI hereby undertakes to provide to the JVC the following support ("GOI Support"):

3.1 Airport Economic Regulatory Authority

- 3.1.1 GOI's intention is to establish an independent airport economic regulatory authority (the "Economic Regulatory Authority"), which will be responsible for certain aspects of regulation (including regulation of Aeronautical Charges) of certain airports in India. GOI agrees to use reasonable efforts to have the Economic Regulatory Authority established and operating within two (2) years from the Effective Date. GOI further confirms that, subject to Applicable Law, it shall make reasonable endeavours to procure that the Economic Regulatory Authority shall regulate and set/ re-set Aeronautical Charges, in accordance with the broad principles set out in Schedule 1 appended hereto. *Provided however*, the Upfront Fee and the Annual Fee paid / payable by the JVC to AAI under the OMDA shall not be included as part of costs for provision of Aeronautical Services and no pass-through would be available in relation to the same.
- 3.1.2 The Aeronautical Charges for any year during the Term shall be calculated in accordance with Schedule 6 appended hereto. For abundant caution, it is expressly clarified that the Aeronautical Charges as set forth in Schedule 6 will not be negotiated post bid after the selection of the Successful Bidder and will not be altered by the JVC under any circumstances.
- 3.1.3 GOI confirms that till such time as the Economic Regulatory Authority commences regulating Aeronautical Charges, the same shall be approved by GOI in accordance with the broad principles set out in Schedule 1 appended hereto.



3.1A Passenger Service Fee

- 3.1A.1 The Passenger Service Fee chargeable at the Airport shall be inclusive of the cost of security expenditure on the designated security agency (currently being sixty-five (65) percent of the Passenger Service Fee) per embarking passenger ("Security Component") and the facilitation component payable to the JVC, (currently being thirty-five (35) percent of the passenger Service Fee), per embarking passenger ("Facilitation Component").
- 3.1A.2 The Security Component shall be revised upwards (or downwards) by JVC as and when directed by GOI, subject to the provision that such increases will also be accompanied by similar increase (or decreases, as applicable) in the Passenger Service Fee.
- 3.1A.3 The Facilitation Component may be revised by the JVC in accordance with the provisions of Schedule 6, subject to the provision that such increases/ decreases will also be accompanied by similar increase/ decrease in the Passenger Service Fee.
- 3.1A.4 Parties recognize and agree that the respective airlines shall collect the entire Passenger Service Fee and distribute the Security Component thereof to AAI and the facilitation component to the JVC directly.

3.2 Clearances

- 3.2.1 The Parties hereby expressly acknowledge and agree that it shall be the sole responsibility and obligation of the JVC to obtain and, at all times, continue to maintain all Clearances which are required by Applicable Law for undertaking and implementing the Project as set forth in detail in the OMDA. Towards this end, GOI shall, upon application by the JVC in full compliance with Applicable Law (and provided under Applicable Law the JVC is entitled to receive such Clearance), reasonably endeavour to grant such Clearances as are required for or in connection with the Project, within the relevant statutory period (if any), and where no statutory period is prescribed, GOI shall use all reasonable efforts to grant such Clearances as are required for, or in connection with, the Project within forty five (45) days after the relevant application duly completed and in full compliance with Applicable Laws, has been submitted. GOI further undertakes to provide reasonable assistance in procuring the approval of the Master Plan by the competent local authority.
- 3.2.2 The JVC hereby undertakes that in order to expedite the grant of Clearances, it will, in a diligent and timely manner, (i) prepare and file applications, which are in full compliance with the Applicable Law, with the concerned authorities; (ii)

follow-up the aforesaid applications with the concerned authorities; and (iii) respond in a timely manner to all requests for further information and clarifications.

- 3.2.3 GOI hereby undertakes that GOI will consider establishment of a single window clearance mechanism/route by means of a single point of contact in GOI for providing assistance on a best endeavour basis to the JVC in liaising with the relevant agencies, authorities, departments, inspectorates, ministries under the control and direction of GOI.

3.3 GOI Services

- 3.3.1 GOI shall, throughout the Term, provide, or cause to be provided, at the Airport the Reserved Activities (other than air traffic control and air navigation services) (hereinafter referred to as the "GOI Services"). Currently, the GOI Services are:

- i. Customs Control;
- ii. Immigration Services;
- iii. Plant Quarantine Services;
- iv. Animal Quarantine Services
- v. Health Services
- vi. Meteorological Services; and
- vii. Security Services.

Provided however, GOI shall at all times have the right, at its option, to require the JVC to undertake and provide any or all of the GOI Services, in whole or in part, on such terms and conditions (including consideration for rendering of such services) as may be reasonably acceptable to both Parties.

- 3.3.2 In order to allow GOI to provide, or procure the provision of, the GOI Services, the JVC shall, at no cost to GOI, or its designated nominees/representatives, provide to GOI, or its designated nominees/representatives, with such access as reasonable so as to enable GOI, or its designated nominees/representatives to provide the GOI Services at the Airport. The JVC shall further provide to GOI, or its designated nominees/representatives, with such space requirements as reasonable so as to enable GOI, or its designated nominees/representatives to provide the GOI Services at the Airport; provided however, that operational space



for provision of GOI Services at the Airport shall be provided at no cost to GOI, or its designated nominees/representatives and back office space shall be provided at 50% of the applicable commercial rent for other back office rentals/office rentals at the Airport.

- 3.3.3 The JVC shall not be entitled to reduce the space and facilities provided to GOI, or its designated nominee/representative at the Airport without the consent of GOI.
- 3.3.4 In the event of any further expansion, modernization or redevelopment of or at the Airport which involves the movement or reconfiguration of any space or facilities used by GOI or its designated nominees/representatives, the JVC shall duly inform GOI, and the JVC and GOI shall, within a reasonable period of time, discuss and agree to any amendments to the space requirements of GOI or its designated nominees/representatives that may be required as a result of such expansion, modernization or redevelopment of or at the Airport. It is expressly acknowledged by the Parties that in such event back office space for GOI Services may be provided outside the terminal buildings.
- 3.3.5 The JVC shall be responsible for procuring and maintaining, at its own cost, all security systems and equipment (except arms and ammunition) as required by GOI/ the Bureau of Civil Aviation Security, or its designated nominee(s)/representative(s), from time to time.
- 3.3.6 The procedures to be adopted for the security of the Airport, passengers, persons working at the Airport and other visitors to the Airport, and aircraft, freight and other property at the Airport shall be laid down by GOI, or its designated nominee(s)/representative(s), from time to time. The JVC hereby undertakes to comply with all such procedures and directions as issued by GOI, or its designated nominee(s)/representative(s), from time to time.
- 3.3.7 The personnel for undertaking Security Services shall be provided by the security agency designated by GOI, or its designated nominee(s)/representative(s), as applicable.
- 3.3.8 The JVC shall, at all times, co-operate fully with the officers of GOI, and its designated nominee(s)/representative(s), providing GOI Services at the Airport.

3.4 Right of First Refusal

- 3.4.1 The "Right of First Refusal (ROFR)" with regard to a second airport within a 150 km (One Hundred and Fifty Kilometer) radius of the Airport will be given to the JVC by following a competitive bidding process, in which the JVC can also



participate if it wishes to exercise its ROFR as set forth below. In the event, the JVC is not the successful bidder but its bid is within the range of 10% of the most competitive bid received, the JVC will have the ROFR by matching the first ranked bid in terms of the selection criteria for the second airport, provided the JVC has satisfactory performance without any material default (being a default entitling the counter party to suspend obligations and/ or terminate the agreement) under any Project Agreement at the time of exercising the ROFR. Provided however, nothing in this Clause 3.4.1 shall apply to any proposal by GOI to develop a second airport at Chakan, Pune or at any other place in its vicinity.

- 3.4.2 The Parties hereby undertake and agree that the provisions of Clause 3.4.1 hereinabove shall cease to have force and effect, and shall no longer be binding upon the Parties, upon the expiry of thirty (30) years from the Effective Date.

3.5 Master Plan Review

- 3.5.1 The JVC hereby undertakes to prepare and submit the first Master Plan to GOI before the expiry of six (6) months from the date of execution of the - OMDA and thereafter update and resubmit the same periodically, every 10 years, in full compliance with the requirements of the OMDA and, additionally, in accordance with the parameters set out herein below:

- The Master Plan must be based on realistic traffic forecasts, as assessed by an independent expert.
- Development under the Master Plan should meet, in a timely way, the traffic forecasts
- Development under the Master Plan should be in accordance with the Development Standards and Requirement
- The initial Master Plan should be consistent to a material extent with the Initial Development Plan and in the event of any variance, satisfactory explanation for the same must be given
- The Master Plan should be consistent with the ultimate vision for the Airport and in full consultation with all relevant Airport users and stakeholders

Provided however that the Master Plan shall, subject to the aforesaid requirements being met, be updated at shorter intervals, if the JVC finds that the traffic growth is such as to require more frequent updates, or at such intervals as may be notified by the AAI or GOI in the event the Airport reaches passenger capacity, cargo capacity; other capacity restraints.

- 3.5.2 Within thirty (30) days of the JVC submitting to GOI the Master Plan in accordance with Clause 3.5.1 hereinabove, GOI shall provide (in writing) to the JVC any comments or suggested changes that GOI may have vis-à-vis the Master Plan, to the extent GOI feels that such Master Plan is in breach of the provisions



set out under the OMDA and/or the parameters set out in Clause 3.5.1 hereinabove are not satisfied. In the event GOI does not, for whatsoever reason, submit any comments and/or suggested changes to the Master Plan in accordance with the provisions of this Clause 3.5.2, within the prescribed time limit, it shall be deemed that GOI has no comments and/or suggested changes to the Master Plan and the Master Plan submitted by the JVC in accordance with Clause 3.5.1 shall be deemed to be the final Master Plan, which shall be binding on the JVC and shall regulate the operation, management and development of the Airport in accordance with the OMDA.

- 3.5.3 In the event GOI provides any comments and/or suggestions to the Master Plan pursuant to Clause 3.5.2 hereinabove, the JVC shall, within fifteen (15) days of receiving any such comments or suggested changes, submit to GOI a revised Master Plan, incorporating reasonable comments and/or changes suggested by GOI.
- 3.5.4 Within fifteen (15) days of the JVC re-submitting the Master Plan in accordance with Clause 3.5.3 hereinabove, GOI shall provide any comments and/or suggested changes that GOI may have vis-à-vis the revised Master Plan, to the extent GOI feels that such Master Plan is in breach of the provisions set out under the OMDA and/or the parameters set out in Clause 3.5.1 hereinabove are not satisfied. In the event GOI does not, for whatsoever reason, submit any comments and/or suggested changes to the revised Master Plan in accordance with the provisions of this Clause 3.5.4, within the prescribed time limit, it shall be deemed that GOI has no comments and/or suggested changes to the revised Master Plan and the revised Master Plan submitted by the JVC in accordance with Clause 3.5.3 shall be deemed to be the final Master Plan, which shall be binding on the JVC and shall regulate the operation, management and development of the Airport in accordance with the OMDA.
- 3.5.5 In the event GOI provides any comments and/or suggestions to the revised Master Plan pursuant to Clause 3.5.4 hereinabove, the JVC shall, within fifteen (15) days of receiving any such comments or suggested changes, submit to GOI the final Master Plan, incorporating reasonable comments and/or changes suggested by GOI. The Parties hereby acknowledge and agree that the final Master Plan submitted by the JVC shall be binding on the JVC and shall govern the operations, management and development of the Airport in accordance with the OMDA.
- 3.5.6 Notwithstanding anything to the contrary contained in this Agreement, the Parties hereby acknowledge and agree that nothing in this Clause 3.5 shall be deemed to be an approval by GOI of any Master Plan (or any part thereof) submitted by the JVC in accordance with the aforesaid provisions, including but not limited to any



minimum projected traffic. It is expressly agreed that it shall be sole responsibility and obligation of the JVC to ensure that the final Master Plan is in full compliance with the requirements of the OMDA and is, additionally, in accordance with the parameters set out in Clause 3.5.1 hereinabove and nothing in this Clause 3.5 shall, in any way, absolve the JVC of its obligation to ensure that the final Master Plan is in accordance with the provisions of the OMDA and the additional parameters set out in Clause 3.5.1 hereinabove or any other obligations under any of the Project Agreements.

3.6 Memoranda of Understanding with GOI Agencies:

The GOI hereby undertakes to use best endeavours to procure the execution of Memorandum of Understanding between the JVC and each GOI agency/department providing the following GOI Services hereunder, setting out the terms and conditions on which the GOI Services shall be provided by the relevant GOI agencies/departments:

- (i) Customs Control;
- (ii) Immigration Services;
- (iii) Health Services;
- (iv) Plant Quarantine Services; and
- (v) Animal Quarantine Services

3.7 GOI Guarantee

The GOI hereby undertakes to provide to the JVC on or before the Effective Date, a guarantee set forth in Schedule 7.

3.8 Major Development Plan Review

- 3.8.1 The JVC must prepare and submit to GOI a Major Development Plan for each major development or any development, which is expected to have a capital cost in excess of Rupees 100,00,00,000/- (Rupees One Hundred Crore Only). Each Major Development Plan must be in accordance with the OMDA and the parameters set out hereinbelow:

- It should be in accordance with the current Master Plan
- It should meet the Development Standards and Requirements
- It should have been subject to consultation with all relevant stakeholders

and, in the case of aeronautical developments, must be the subject of full consultation with airport users and adequately take into account their requirements.



- 3.8.2 The Parties expressly acknowledge and agree that the JVC shall undertake and commence preparation of the Major Development Plans for Mandatory Capital Projects (relatable to the first Master Plan) relating to the design, development and construction of (i) terminal buildings; and (ii) parallel runways at the Airport simultaneously with the commencement of preparation of the first Master Plan. The Parties further acknowledge and agree that the JVC shall submit the Major Development Plan relating to the design, development and construction of (i) terminal buildings; and (ii) parallel runways at the Airport, within six (6) months of the execution date of the OMDA. Within thirty (30) days of the JVC submitting to GOI a Major Development Plan in accordance with Clause 3.8.1 hereinabove, GOI shall provide (in writing) to the JVC any comments or suggested changes that GOI may have vis-à-vis such Major Development Plan, to the extent GOI feels that such Major Development Plan is in breach of the provisions set out under the OMDA and/or the parameters set out in Clause 3.8.1 hereinabove are not satisfied. In the event GOI does not, for whatsoever reason, submit any comments and/or suggested changes to the Major Development Plan in accordance with the provisions of this Clause 3.8.2, within the prescribed time limit, it shall be deemed that GOI has no comments and/or suggested changes to that Major Development Plan and the Major Development Plan submitted by the JVC in accordance with Clause 3.5.1 shall be deemed to be the final Major Development Plan, which shall be binding on the JVC and shall regulate the development, operation and management of that particular development (for which the Major Development Plan was prepared) in accordance with the OMDA.
- 3.8.3 In the event GOI provides any comments and/or suggestions to the Major Development Plan in accordance with Clause 3.8.2 hereinabove, the JVC shall, within fifteen (15) days of receiving any such comments or suggested changes, submit to GOI a revised Major Development Plan, incorporating such comments and/or changes suggested by GOI, that the JVC, in its sole discretion, deems appropriate.
- 3.8.4 Within fifteen (15) days of the JVC re-submitting the Major Development Plan in accordance with Clause 3.8.3 hereinabove, GOI shall provide any comments and/or suggested changes that GOI may have vis-à-vis the revised Major Development Plan, to the extent GOI feels that such Major Development Plan is in breach of the provisions set out under the OMDA and/or the parameters set out in Clause 3.8.1 hereinabove are not satisfied. In the event GOI does not, for whatsoever reason, submit any comments and/or suggested changes to the revised Major Development Plan in accordance with the provisions of this Clause 3.8.4, within the prescribed time limit, it shall be deemed that GOI has no comments and/or suggested changes to that revised Major Development Plan and the revised Major Development Plan submitted by the JVC in accordance with Clause 3.8.3 shall be deemed to be the final Major Development Plan, which shall be binding on the JVC and shall regulate the development, operation and management of that particular development (for which the Major Development Plan was prepared) in accordance with the OMDA.



- 3.8.5 In the event GOI provides any comments and/or suggestions to the revised Major Development Plan pursuant to Clause 3.8.4 hereinabove, the JVC shall, within fifteen (15) days of receiving any such comments or suggested changes, submit to GOI the final Major Development Plan, incorporating such comments and/or changes suggested by GOI, that the JVC, in its sole discretion, deems appropriate. The Parties hereby acknowledge and agree that the final Major Development Plan submitted by the JVC shall be binding on the JVC and shall govern the development of that particular development (for which the Major Development Plan was prepared) in accordance with the OMDA.
- 3.8.6 Notwithstanding anything to the contrary contained in this Agreement, the Parties hereby acknowledge and agree that it shall be sole responsibility and obligation of the JVC to ensure that the final Major Development Plan is in full compliance with the requirements of the OMDA and is, additionally, in accordance with the parameters set out in Clause 3.8.1 hereinabove and nothing in this Clause 3.8 shall, in any way, absolve the JVC of its obligation to ensure that the final Major Development Plan is in accordance with the provisions of the OMDA and the additional parameters set out in Clause 3.8.1 hereinabove or any other obligations under any of the Project Agreements.

CLAUSE 4 INDIAN DEFENCE FORCES AND MILITARY ACTIVITIES

- 4.1 The JVC hereby undertakes and agrees that the Indian Defence Forces shall, at all times have the right to use the Airport and all facilities at the Airport, free of charge without any restriction or constraint of any nature whatsoever. Without prejudice to the generality of the foregoing, the JVC's obligations to the Indian Defence Forces in respect, inter alia, of airspace allocation and closure, runway usage at times of emergencies shall be as decided by GOI from time to time and JVC's obligations to the Indian Defence Forces in respect, inter alia, of airspace allocation and closure, runway usage at times other than emergencies shall be subject to mutual consultations, if any, between JVC and the GOI and as per existing principles and operating procedures of the GOI, and shall be without any relatable compensation to JVC. Provided however that the right of Indian Defence Forces to airspace allocation and runway usage shall not be restricted on account of lack or delay of notification or consultation by GOI. Provided further that the decision as to whether a time is of emergency for the purpose of this clause shall be the sole discretion of GOI.

CLAUSE 5 CO-ORDINATION COMMITTEES

5.1 Joint Co-ordination Committee

- 5.1.1 In order to ensure smooth and efficient rendering of the GOI Services, the Parties hereby undertake and agree to set up a joint co-ordination committee (the "Joint Co-ordination Committee") consisting of (i) the JVC Representative; (ii) the



Customs Control Representative; (iii) the Immigration Services Representative; (iv) the Meteorological Services Representative; (v) the Security Services Representative; (vi) the Plant Quarantine Services Representative; (vii) Animal Quarantine Services Representative (viii) Health Services Representative and (viii) the AAI Representative.

- 5.1.2 The Joint Co-ordination Committee shall, unless otherwise agreed by the Parties to hold the meeting at a later date, meet at least once every quarter at the Airport, starting in the first instance within thirty (30) day(s) of the Effective Date.

5.2 Airport Co-ordination Committee

- 5.2.1 In order to ensure the smooth and efficient operation of the Airport and to facilitate interaction and co-ordination between the JVC and GOI in relation to all policy related matters and decisions undertaken/proposed to be undertaken by GOI in relation to the Airport, the Parties further undertake and agree to set up a co-ordination committee (the "**Airport Co-ordination Committee**") consisting of (i) the JVC Representative; (ii) State Government Representatives; (iii) the GOI Representative; and (iv) the AAI Representative.
- 5.2.2 The Airport Co-ordination Committee shall, hold meetings as required or at the instance of either Party.

CLAUSE 6 STEP IN RIGHTS OF AAI

6.1 Requisition of Airport

- 6.1.1 The Parties hereby expressly acknowledge and agree that in the event of GOI declaring an emergency (as communicated by GOI, through AAI or otherwise, at its sole discretion), AAI shall, upon giving at least seven (7) days written notice to the JVC or upon such shorter notice as may be reasonable taking into account the nature of emergency, have the right, in its sole discretion, to (i) temporarily assume control of the Airport (whether in whole or in part) and to operate and manage the same in accordance with the terms and conditions set out under the OMDA, instead of the JVC during the course and effect of such emergency; or (ii) require the JVC to manage the Airport (whether in whole or in part) in accordance with the directions of the GOI/ AAI during the course and effect of such emergency.
- 6.1.2 The Parties further acknowledge and agree that within seven (7) days of cessation of an emergency or any effect thereof, or such longer time-period as may be reasonable taking into account the nature of emergency, GOI shall use its best efforts to ensure that the Airport (as it stands on that date) is handed back to the

JVC to operate and manage the same in accordance with the terms and conditions of the OMDA.

CLAUSE 7
TERM AND TERMINATION

- 7.1 Subject to Clause 2 above, this Agreement shall come into full force and effect from the Effective Date and shall, unless terminated earlier, continue in full force and effect for the entire term of the OMDA ("Term") and shall be co-terminus with the OMDA. For abundant caution, it is hereby expressly clarified that this Agreement shall terminate automatically with the expiry or early termination of the OMDA.

CLAUSE 8
FORCE MAJEURE

- 8.1 Either Party shall be entitled to suspend or excuse performance of its respective obligations under this Agreement to the extent that it is/ they are unable to render such performance due to an event of Force Majeure..
- 8.2 Where a Party is claiming suspension of its obligations on account of Force Majeure, it shall promptly, but in no case later than seven (7) days after the occurrence of the event of Force Majeure, notify the other Party in writing giving full particulars of the Force Majeure, the estimated duration thereof, the obligations affected and the reasons for its suspension.
- 8.3 A Party claiming Force Majeure shall exercise reasonable diligence to seek to overcome the Force Majeure event and to mitigate the effects thereof on the performance of its obligations under this Agreement provided, however, that the settlement of strikes or differences with employees shall be within the discretion of the Party having the difficulty. The Party affected shall promptly notify the other Parties as soon as the Force Majeure event has been removed and no longer prevents it from complying with the obligations, which have been suspended and shall thereafter resume compliance with such obligations as soon as possible.
- 8.4 Where a Party is prevented from exercising any rights or performing any obligations under this Agreement due to an event of Force Majeure, the time for the performance of the obligations affected thereby or the exercise of any right dependent thereon, shall be extended by such additional period as corresponding to the period of pendency of the event of Force Majeure preventing and/or delaying performance, or such other period as may be agreed between the Parties.
- 8.5 Notwithstanding anything contained hereinabove, if an event of Force Majeure occurs and continues for a period of 365 days, the Parties shall meet to discuss the



consequences of such event of Force Majeure and the course of action to be taken to mitigate the effects thereof or to be adopted in the circumstances.

CLAUSE 9
GOVERNING LAW AND DISPUTE RESOLUTION

- 9.1 This Agreement (including this Clause 9) and all questions of its interpretation shall be construed in accordance with the laws of the Republic of India.
- 9.2 The Parties agree that they shall attempt to resolve through good faith consultation, disputes arising in connection with this Agreement, and such consultation shall begin promptly after a Party has delivered to the other Party a written request for such consultation. Provided that if such good faith consultations have not resulted in a resolution of the dispute within sixty (60) days of such consultations having commenced, the provisions of Clause 9.3 shall apply.
- 9.3 **Arbitration**
- 9.3.1 Any dispute, which could not be settled by the Parties through amicable settlement (as provided for under Clause 9.2 hereinabove) shall be finally settled by arbitration in accordance with the Indian Arbitration and Conciliation Act, 1996.
- 9.3.2 The disputes shall be referred to a tribunal comprising three (3) arbitrators. Each Party to the arbitration shall appoint one arbitrator and the two arbitrators thus appointed shall choose the third arbitrator who will act as a presiding arbitrator of the tribunal (together forming the "**Arbitral Tribunal**"). In the event of failure by the either Party to appoint their arbitrator(s) or by the two arbitrators appointed by the Parties to appoint the third arbitrator, the said arbitrator(s) shall be appointed by the High Court of Delhi.
- 9.3.3 Such arbitration shall, unless otherwise agreeable to the Parties, be held at New Delhi, India. All proceedings of such arbitration shall be in the English language.
- 9.3.4 The decision(s) of the Arbitral Tribunal shall be final and binding on the Parties.
- 9.3.5 Subject to this Clause 9, the Courts at Delhi shall have jurisdiction over this Agreement.



CLAUSE 10
CHANGE IN LAW

- 10.1 The JVC hereby undertakes and confirms that it shall, in accordance with Applicable Law, take best efforts to mitigate the adverse effect of a Change in Law, including obtaining and maintaining, throughout the Term, such insurances (in addition to those set out under the OMDA) for and/or in relation to the Airport, as may be considered prudent in accordance with Good Industry Practice.
- 10.2 If as a result of Change in Law, the JVC suffers an increase in costs or reduction in net after tax return or other financial burden, loss, liability or damage in connection with its development or operation of Aeronautical Services and Aeronautical Assets at the Airport, the aggregate financial effect of which exceeds Rupees ten crores (Rs 10,00,00,000) in any financial year, the JVC may notify GOI and propose amendments to the OMDA so as to put the JVC in the same financial position as it would have occupied had there been no such Change in Law resulting in such cost increase, reduction in return or other financial burden, loss, liability or damage as aforesaid (the "Amendment Notice").
- 10.3 GOI, upon receiving the Amendment Notice by the JVC, shall undertake all reasonable efforts to ensure that AAI agrees to the aforesaid amendments proposed by the JVC to the OMDA and/or this Agreement.
- 10.4 If GOI, despite using its reasonable efforts, is unable to cause AAI to make the necessary amendments to the OMDA within ninety (90) days of receiving the OMDA Amendment Notice, or in the event it is not possible to make suitable amendments to the OMDA, the JVC may by notice in writing require GOI to pay an amount that would put the JVC in the same financial position it would have occupied had there been no such Change in Law resulting in such cost increase, reduction in return or other financial burden, loss, liability or damage as aforesaid ("Compensation Notice"). The Compensation Notice shall be accompanied by such supporting documents and evidences in order to assist GOI to evaluate such claim. In this regard, the JVC further undertakes to provide any and all such assistance as GOI may require in order to evaluate the compensation claim.
- 10.5 GOI shall make payment of such compensation within sixty (60) days of receiving the Compensation Notice and evidences. If GOI shall dispute the quantum of such compensation claim of the JVC, the same shall be finally settled in accordance with the dispute resolution mechanism contained herein.
- 10.6 Notwithstanding anything to the contrary contained in this Agreement, GOI shall not in any manner be liable to reimburse the JVC any sums on account of a Change in Law (as set out in Clause 10.4 above) if the same are recoverable from



the users of the Airport. Provided further that the JVC shall be obligated to undertake best endeavours to recover such amounts from users of the Airport.

- 10.7 Notwithstanding the foregoing, if as a result of Change in Law, the JVC suffers an increase in costs or reduction in net after tax return or other financial burden, loss, liability or damage in connection with its development or operation of Non-Aeronautical Services, Non-Aeronautical Assets at the Airport, then GOI shall not be liable for any financial or other compensation on account of such Change in Law.
- 10.8 If as a result of Change in Law, the JVC incurs a reduction in costs or increase in net after tax return or other financial gain or benefit in connection with its development or operation of Aeronautical Services and Aeronautical Assets at the Airport, the aggregate financial effect of which exceeds Rupees ten crores (Rs. 10,00,00,000/-) in any financial year, the JVC shall notify GOI and pay to GOI an amount that would put the JVC in the same financial position it would have occupied had there been no such Change in Law resulting in such cost reduction, increase in return or other financial gain or benefit as aforesaid.
- 10.9 The JVC shall make payment of such compensation within sixty (60) days of the said financial benefit. Provided however that the GOI may by notice in writing require the JVC to pay an amount that would put the JVC in the same financial position it would have occupied had there been no such Change in Law resulting in such cost reduction, increase in return or other gain or benefit. If the JVC shall dispute the quantum of such compensation claim of GOI, the same shall be finally settled in accordance with the dispute resolution mechanism contained herein.

CLAUSE 11 LIABILITY

- 11.1 The Parties hereby expressly acknowledge and agree that the aggregate liability of GOI in respect of any and all claims arising out of, or in relation to, this Agreement (other than in relation to any Transfer Payments (as defined in the GOI Guarantee set forth in Schedule 7 herein) but including without limitation Change in Law) shall not exceed Rupees fifty crores (Rs. 50, 00, 00,000).

CLAUSE 12 MISCELLANEOUS

- 12.1 Notice



- 12.1.1 Any notice required or permitted under the terms of this Agreement or required by law shall (unless otherwise agreed) be in writing and shall be delivered in person, sent by registered mail or air mail as appropriate, properly posted and fully prepaid in an envelope properly addressed or sent by facsimile to the respective parties as follows:

GOI:

Secretary to Government of India, Ministry of Civil Aviation

Address: Rajiv Gandhi Bhawan, New Delhi .

Fax No.: 91 11 24602397

The JVC:

**Mumbai International Airport Pvt. Ltd.,
CSI Airport , Mumbai .**

Attention: : Sh. G V Sanjay Reddy

Fax No: 91 40 27902665

or to such other address or facsimile number as may from time to time be designated by notice hereunder.

- 12.1.2 Any such notice shall be in the English language and shall be considered to have been given at the time when actually delivered if delivered by hand, or upon the next working day following sending by facsimile or in any other event within three (3) days after it was mailed in the manner hereinbefore provided.

12.2 Severability

- 12.2.1 In the event that any or any part of the terms, conditions or provisions contained in this Agreement shall be determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such terms, conditions or provisions shall to that extent be severed from the remaining terms, conditions and provisions which shall continue to be valid and enforceable to the fullest extent permitted by law.

12.3 Entire Agreement

- 12.3.1 This Agreement, together with all Schedules and attachments hereto, represents the entire agreement and understanding between the Parties with respect to the



subject matter of this Agreement and supersedes any prior agreement or understanding, written or oral, that the Parties may have had.

12.4 Amendment

12.4.1 No addition, amendment or to or modification of this Agreement shall be effective unless it is in writing and signed by both Parties.

12.5 Assignment

12.5.1 Notwithstanding any change in the Applicable Law after the date hereof which might otherwise permit the assignment of this Agreement, no Party may assign this Agreement or any right or obligation arising under or pursuant to it or any benefit or interest herein.

12.5.2 Provided however that notwithstanding the foregoing, the GOI hereby expressly agrees to transfer and novate this Agreement in favour of a substitute entity selected pursuant to the terms of the Substitution Agreement.

12.6 No Partnership

12.6.1 This Agreement shall not constitute or be interpreted to constitute a partnership between the Parties. Neither 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.

12.7 No Waiver

12.7.1 No failure on the part of GOI or the JVC to exercise, and no delay on their part in exercising, any right, power, privilege or remedy under this Agreement will operate as a waiver thereof, nor will any single or partial exercise of any right, power, privilege or remedy preclude any other or further exercise thereof or the exercise of any other right, power, privilege or remedy. Unless specified otherwise, the rights, powers, privileges and remedies provided in this Agreement are cumulative and not exclusive of any other rights, powers, privileges or remedies (whether provided by law or otherwise).



12.8 Bilaterals



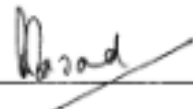
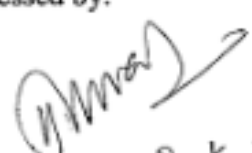
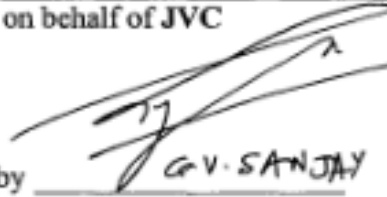

12.8.1 Without impinging on or in any way restricting the sovereign rights of the Government of India, GOI shall, where feasible, endeavour to renew all existing air services agreements and endeavour not to revoke or terminate any existing air services agreements affecting the Airport. For the avoidance of doubt, GOI shall be entitled to revoke or terminate any air services agreement for reason of the failure of another state or its designated carrier(s) to comply with their obligations under, or as a result of a breach by or default of the other party to, such air services agreement.

12.9 Integrity

12.9.1 The JVC hereby represents and warrants to GOI that no sums in cash or kind have been paid to, or accepted by, any person or on behalf by way of fees, commission or otherwise to induce GOI to enter into this Agreement, or to keep this Agreement in continuance, except as provided for in this Agreement.

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed by their duly authorized officers and representatives as of the day and year first above written.

Signed by

For and on behalf of GOI Signed by 	Witnessed by:  B. K. DHAL
For and on behalf of JVC Signed by  G.V. SANJAY REDDY DIRECTOR	Witnessed by:  TERENCE REDDY MACKAY

SCHEDULE 1

PRINCIPLES OF TARIFF FIXATION

Background

If despite all reasonable efforts of the GOI, AERA is not in place by the time required to commence the first regulatory review, the Ministry of Civil Aviation will continue to undertake the role of approving aero tariff, user charges, etc.

Principles

In undertaking its role, AERA will (subject to Applicable Law) observe the following principles:

1. Incentives Based: The JVC will be provided with appropriate incentives to operate in an efficient manner, optimising operating cost, maximising revenue and undertaking investment in an efficient, effective and timely manner and to this end will utilise a price cap methodology as per this Agreement.
2. Commercial: In setting the price cap, AERA will have regard to the need for the JVC to generate sufficient revenue to cover efficient operating costs, obtain the return of capital over its economic life and achieve a reasonable return on investment commensurate with the risk involved.
3. Transparency: The approach to economic regulation will be fully documented and available to all stakeholders, with the Airports and key stakeholders able to make submissions to AERA and with all decisions fully documented and explained.
4. Consistency: Pricing decisions in each regulatory review period will be undertaken according to a consistent approach in terms of underlying principles.
5. Economic Efficiency: Price regulation should only occur in areas where monopoly power is exercised and not where a competitive or contestable market operates and so should apply only to Aeronautical Services. Further in respect to regulation of Aeronautical Services the approach to pricing regulation should encourage economic efficiency and only allow efficient costs to be recovered through pricing, subject to acceptance of imposed constraints such as the arrangements in the first three years for operations support from AAI.
6. Independence: The AERA will operate in an independent and autonomous manner subject to policy directives of the GOI on areas identified by GOI.
7. Service Quality: In undertaking its role AERA will monitor, pre-set performance in respect to service quality performance as defined in the Operations Management Development Agreement (OMDA) and revised from time to time.
8. Master Plan and Major Development Plans: AERA will accept the Master Plan and Major Development Plans as reviewed and commented by the GOI and will not seek to question or



change the approach to development if it is consistent with these plans. However, the AERA would have the right to assess the efficiency with which capital expenditure is undertaken.

9. Consultation: The Joint Venture Company will be required to consult and have reasonable regard to the views of relevant major airport users with respect to planned major airport development.
10. Pricing responsibility: Within the overall price cap the JVC will be able to impose charges subject to those charges being consistent with these pricing principles and IATA pricing principles as revised from time to time including the following:
 - (i) Cost reflectivity: Any charges made by the JVC must be allocated across users in a manner that is fully cost reflective and relates to facilities and services that are used by Airport users;
 - (ii) Non discriminatory: Charges imposed by the JVC are to be non discriminatory as within the the same class of users.;
 - (iii) Safety: Charges should not be imposed in a way as to discourage the use of facilities and services necessary for safety;
 - (iv) Usage: In general, aircraft operators, passengers and other users should not be charged for facilities and services they do not use.

Calculating the aeronautical charges in the shared till inflation – X price cap model

The revenue target is defined as follows

$$TR_t = RB_t \times WACC_t + OM_t + D_t + T_t - S_t$$

Where

TR = target revenue

RB = regulatory base pertaining to Aeronautical Assets and any investments made for the performance of Reserved Activities etc. which are owned by the JVC, after incorporating efficient capital expenditure but does not include capital work in progress to the extent not capitalised in fixed assets. It is further clarified that working capital shall not be included as part of regulatory base. It is further clarified that penalties and Liquidated Damages, if any, levied as per the provisions of the OMDA would not be allowed for capitalisation in the regulatory base. It is further clarified that the Upfront Fee and any pre-operative expenses incurred by the Successful Bidder towards bid preparation will not be allowed to be capitalised in the regulatory base.

WACC = nominal post-tax weighted average cost of capital, calculated using the marginal rate of corporate tax

OM = efficient operation and maintenance cost pertaining to Aeronautical Services. . It is clarified that penalties and Liquidated Damages, if any, levied as per the provisions of the OMDA would not be allowed as part of operation and maintenance cost.

D = depreciation calculated in the manner as prescribed in Schedule XIV of the

Indian Companies Act, 1956. In the event, the depreciation rates for certain assets are not available in the aforesaid Act, then the depreciation rates as provided in the Income Tax Act for such asset as converted to straight line method from the written down value method will be considered. In the event, such rates are not available in either of the Acts then depreciation rates as per generally accepted Indian accounting standards may be considered.

T = corporate taxes on earnings pertaining to Aeronautical Services

S = 30% of the gross revenue generated by the JVC from the Revenue Share Assets. The costs in relation to such revenue shall not be included while calculating Aeronautical Charges.

"Revenue Share Assets" shall mean (a) Non-Aeronautical Assets; and (b) assets required for provision of aeronautical related services arising at the Airport and not considered in revenues from Non-Aeronautical Assets (e.g. Public admission fee etc.)

i = time period (year) i

$$RB_i = RB_{i-1} - D_i + I_i$$

Where:

RB_0 for the first regulatory period would be the sum total of

(i) the Book Value of the Aeronautical Assets in the books of the JVC and

(ii) the hypothetical regulatory base computed using the then prevailing tariff and the revenues, operation and maintenance cost, corporate tax pertaining to Aeronautical Services at the Airport, during the financial year preceding the date of such computation.

I = investment undertaken in the period

The X factor is calculated by determining the X factor that equates the present value over the regulatory period of the target revenue with the present value that results from applying the forecast traffic volume with a price path based on the initial average aeronautical charge, increased by CPI minus X for each year. That is, the following equation is solved for X:

$$\sum_{i=1}^n \frac{RB_i \times WACC_i + OM_i + D_i + T_i - S_i}{(1 + WACC_i)^i} = \sum_{i=1}^n \sum_{j=1}^m \frac{AC_{ij} \times T_{ij}}{(1 + WACC_i)^i}$$

where

AC_{ij} = average aeronautical charge for the j^{th} category of aeronautical revenue in the i^{th} year

T_{ij} = volume of the j^{th} category of aeronautical traffic in the i^{th} year

X = escalation factor

n = number of years considered in the regulatory period

m = number of categories of aeronautical revenue e.g. landing charges, parking charges, housing charges, Facilitation Component etc.





The maximum average aeronautical charge (price cap) in a particular year 'i' for a particular category of aeronautical revenue 'j', is then calculated according to the following formula:

$$AC_i = AC_{i-1} \times (1 + CPI - X)$$

where CPI = average annual inflation rate as measured by change in the All India Consumer Price Index (Industrial Workers) over the regulatory period

The following is an illustrative numeric example of a price cap model showing how the X factor is determined. The example relates to a five-year regulatory period where the X is calculated as an average factor for each of the five years.

Illustrative Numerical Example of the Price Cap Approach

The following is an indicative numerical example illustrating the methodology to calculate aeronautical charges. This is just an example and may not be followed by AERA or the GOI, as the case may be.

Assumptions

AirportCo is an airport company with the following parameters:

Existing regulated asset base = \$500m

Net working capital for aeronautical services = nil

Existing aeronautical revenue = \$67m

Aeronautical related revenue shared in regulated till = 30%

Existing traffic volume = 48 million passengers, aeronautical charges levied on a per passenger basis only

Post-tax nominal WACC = 7.0%

Pre-tax cost of debt = 4.0%

Debt – equity ratio for financing regulatory base = 2:1

CPI based inflation = 3.0%

Book life of existing regulated assets = 32.5 years

Book life of new regulated capital expenditure = 35 years

Rate of corporate tax = 10%, assumed to be the rate of corporate tax applicable to the earnings from Aeronautical Services as computed according to the Indian Income Tax Act

Assumption (all figures in current prices)	2003	2004	2005	2006	2007	2008
O&M Costs (\$m)		20	22	24	26	28
Capex (\$m)		40	50	60	50	40
Aeronautical related revenue	30	32	34	37	39	42
Traffic (passengers million)	48	50	52	54	56	58
Depreciation rate for initial regulated asset base (%)		3.1	3.1	3.1	3.1	3.1
Depreciation rate for new regulated capex (%)		2.9	2.9	2.9	2.9	2.9

Step 1: Determine Target Revenue

Target revenue is O&M plus depreciation plus WACC x RAB plus tax

Step 2: Set escalation factors

The calculations for determining the escalation factor are outlined below:

(\$m)	2003	2004	2005	2006	2007	2008
EBIT – Tax		37	39	42	44	45
less: Interest		14	14	15	16	17
PAT		23	25	26	28	28
add: Tax		3	3	3	3	3
add: Interest		14	14	15	16	17
add: Depreciation		16	17	19	20	22
EBITDA		55	59	64	67	70
add: O&M costs		20	22	24	26	28
less: Share of aeronautical related revenue		10	10	11	12	13
Target revenue requirement		66	71	77	82	85
Discounted target revenue requirement		61	62	62	62	61
Revenue based on escalation factor	67	70	73	76	79	81
Discounted revenue based on escalation factor		65	64	62	60	58
CPI based inflation (%)		3.00	3.00	3.00	3.00	3.00
Index of nominal aeronautical tariffs based on CPI – X	1.00	1.00	1.00	1.00	1.00	1.00
Post-tax nominal WACC used to calculate NPV	7.00%					
NPV of Target Revenue	309					
NPV of expected revenue based on escalation factor	309					
Difference in NPV	0.00					
X factor	+ 2.89%					

The X factor for this numerical example is calculated to be + 2.89% over the five year regulatory period.




SCHEDULE 2 CUSTOMS CONTROL

Functions:

- Customs Control at Walkthrough channel
- Customs Control at Baggage examination counters in Green / Red Channel
- Provision of the services of the Baggage Assistant / Deputy Commissioner within the Baggage Hall
- Customs Control for detained goods
- Customs Control for mis-handled baggage
- Customs Control for valuables
- Customs Control for re-shipment goods
- Customs Control for confiscated goods
- Manning by the gate Officer near Exit Gate
- Issuance of Export Certificate
- Services of relevant officials in connection with Custom's functions
- Air Intelligence Unit



SCHEDULE 3

PLANT PROTECTION AND QUARANTINE SERVICES

Regulatory Functions

- (a) Inspection testing, treatment & release of imported Agriculture commodities to prevent ingress of exotic pests & diseases
- (b) Visual examination & treatment of agriculture commodities meant for export
- (c) Issuance of Phyto-Sanitary Certificate for agricultural commodities meant for export
- (d) Inspection and treatment of imported wood packaging materials
- (e) Post entry quarantine inspection
- (f) Fumigation/disinfestations/disinfection of agricultural commodities

These functions are performed under the Destructive Insects & Pest Act, 1914 and the Plant Quarantine (regulation of import into India) Order, 2003 and its amendments to minimize risk of entry of exotic pests and diseases into the country that may render adverse impact on Indian agriculture. These practices are accepted internationally under the International Plant Protection Convention and are recognized under the Sanitary and Phyto-sanitary agreement of the WTO.



SCHEDULE 4

ANIMAL QUARANTINE SERVICES

REGULATORY FUNCTIONS:

Before Arrival:

- On receipt of application for import of the animal, all the sheds and feed stoves are thoroughly cleaned, disinfected with suitable disinfectants and also fumigated
- All animals are transported on a suitable animal carrier as per the standards and requirements for different species of animals
- The animal carrier is properly disinfected one day prior to the schedule date of arrival of animals
- All the arrangements are made for collection of necessary samples

On Arrival at the Point of Entry:

- On the day of arrival and time fixed with the Importer, the Regional/Quarantine Officer and other staff reach the airport
- The animal or the products are thoroughly examined physically
- The veterinary certificate accompanying the animals or products is checked thoroughly to ascertain the specified health requirements
- After ensuring that the animals are clinically healthy and the health certificates accompanying the consignment are in order, a Provisional Quarantine Clearance Certificate (Import) or Veterinary Health Certificate (Import) is issued depending on the case to the importing agency for customs clearance
- The imported live animals are brought to the quarantine station under the supervision of the Regional/Quarantine Officer
- The animals are kept under the quarantine for 30 days or as specified in the health protocol by the Government of India for monitoring the health status of the animals
- In case of investock products, representative samples shall be drawn and tested in the relevant laboratories as per conditions laid down in the sanitary import permit.



SCHEDULE 5

HEALTH SERVICES

Obligations of Directorate General Health Services (DGHS)

- 1 The Parties hereby record that it is the intention of the DGHS to endeavour to provide at the Airport terminal, the following services and undertake the following activities (hereinafter collectively referred to as the "Health Services"):
 - (a) Medical facilities at the Airport terminal and the cargo complex at all times during the day for the benefit of the passengers, visitors, airline staff, employees and other personnel of AAI and other relevant Government departments;
 - (b) Medical officers and other DGHS personnel to be located at the Airport terminal as decided by DGHS from time to time.
 - (c) DGHS shall from time to time determine the number of staff and fix timings of medical facilities at/around the airport
 - (d) DGHS shall also undertake such other functions at the airport as may be directed by the Central Government from time to time.
- 2 It is clarified that in the event the DGHS does not provide all or any of the Health Services and/ or the facilities mentioned in Clause 1 above, it shall have no liability of any kind whatsoever to the JVC. Any such liability is hereby expressly disclaimed. The JVC hereby expressly acknowledges that it shall have no recourse against the DGHS or any other government body for non-provision or partial provision of any of the Health Services or the facilities mentioned in Clause 1 above.



SCHEDULE 6

AERONAUTICAL CHARGES

Aeronautical Charges, for the purposes of this Agreement, shall be determined in the manner as set out hereunder:

1. The existing AAI airport charges (as set out in Schedule 8 appended hereto) ("**Base Airport Charges**") will continue for a period of two (2) years from the Effective Date and in the event the JVC duly completes and commissions the Mandatory Capital Projects required to be completed during the first two (2) years from the Effective Date, a nominal increase of ten (10) percent over the Base Airport Charges shall be allowed for the purposes of calculating Aeronautical Charges for the duration of the third (3rd) Year after the Effective Date ("**Incentive**"). It is hereby expressly clarified that in the event JVC does not complete and commission, by the end of the second (2nd) year from the Effective Date, the Mandatory Capital Projects required to be completed and commissioned, the Incentive shall not be available to the JVC for purposes of calculating Aeronautical Charges for the third (3rd) year after the Effective Date.
2. From the commencement of the fourth (4th) year after the Effective Date and for every year thereafter for the remainder of the Term, Economic Regulatory Authority / GOI (as the case may be) will set the Aeronautical Charges in accordance with Clause 3.1.1 read with Schedule 1 appended to this Agreement, subject always to the condition that, at the least, a permitted nominal increase of ten (10) percent of the Base Airport Charges will be available to the JVC for the purposes of calculating Aeronautical Charges in any year after the commencement of the fourth year and for the remainder of the Term.
3. For abundant caution, it is hereby expressly clarified that in the event AAI increases the airport charges (as available on the AAI website www.airportsindia.org anytime during the first two (2) years from the Effective Date, such increase shall not be considered for revising calculating the Aeronautical Charges chargeable by the JVC.



SCHEDULE 7

[FORM OF GOI GUARANTEE]

THIS DEED OF GUARANTEE (this "**Guarantee**") executed at Delhi on this _____ day of _____, by:

THE PRESIDENT OF INDIA acting through the Department of Economic Affairs, Ministry of Finance, Government of India (hereinafter referred to as the "**Guarantor**", which expression shall, unless it be repugnant to the subject or context thereof, include their heirs, executors and administrators);

in favour of

Mumbai International Airport Pvt. Ltd. a company incorporated under the Companies Act, 1956 having its registered office at IGI Airport, New Delhi (hereinafter referred to as "**JVC**"- which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and assigns and the Selectee as defined under the Substitution Agreement).

Guarantor and the JVC are hereinafter collectively referred to as "**Parties**" and individually as "**Party**".

WHEREAS:

- (A) JVC is a special purpose vehicle company incorporated, *inter-alia* with the objectives of operating, maintaining, developing, designing, constructing, upgrading, modernising, financing and managing the Airport.
- (B) JVC has entered into an Operation, Management and Development Agreement dated 04.04.2006 (the "**OMDA**") with the Airport Authority of India (the "**Authority**") for operation, maintenance, development, design, construction, upgradation, modernization, finance and management of Airport by the JVC.
- (C) JVC and the Government of India (the "**GOI**") have entered into the State Support Agreement (the "**SSA**") dated [insert].
- (D) Under Clause 3.7 of the SSA, GOI has agreed to furnish a guarantee in respect of the obligations of the Authority to make payments to the JVC in respect of purchase of Transfer Assets and Non-Transfer Assets by the Authority upon termination or expiry of the OMDA as set out therein (the "**Transfer Payments**").



- (E) Accordingly, the Parties are entering into this document to record to terms and conditions of the Guarantee.

NOW IT IS HEREBY AGREED as follows:

1. DEFINITION & INTERPRETATION

1.1 Definition

Capitalised terms and abbreviations used in this Guarantee and not defined herein but defined in the OMDA shall have, unless repugnant to the context, the meaning respectively assigned to them in the OMDA.

1.2 Interpretation

In this Guarantee, unless the context otherwise requires:

- (i) A reference to the singular shall include a reference to the plural and vice-versa; and a reference to any gender shall include a reference to the other gender.
- (ii) A reference to any Article, Clause, Appendix, Schedule, Attachment or Annex shall be to an Article, Clause, Appendix, Schedule, Attachment or Annex of this Guarantee.
- (iii) The Appendices, Schedules, Attachments and Annexes form an integral part of this Guarantee. In the event of any conflict between any provision of the Clauses and any provision of the Appendices, Schedules, Attachments or Annexes, the provision of the Clauses shall prevail.
- (iv) Reference to any law or regulation having the force of law includes a reference to that law or regulation as from time to time amended, modified, supplemented extended or re-enacted.
- (v) Any reference to time shall, except where the context otherwise requires, be construed as a reference to the time in India. Any reference to the calendar shall be construed as reference to the Gregorian calendar.
- (vi) The headings of the Articles, Clauses, Appendices, Schedules, Attachments and Annexes in this Guarantee are inserted for convenience of reference only and shall not affect the meaning or interpretation of this Guarantee.
- (vii) The words "include" or "including" shall be deemed to be followed by "without limitation" or "but not limited to" whether or not they are followed by such phrases.



- (viii) Unless the context otherwise requires, any period of time referred to shall be deemed to expire at the end of the last date of such period.
- (ix) If any provision in Clause 1 is a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to it as if it were a substantive provision in the body of this Guarantee;
- (x) The rule of construction, if any, that a contract should be interpreted against the parties responsible for the drafting and preparation thereof, shall not apply;
- (xi) All references to agreements, documents or other instruments include (subject to all relevant approvals) a reference to that agreement, document or instrument as amended, supplemented, modified, substituted, novated or assigned from time to time.

2. GUARANTEE

- 2.1 The Guarantor hereby irrevocably undertakes that in event the Authority fails to pay to the JVC (including its successors and permitted substitutes), within a period of six (6) months from the Transfer Date, the Transfer Payments (or any part thereof) due under the OMDA, the Guarantor shall, within 60 (sixty) days following the date of receiving from JVC a demand for payment pursuant to this Guarantee (along with all other information as set out in Clause 2.3. hereunder), pay to the JVC the undisputed amount due from the Authority to the JVC in relation to the Transfer Payment together with the interest thereon for the period commencing six months after the Transfer Date up to the date of payment at a rate equal to State Bank of India Prime Lending Rate ("SBI PLR") such interest to be calculated on a daily balance basis, subject to the condition (a) that the Guarantee for equity shall be limited to the book value of the equity of the asset; (b) that the Guarantee shall be limited to either a monetary cap or the depreciated cost of the total project as increased by increase in whole sale price index or the cap could be Debt as at financial close or the debt as at the time of commissioning, whichever ever is lower ("Guaranteed Payments"). For abundant caution, it is hereby expressly clarified that GOI shall not be obligated to make any payments in relation to any Transfer Payments or any interest payable thereon to the JVC, to the extent the same is over and above the Guaranteed Payments. It is further expressly provided that future borrowings for upgradations or renovations, beyond what is expressly provided above, will be deemed as a part of the normal business venture and shall not be guaranteed by Guarantor.
- 2.2 The Parties hereby expressly acknowledge and agree that GOI is liable to pay to the JVC only the undisputed portion of any Transfer Payments (or any part thereof) and / or any interest payable thereon due to the JVC from the Authority. For abundant caution, it is hereby expressly clarified that where the Transfer



Payments (or any part thereof) or any interest payable thereon are disputed whether by AAI or any third party ("**Disputed Amount**"), GOI shall not be liable to pay for any such Disputed Amount pursuant to this Guarantee till such time as the dispute is finally resolved and settled.

- 2.3 The JVC shall along with the demand for payment provide to the Guarantor the following: (a) a copy of the demand for Transfer Payment (or any part thereof) on the Authority; (b) particulars in reasonable detail of such demand, duly certified by the JVC; (c) particulars in reasonable detail explaining the early termination of the OMDA or particulars of expiry of the OMDA; (d) particulars detailing out the extent of Transfer Payment; and (e) a certificate from the JVC and signed by the Authority stating that the said Transfer Payment (or any part thereof) remains unpaid, is correctly computed and is undisputed.
- 2.4 Upon payment by the Guarantor of the Transfer Payment (or any part thereof) and the interest thereon, due to the JVC under this Guarantee, the rights of the JVC to claim and recover such amounts from the Authority shall lapse forthwith to the extent of such payment. Provided however that in such event, the Guarantor shall have a claim against AAI as creditor for such amount.

3. **ASSIGNMENT**

- 3.1 The JVC shall not assign or transfer all or any part of its rights or obligations hereunder without the prior written consent of the Guarantor.

4. **DURATION OF THE GUARANTEE**

- 4.1 This Guarantee shall expire at the earliest to occur of the following events:
- (a) payment by the Authority to the JVC of Transfer Payment due under the OMDA, upon expiry or early termination of the OMDA; or
 - (b) upon disbursement of the Transfer Payment (or part thereof) and interest, if any, by the Guarantor under Clause 2.1 of this Guarantee; or
 - (c) unless the validity of this Guarantee is extended in writing by the Guarantor for such period as may be specified, in case the JVC does not make any demand, as prescribed under Clause 2.1 of this Guarantee, from the Guarantor for payment of the Transfer Payment within sixty (60) days after expiry of six (6) months from the Transfer Date; or
 - (d) [upon expiry of the time initially agreed by Lenders under Financing Documents for repayment of Debt as borrowed by the JVC pursuant to the first financial closure in relation to the Airport].
- 4.2 Upon the expiry of this Guarantee, it shall stand terminated and cease to have effect, and the Guarantor shall be discharged of all the obligations under the



Guarantee; *provided however*, that the expiry of this Guarantee shall not prejudice or affect the liability of the Guarantor in respect of any claims made hereunder resulting from early termination or expiry of the OMDA on or prior to the date of the expiry of this Guarantee.

5. TAXES

- 5.1 All payments made by the Guarantor hereunder shall be made after set off and counterclaim, including any deduction/ withholding on account of any tax, of whatsoever nature and by whomsoever imposed and for deductions and adjustments on account of (i) any amounts due and payable by the JVC to the Authority; and (ii) any insurance monies received by JVC or due and payable to JVC in respect of claims (for the relevant Transfer Assets and Non Transfer Assets being transferred) made since the occurrence of the AAI Event of Default / JVC Event of Default / event of Force Majeure which led to termination of the OMDA or expiry of the OMDA and / or deductions as required by Applicable Law.
- 5.2 The Guarantor shall pay any stamp duty payable in connection with the entry into performance, enforcement or admissibility in evidence of this Guarantee.

6. JVC NOT OBLIGED TO EXHAUST RECOURSE

- 6.1 Subject to Clause 2.1 of this Guarantee, the JVC shall not be obliged before taking steps to enforce this Guarantee, to:
- (a) obtain any judgment or arbitration award against the Authority in any court or before any arbitrator; or
 - (b) make or file any claim in bankruptcy of the Authority.

7. AMENDMENTS TO THE GUARANTEE

- 7.1 For the purposes of this Guarantee, no amendments either verbal or in writing to the OMDA or the SSA which have an impact on or affect the Transfer Payment, as referred to in this Guarantee, shall be made unless such amendments have been executed with the prior written approval of the Guarantor. Any other amendments may be made without the consent of the Guarantor but with prior notice in writing to the Guarantor by the JVC. Any failure to obtain such approval where required, or to give such notice, will result in the amendment being void insofar as it relates to the Guarantor.

8. MISCELLANEOUS PROVISIONS

- 8.1 Subject to Clause 4.1 of this Guarantee, no obligation of the Guarantor hereunder shall be in any way discharged or impaired by reason of any time or other indulgence granted by the JVC to the Authority, by any variation of the OMDA or



by any other act or thing (except the fulfilment by the Authority of the obligations guaranteed hereunder) whereby, but for the provisions of this Clause 8.1, the Guarantor's obligations would be discharged. Subject to Clause 7 of this Guarantee, to the extent that such indulgence or variation impacts on or affects the liability of the Guarantor, it shall not be binding on the Guarantor. (For the avoidance of any doubt, this Clause 8.1 does not have the effect of overriding Clause 7 of this Guarantee.)

- 8.2 This Guarantee shall be in addition to, and not in substitution for, or derogation of, any other security which the JVC may at any time hold in respect of the obligations of the Authority in relation to the Transfer Payment. This, however, will not affect in any way rights which the Guarantor may under law have against the State Government or the Authority.
- 8.3 No failure on the part of the Guarantor or the JVC to exercise, and no delay on the part of the Guarantor or the JVC in exercising, any right or remedy hereunder shall operate as a waiver thereof. No single or partial exercise of any right or remedy shall preclude any other or further exercise thereof or the exercise of any other right or remedy. No waiver by the Guarantor or the JVC shall be effective unless it is in writing. The rights and remedies of the Guarantor or the JVC herein provided are not exclusive of any rights or remedies provided by law.

9. DISPUTE RESOLUTION

- 9.1 **Arbitration** All disputes arising under this Guarantee, shall be referred to a tribunal comprising three (3) arbitrators under the (Indian) Arbitration and Conciliation Act, 1996. Each of the claimants and the respondents to the arbitration shall appoint one (1) arbitrator and the two (2) arbitrators thus appointed shall choose the third arbitrator who will act as a presiding arbitrator of the tribunal (together forming the "Arbitral Tribunal").
- 9.2 The decision(s) of the Arbitral Tribunal, shall be final and binding on the Parties.
- 9.3 The venue of arbitration shall be New Delhi.
- 9.4 This Clause 9 shall survive the termination or expiry of this Guarantee.
- 9.5 The governing law of the arbitration shall be the substantive laws of India.

10. GOVERNING LAW AND JURISDICTION

- 10.1 This Guarantee shall be construed and interpreted in accordance with and governed by the laws of India, and subject to Clause 9 above the Courts at Delhi shall have exclusive jurisdiction over all matters arising out of or relating to this Guarantee.



11. INTENTIONALLY OMITTED

12. NOTICES

- 12.1 All notices, demands or other communications required to be given shall be in writing in the English Language, shall be addressed to the Guarantor or the JVC as the case may be, at the following address (or to any other address as provided by the Guarantor or the JVC to the other in writing) and shall be deemed given on delivery.

GUARANTOR: Secretary to the Government of India,

JVC: Mumbai International Airport Pvt. Ltd,
CSI Airport, Mumbai.

13. ENTRY INTO FORCE

- 13.1 This Guarantee shall come into force on the date of execution hereof.

IN WITNESS WHEREOF THIS GUARANTEE HAS BEEN EXECUTED AND
DELIVERED AS OF THE DATE FIRST ABOVE WRITTEN:

ACCEPTED AND AGREED TO
For and on behalf of
JVC by:



(Signature)
(Name)
(Designation)

SIGNED, SEALED AND DELIVERED
For and on behalf of
THE PRESIDENT OF INDIA by:

(Signature)
(Name)
(Designation)



SCHEDULE 8 BASE AIRPORT CHARGES

Charges	Structure and Level		
Landing Charges	MAUW	Domestic Flights	International Flights
	≤ 21 MT	INR 103 / MT	Not applicable
	≤ 100 MT	INR 170.80 / MT	INR 227.7 / MT
	> 100 MT	INR 17,080 + INR 229.50 / MT in excess of 100 MT	INR 22,770 + INR 306 / MT in excess of 100 MT

Minimum charges of INR 1,000 per landing, except in case of domestic aircraft with MAUW ≤ 21MT

25 per cent surcharge on landing charges for supersonic aircraft

5 per cent surcharge on international landings between 2301–2400 hours IST (peak hour)

5 per cent discount on international landings between 1301–1600 hours IST

15 per cent reduction in landing charges in case of payments within the 15-day credit period for domestic flights

The domestic leg of international routes of Indian operators is treated as domestic flights as far as airport charges are concerned

No landing charges for helicopters and aircraft with seating capacity ≤ 80 and operated by domestic scheduled operators and for helicopters of all types

Housing Charges	AUW	All Flights (rate per hour)
	≤ 100 MT	INR 7.40 MT
	> 100 MT	INR 740 + INR 9.80 MT in excess of 100 MT

Parking Charges When an aircraft is parked in the open, only half of the housing charges are levied. No parking charges are levied for the first 2 hours.

While calculating the free parking time, standard time of 15 minutes is added on account of time taken between touchdown and actual parking time on the parking stand. Another standard time of 15 minutes is added on account of taxiing time of aircraft from parking stand to take off point.

For calculating chargeable parking time, part of an hour shall be rounded off to the nearest hour

Charges shall be calculated on the basis of the nearest MT

Charges for each period parking shall be rounded off to the nearest Rupee

At in contact stands, after free parking hours, normal parking charges are levied for the first two hours. After this period, the charges are double the normal charges.

X-Ray Baggage Charges

Domestic Flights

International Flights

Registered baggage

Registered baggage

Charges	Structure and Level	
	≤ 25 seats: INR 100	For turnaround flights
	26-50 seats: INR 200	for aircraft 747, DC-10
	51-100 seats: INR 450	and Tristar – US\$
		190.50
	101-200 seats: INR 700	For transit flights –
	≥ 201 seats: INR 800	US\$ 135.75

Passenger Service Fees INR 200 per embarking passenger in respect of tickets issued against INR tariffs. US\$ 5 per passenger in respects of tickets issued against dollar tariffs.

For conversion of US\$ to INR the rate as on the 1st day of the month for the first fortnightly billing period and rate as on the 16th of the month for the second fortnightly billing period shall be adopted.

Note: INR = Indian Rupees