



महाराष्ट्र MAHARASHTRA

© 2017 ©

AG 345580

प्रधान मुद्रांक कार्यालय, मुंबई
प.सु.वि.क. ८००००९९
५ - 3 APR 2018
सक्षम अधिकारी

श्रीमती. ए.के. वि. मसूरकर

This non-judicial stamp paper forms an integral part of the **Memorandum of Understanding** dated April 11, 2018 entered into between The Government of India ("GOI") and Navi Mumbai International Airport Private Limited ("Concessionaire").

NM



MEMORANDUM OF UNDERSTANDING

FOR

NAVI MUMBAI INTERNATIONAL AIRPORT PROJECT

BY AND BETWEEN

THE PRESIDENT OF INDIA
(as "GOI")

AND

NAVI MUMBAI INTERNATIONAL AIRPORT
PRIVATE LIMITED
(as "Concessionaire")

Dated: April 11, 2018

NI



TABLE OF CONTENTS

1. DEFINITIONS AND INTERPRETATION	4
2. GOI SUPPORT	6
3. CONCESSIONAIRE'S OBLIGATIONS	10
4. JOINT CO-ORDINATION COMMITTEE	11
5. TERM AND TERMINATION	12
6. REPRESENTATIONS AND WARRANTIES	12
7. GOVERNING LAW AND DISPUTE RESOLUTION	13
8. MISCELLANEOUS	13
ANNEX 1 – ANIMAL QUARANTINE SERVICES	16
ANNEX 2 – CNS ATM SERVICES	17
ANNEX 3 – CUSTOMS CONTROL	18
ANNEX 4 – HEALTH SERVICES	19
ANNEX 5 – IMMIGRATION SERVICES	21
ANNEX 6 – METEOROLOGICAL SERVICES	22
ANNEX 7 – PLANT PROTECTION AND QUARANTINE SERVICES	23
ANNEX 8 – SECURITY SERVICES	24

Gol

NW

Concessionaire



MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MoU") is made at Mumbai on the 11th day of April, 2018:

By and between

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 his successors and assigns);

AND

NAVI MUMBAI INTERNATIONAL AIRPORT PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act, 1956, having corporate identification number U45200MH2007PTC169174 and its registered office at Office of the Airport Director, Terminal 1-B, CSI Airport, Santacruz, Mumbai - 400 099, Maharashtra (hereinafter referred to as the "Concessionaire", which expression shall, unless repugnant to the context or meaning thereof, include its successors, permitted assigns and substitutes).

As the context may require, GOI and the Concessionaire are hereinafter collectively referred to as "Parties" and individually as "Party".

WHEREAS:

- A. The Government of India ("GOI"), vide its letter no. AV.24011/1/95-VB (Vol.VI) dated July 6, 2007 ("GOI Approval") granted its approval for the establishment of the Airport (as defined in the Concession Agreement) for public use at Navi Mumbai in the State of Maharashtra through Public Private Partnership ("PPP"), subject to the terms and conditions stipulated therein.
- B. Based on the GOI Approval, the Government of Maharashtra ("GOM") vide its Government Resolution No. CID-3307/1541/Pra. Kra-144/07/Na Vi-10 dated July 30, 2008 ("GOM Approval"), approved the implementation of the Project (as defined below), and appointed the Authority (as defined below) as a Nodal Agency for the same.
- C. Based upon the representations and submissions made by the Authority, the Applicable Permits that are required prior to the undertaking of the implementation of the Project, were granted to the Authority from the concerned Government Instrumentalities.
- D. Upon the incorporation of the Concessionaire, the Authority and the Concessionaire entered into a Concession Agreement dated January 8, 2018 ("Concession Agreement") *inter-alia* agreeing and providing for the terms and conditions upon which the Concessionaire would develop, operate and maintain the Airport on DBFOT basis.
- E. GOI acknowledges that implementation of the Project requires continued support and grant of certain rights by the GOI to the Concessionaire in accordance with the Applicable Laws and also as hereinafter set forth, and is an essential pre-requisite for mobilisation of resources for the Project.
- F. In consideration of the Concessionaire having entered into the Concession Agreement and for the smooth functioning and viability of the Project, in addition to the obligations of the Authority under the Concession Agreement, the GOI is agreeable to provide certain support to the Concessionaire as stated herein.

GoI

MU

Concessionaire

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this MoU, except to the extent that the context requires otherwise and unless otherwise defined as below or otherwise elsewhere specifically in this MoU, other capitalised terms used herein (and not defined herein) but defined under the Concession Agreement, has the meaning ascribed to the term under the Concession Agreement:

"Airport Health Officer" shall mean the officer appointed as such by the Government of India or any other officer appointed by the Government of India to perform the functions as airport health officer;

"Animal Quarantine Services" shall mean the quarantine services (forming part of the Reserved Services) as set out in Annex 1 attached hereto;

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

"Applicable Permits" shall mean all clearances, licences, permits, authorisations, no objection certificates, consents, approvals and exemptions required to be obtained from the GOI or any department/agency of the GOI and/or thereafter maintained under Applicable Laws in connection with the Project during the subsistence of this MoU;

"Arbitral Tribunal" has the meaning ascribed to the term in Clause 7.3.3 hereunder;

"Authority" shall mean the City and Industrial Development Corporation of Maharashtra Limited, a company incorporated under the Companies Act, 1956, having corporate identification number U99999MH1970SGC014574 and its registered office at Nirmal, 2nd Floor, Nariman Point, Mumbai - 400 021, Maharashtra and represented by its Vice Chairman & Managing Director;

"Authority Representative" shall mean the authorized representative of the Authority;

"CNS/ATM Services" shall mean the services related to communications, navigation and surveillance systems for air traffic management, (forming part of the Reserved Services), as set out in Annex 2 attached hereto;

"CNS/ATM Services Representative" shall mean the authorized representative of the department/agency providing the CNS/ATM Services, nominated by GOI, from time to time, on the Joint Co-ordination Committee;

"Concession Agreement" has the meaning ascribed to it in Recital D above;

"Concessionaire" has the meaning ascribed to the term in the array of Parties or any other party as may be accepted by the Authority as the Concessionaire for the Project;

"Concessionaire Representative" shall mean the representative(s), holding the rank of at least director, nominated by the Concessionaire, from time to time, on the Joint Co-

GOI

M

Concessionaire

ordination Committee;

"Customs Control" shall mean customs related services as set out in Annex 3 attached hereto;

"Customs Control Representative" shall mean the authorized representative of the department/agency providing the Custom Control Services, nominated by GOI, from time to time, on the Joint Co-ordination Committee;

"DGCA" shall mean the Directorate General of Civil Aviation or any substitute thereof;

"Effective Date" shall mean the date of signing of this MOU by the last Party herein and such date shall not be later than the Appointed Date as provided in the Concession Agreement;

"GOI" has the same meaning ascribed to the term in the Recital A of this MoU;

"GOI Approval" has the same meaning ascribed to the term in the Recital A of this MoU;

"GOI Support" has the meaning ascribed to the term in Clause 2 of this MoU;

"GOM" has the same meaning ascribed to the term in the Recital B of this MoU;

"GOM Approval" has the same meaning ascribed to the term in the Recital B of this MoU;

"Health Services" shall mean the mandatory health services (forming part of the Reserved Services) as set out in Annex 4 attached hereto;

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

"Immigration Services" shall mean the immigration services (forming part of the Reserved Services), as per the Applicable Law as set out in Annex 5 attached hereto;

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

"Joint Co-ordination Committee" has the meaning ascribed to the term in Clause 4.1.1 hereunder;

"Meteorological Services" shall mean the meteorological services (forming part of the Reserved Services), as set out in Annex 6 attached hereto;

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

"MoU" or "this MoU" shall mean this Memorandum of Understanding;

"Plant Quarantine Services" shall mean the quarantine services (forming part of the Reserved Services), as set out in Annex 7 attached hereto;

GoI		 Concessionaire
-----	---	---

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

"Project" has the meaning ascribed to the term in the Concession Agreement;

"PPP" has the meaning ascribed to the term in Recital A above;

"Reserved Services" has the meaning ascribed to the term in Clause 2.3;

"Security Services" shall mean the security services (forming part of the Reserved Services), as set out in Annex 8 attached hereto;

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

"Shared Till Approval" has the meaning ascribed to the term in Clause 2.2.1 hereunder; and

"Term" has the meaning ascribed to the term in Clause 5.1.

1.2 Rules of Interpretation

1.2.1 The words and expressions beginning with capital letters and defined in this MoU has the meaning ascribed thereto herein, and the words and expressions used in this MoU and not defined herein but defined in the Concession Agreement shall, unless repugnant to the context, have the meaning ascribed thereto in the Concession Agreement.

1.2.2 References to Clauses are, unless stated otherwise, references to Clauses of this MoU.

1.2.3 The rules of interpretation stated in clauses 1.2, 1.3 and 1.4 of the Concession Agreement shall apply, mutatis mutandis, to this MoU.

2. GOI SUPPORT

With effect from the Effective Date, GOI hereby undertakes to provide the following support in relation to the Project ("**GOI Support**"):

2.1 Applicable Permits

2.1.1 GOI shall, upon written request from the Concessionaire and subject to the Concessionaire complying with Applicable Laws, endeavour to grant to the Concessionaire such Applicable Permits as are required for or in connection with the Project within the relevant statutory period (if any). The Parties agree that where no statutory period is prescribed, GOI shall use all reasonable efforts to grant such Applicable Permits as are required for in connection with the Project within 45 (forty five) days from the date of receipt of such written request from the Concessionaire, subject to the Concessionaire fulfilling all the criteria specified for the purpose of obtaining the Applicable Permits.

2.1.2 The Concessionaire hereby undertakes that in order to expedite the grant of Applicable Permits, it will, in a diligent and timely manner:

- (a) prepare and file applications, which are in full compliance with the Applicable Law,

GOI		 Concessionaire
-----	---	---

with the concerned authorities;

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

2.2 Principles for Determination and Revision of Fees

- 2.2.1 The Ministry of Civil Aviation, GOI has, vide its letter no. F. No. AV.24011/1/95-VB dated December 8, 2014 ("Shared-Till Approval"), approved the 30% (thirty percent) shared-till framework for the determination and regulation of the Aeronautical Charges for the Airport.
- 2.2.2 The Aeronautical Charges shall be regulated and set/ re-set, in accordance with the Shared-Till Approval, the terms of the Concession Agreement and the Applicable Laws. Provided however, the Premium paid/ payable by the Concessionaire to the Authority, under and pursuant to the terms of the Concession Agreement, shall not be included as a part of costs for provision of Aeronautical Services and no pass-through would be available in relation to the same.
- 2.2.3 The Concession Fees shall be considered as a part of the operating expense for the purpose of the determination of the Aeronautical Charges.
- 2.2.4 Any payments made by the Concessionaire to or on behalf of any Government Instrumentality/ agency for providing Reserved Services except Security Services, within the Airport shall be considered as pass through for the purpose of the determination of the Aeronautical Charges.
- 2.2.5 Notwithstanding anything contrary contained elsewhere, the Concessionaire shall be entitled to levy, collect and appropriate the Aeronautical Charges with effect from the Phase I COD as per clause 15.1.1 of the Concession Agreement from the Users of the Airport, at the initial/ ad-hoc rates of the tariff approved by AERA. Such initial/ ad-hoc rates of tariff shall be applicable and valid until the approval of Aeronautical Charges by AERA in accordance with the provisions of the AERA Act and extant AERA guidelines. Appropriate adjustments in the allowable revenues in the tariff order for the first control period shall be made, based on the multi-year tariff proposal filed by the Concessionaire with AERA, in accordance with the AERA Act and extant AERA guidelines.
- 2.2.6 Any under-recovery or over-recovery of the Aeronautical Revenues in respect of the ad-hoc or final Aeronautical Charges approved by AERA for the first control period (currently 5 (five) years) commencing from Phase I COD as per clause 15.1.1 of the Concession Agreement, shall be carried forward and adjusted, while determining the allowable Aeronautical Revenues in the second tariff control period, as per the regulations and guidelines issued by AERA from time to time, provided that such carry-forward or adjustment, shall be available only with respect to under-recovery or over-recovery of Aeronautical Revenues determined by AERA as per the AERA Act and extant AERA Guidelines.
- 2.2.7 The capital cost incurred for provision of housing for the personnel providing Reserved Services (to the extent agreed in memorandum of understanding to be executed with the Reserved Services provider) as per the terms of the Concession Agreement, shall be considered as a part of the regulated asset base. Any reasonable expenditure on maintenance of such facilities will be taken as a part of operation and maintenance expenditure (pass-through). Any amount paid by Reserve Service provider towards rent or maintenance to the Concessionaire, will be considered as Aeronautical Revenue.

GoI

M

Concessionaire

- 2.2.8 The pre-operative expenses paid by the Concessionaire, as per clause 25.2 of the Concession Agreement, shall be capitalised over Project Assets which will form part of the regulated asset base for the purposes of the determination of the Aeronautical Charges.
- 2.2.9 Asset forming part of the Pre-development Works and financed by Soft Loan shall be considered as part of the capital expenditure for the purposes of the determination of the Aeronautical Charges. The interest on Soft Loan, pertaining to Pre-development Works inside and outside the Site to the extent it is part of the mandated cost under the Concession Agreement, will be taken into calculation of FRoR at:
- (a) 0% cost of capital, if no interest is payable/ paid by the Concessionaire to the Authority on the Soft Loan, and
 - (b) the applicable rate of interest as may be payable/ paid by the Concessionaire to the Authority on exercise of optional deferment of the linkage date for the repayment of the Soft Loan as per proviso (ii) to clause 12.9.6 of the Concession Agreement to keep the net present value of the Soft Loan as on the Appointed Date,

for determination of the Aeronautical Charges.

- 2.2.10 Incremental capital costs, if any, borne by the Concessionaire for Land Development Works for airport activities over and above the Soft Loan, to the extent required for the Project work as per the terms of the Concession Agreement, would be considered for inclusion in the regulated asset base with appropriate depreciation rate, by AERA for determination of the Aeronautical Charges.
- 2.2.11 The capital costs incurred for approach roads will normally be taken into regulated asset base. The metro rail station(s) located within the Site of the Airport in which the Concessionaire has made investment and which may be transferred to the metro rail company, will also form part of the regulated asset base with appropriate depreciation rate for determination of the Aeronautical Charges.

2.3 Reserved Services

- 2.3.1 The GOI shall, throughout the Term, provide, or cause to be provided, at the Airport, the following services ("**Reserved Services**"):
- (a) CNS/ATM Services;
 - (b) Customs Control;
 - (c) Immigration Services;
 - (d) Plant Quarantine Services;
 - (e) Animal Quarantine Services;
 - (f) Health Services;
 - (g) Meteorological Services;
 - (h) Security Services;

GOI

MU



(i) any other services as may be designated by the GOI from time to time.

- 2.3.2 The GOI hereby undertakes to procure the performance of the Reserved Services by each Designated GOI Agency. In this regard, the Concessionaire shall provide free of charge, except the cost of utilities (such as electricity, water, etc., which shall be recoverable by the Concessionaire, and in accordance with Good Industry Practices), office space along with necessary office utilities for operational areas for the performance of their respective services and discharging their statutory functions. As regards space for back office usage by the Designated GOI Agency, the Concessionaire can charge the space usage charge upto the maximum rate of 50% (fifty percent) of the applicable market rates.
- 2.3.3 The Concessionaire shall not be entitled to reduce the space and facilities provided to any Designated GOI Agency at the Airport without the consent of that Designated GOI Agency.
- 2.3.4 In the event of any expansion, modernisation or redevelopment at the Airport which involves the movement or reconfiguration of any space or facilities used by any Designated GOI Agency for the purposes of providing the Reserved Services or otherwise, the Concessionaire shall duly inform the Designated GOI Agency and the Concessionaire and that Designated GOI Agency shall discuss and agree on any change to the space requirements of that Designated GOI Agency that may be required as a result of such expansion, modernisation or redevelopment at the Airport.
- 2.3.5 The Concessionaire shall collect rentals for the residential accommodation from the providers of the Reserved Services, which amount shall be paid as per the Applicable Laws/ extant guidelines of the providers of concerned Reserved Services.

2.4 **[Deleted]**

2.5 **Bilateral Air Services Agreement**

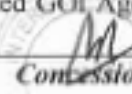
For the purposes of the Bilateral Air Services Agreement(s), the Airport shall be a part of the Mumbai city. Further, without impinging on or in any way restricting the sovereign rights of the GOI, GOI shall, where feasible, endeavour to renew all existing air services agreements and endeavour not to revoke or terminate any existing air services agreements affecting the Airport. 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.

2.6 **Customs, Immigration and Quarantine**

The Concessionaire shall establish the customs, immigration and quarantine procedures at the Airport in accordance with the Applicable Laws. Subject to the fulfilment of the conditions prescribed for obtaining the necessary Applicable Permits in this regard under the Applicable Laws, the GOI will endeavour to facilitate the Concessionaire to obtain such necessary Applicable Permits and resolve any issue pending before GOI.

2.7 **Security**

- 2.7.1 The GOI confirms that unless otherwise agreed under this MOU, it shall through the Designated GOI Agency, provide all aviation security at the Airport in accordance with the provisions of the Applicable Laws. The Parties recognise that the fee levied for security per departing passenger and its collection and utilization thereof will be regulated in accordance with the applicable guidelines issued by GOI or the concerned Designated GOI Agencies/

GOI		 Concessionaire
-----	---	---

Governmental Instrumentalities, from time to time.

- 2.7.2 Without prejudice to the other provisions of this MOU, the Concessionaire shall comply with such rules and regulations established by BCAS and any other Designated GOI Agency in connection with the security of the Airport.
- 2.7.3 The Concessionaire shall be responsible for providing and maintaining all such security equipment as required by BCAS, the designated security agencies and any other Designated GOI Agency from time to time for the provisioning of the security at the Airport.
- 2.7.4 The procedures to be adopted for the security of the Airport building, passengers, persons working at the Airport and other visitors to the Airport and aircraft, freight and other property at the Airport, shall be as prescribed by BCAS and any other Designated GOI Agency. The Concessionaire shall be obliged to comply with all such procedures and directions as issued by BCAS and any other Designated GOI Agency from time to time.
- 2.7.5 The Concessionaire shall co-operate fully with the officers of the designated security agencies and other security agencies at all times.

2.8 Meteorological Service

- 2.8.1 The GOI confirms that it shall, through India Meteorological Department or through any other Designated GOI Agency, cause to provide meteorological services at the Airport in accordance with the practices established or recommended from time to time pursuant to the Chicago Convention on Meteorological Service for International Air Navigation.
- 2.8.2 The functions provided by the India Meteorological Department or through any other Designated GOI Agency and the access and space provided by Concessionaire under this Clause 2.8 shall be provided as per Good Industry Practices.

2.9 Non-Discrimination

Subject to the Applicable Laws and international treaty obligations as in force from time to time, the GOI shall follow a policy of non-discrimination with regard to the classes or descriptions of air traffic that are permitted to use the Airport and subject to reasonable regulations, shall endeavour to not impose any unfair limitations on aircraft movements at the Airport or otherwise restrict the capacity at the Airport.

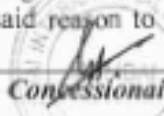
3. CONCESSIONAIRE'S OBLIGATIONS

3.1 Compliance of Concession Agreement, Applicable Laws and Applicable Permits

The Concessionaire will comply with the terms of the Concession Agreement, Applicable Laws and Applicable Permits at all times. The Concessionaire hereby understands, acknowledges and agrees that the GOI will not be under any obligation to perform its part under this MOU, if the Concessionaire is in breach or default of any of the terms of the Concession Agreement, Applicable Laws or Applicable Permits.

3.2 Co-ordination with Government Instrumentalities

The Concessionaire will consult the concerned Government Instrumentalities during the detailed designing stage and the suggestions/ requests of such Government Instrumentalities will generally be adhered by the Concessionaire unless there is an overriding reason for not accepting the same. In such case, the Concessionaire will convey the said reason to the

GOI		 Concessionaire
-----	---	---

concerned Government Instrumentality whose suggestion/ request has not been accepted prior to finalising its design.

3.3 Land for Defence Forces

- 3.3.1 The Concessionaire acknowledges and agrees that the Defence Forces shall, at all times have the right to use the Airport and all facilities thereof, without any restriction or constraint of any nature whatsoever, free of charge. The Concessionaire shall forward the Master Plan of the Project to the Ministry of Civil Aviation for onward submission to Indian Air Force for future planning of strategic assets.
- 3.3.2 Without prejudice to the provisions of Clause 3.3.1 above, the Concessionaire's obligations to the Defence Forces in respect of allocation and closure of airspace and usage of the Airport during an Emergency shall be determined by GOI, and to the extent thereof, the Concessionaire shall be relieved of its obligations to provide services to civilian users of the Airport.
- 3.3.3 A separate parking area for military aircraft shall be earmarked in the Site for use whenever required. In addition, a pocket of 16.42 ha of land will be earmarked for the strategic requirement of the Defence Forces. The Defence Forces shall have the right to construct the required facilities for their use within the earmarked area at their own cost.
- 3.3.4 The Concessionaire agrees and undertakes to cooperate with and assist the Defence Forces in the movement of the aircraft at the Airport and to facilitate the use of the Airport.

4. JOINT CO-ORDINATION COMMITTEE

4.1 Constitution of Joint Co-ordination Committee

- 4.1.1 In order to ensure smooth and efficient rendering of the Reserved Services, the Parties hereby undertake and agree to set up a joint co-ordination committee ("Joint Co-ordination Committee") consisting of:

- (a) Authority Representative;
- (b) Director, Ministry of Civil Aviation as its representative;
- (c) CNS/ATM Services Representative;
- (d) Customs Control Representative;
- (e) Immigration Services Representative;
- (f) Meteorological Services Representative;
- (g) Security Services Representative;
- (h) Plant Quarantine Services Representative;
- (i) Animal Quarantine Services Representative;
- (j) Health Services Representative and
- (k) Concessionaires Representative.

GoI	<u>NU</u>	
-----	-----------	---

- 4.1.2 The Authority shall constitute this committee and head the meetings, with mandate to resolve issues related to provision of Reserved Services. The Ministry of Civil Aviation and the Designated GOI Agencies shall be represented at the meetings by an officer of the level of Director and above.

4.2 Meetings and Support

- 4.2.1 The Joint Co-ordination Committee shall be chaired by the Vice Chairman and Managing Director of the Authority and shall, unless otherwise agreed by the Parties to hold the meeting at a later date, meet at least once every quarter at the Airport or any other location designated by the Authority in the city of the Airport, starting in the first instance within 30 (thirty) day(s) of the Effective Date.
- 4.2.2 GOI hereby undertakes to provide assistance to the Concessionaire in liaising with the relevant agencies, authorities, departments, inspectorates, ministries under the control and direction of GOI, in respect of the implementation, operation and maintenance of the Project.

5. TERM AND TERMINATION

5.1 Term

- 5.1.1 This MoU shall be effective from the Effective Date.
- 5.1.2 This MoU shall terminate automatically with the determination and/or early termination, for whatsoever reason, of the Concession Agreement ("**Term**").

5.2 Termination

- 5.2.1 This MoU shall terminate with immediate effect and shall not become effective, if the Appointed Date is not achieved by the Concessionaire as per the terms of the Concession Agreement.
- 5.2.2 The rights and benefits granted to the Concessionaire pursuant to this MoU shall stand transferred to, and shall enure to the benefit of, any successor and permitted assignee of the Concessionaire or any other Person (including the Authority or any successor of the Authority), that may operate the Airport at any time, in accordance with the terms of the Concession Agreement.

6. REPRESENTATIONS AND WARRANTIES

6.1 By the Concessionaire

The Concessionaire hereby represents and warrants to the GOI that each of the representations and warranties made by it under the Concession Agreement shall *mutatis-mutandis* hold true and correct for the purposes of this MoU, in the form and manner contained therein, including but not limited to its power and authority and requisite corporate actions for the execution and delivery of this MoU.

6.2 By GOI

The GOI hereby represents and warrants to the Concessionaire that it has the right, power and authority and has taken all actions necessary to execute this MoU, exercise its rights and perform its functions, under this MoU on best endeavour basis

GOI		 Concessionaire
-----	---	---

7. GOVERNING LAW AND DISPUTE RESOLUTION

7.1 Governing Law

This MoU (including this Clause 7) and all questions of its interpretation shall be construed in accordance with the laws of the Republic of India.

7.2 Jurisdiction

Subject to the provisions of Clause 7.3 below, the courts of New Delhi shall have exclusive jurisdiction over matters arising out of or relating to this MoU.

7.3 Dispute Resolution

7.3.1 The Parties agree that they shall attempt to resolve, through good faith consultation, disputes arising in connection with this MoU, 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 60 (sixty) days of such consultations having commenced, the provisions of Clause 7.3.2 shall apply.

7.3.2 Subject to the provisions of the AERA Act, any dispute, which could not be settled by the Parties through amicable settlement (as provided for under Clause 7.3.1 hereinabove), shall be finally settled by arbitration in accordance with the Arbitration and Conciliation Act, 1996.

7.3.3 The disputes shall be referred to a tribunal comprising of 3 (three) 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"). The arbitration proceedings shall be conducted in accordance with the Rules. 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.

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

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

8. MISCELLANEOUS

8.1 Notice

8.1.1 Any notice required or permitted under the terms of this MoU or required by Applicable Laws 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:

Address: Ministry of Civil Aviation, Rajiv Gandhi Bhawan, New Delhi
Attn: Secretary, Ministry of Civil Aviation, Government of India
E-mail: secy.moca@nic.in
Fax No.: +91-11-24610358

GoI

MJ



Concessionaire

Authority:

Address: 2nd Floor, Nirmal, Nariman Point, Mumbai – 400 021, Maharashtra

Attention: Vice Chairman & Managing Director

E-mail: cidcomdoffice@gmail.com

Fax No.: +91-22-22022509

Concessionaire:

Address: Navi Mumbai International Airport Private Limited

Attention: Terminal 1, 1st Floor, CSI Airport, Santacruz (E), Mumbai – 400 099

E-mail: sanjayreddy@gvk.com

Fax No.: +91-22-66851618

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

- 8.1.2 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 3 (three) days after it was mailed in the manner hereinbefore provided.

8.2 Force Majeure

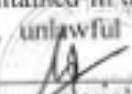
- 8.2.1 Any Party shall be entitled to suspend or excuse performance of its respective obligations under this MoU to the extent that it is/ they are unable to render such performance due to an event of Force Majeure.
- 8.2.2 Where a Party is claiming suspension of its obligations on account of Force Majeure, it shall promptly, but in no case later than 7 (seven) days after the occurrence of the event of Force Majeure, notify the other Parties in writing giving full particulars of the Force Majeure, the estimated duration thereof, the obligations affected and the reasons for its suspension.
- 8.2.3 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 MoU. 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.
- 8.2.4 Where a Party is prevented from exercising any rights or performing any obligations under this MoU 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.
- 8.2.5 Notwithstanding anything contained hereinabove, if an event of Force Majeure occurs and continues for a period of 165 (one hundred sixty five) 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.

8.3 Severability

In the event that any, or any part of the terms, conditions or provisions contained in this MoU shall be determined by any competent authority to be invalid, unlawful or

Gol




Concessionaire

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 Applicable Law.

8.4 Entire Agreement

This MoU, together with all the Annexes hereto, represents the entire agreement and understanding between the Parties with respect to the subject matter of this MoU and supersedes any prior agreement or understanding, written or oral, that the Parties may have had.

8.5 Amendment

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

8.6 Assignment

Notwithstanding any change in the Applicable Law after the Effective Date hereof, which might otherwise permit the assignment of this MoU, no Party may assign this MoU or any right or obligation arising under or pursuant to it or any benefit or interest herein. Provided however that notwithstanding the foregoing, the GOI hereby expressly agrees to transfer and novate this MoU in favour of a substitute entity selected pursuant to the terms of the Substitution Agreement or any other entity accepted by the Authority as the Concessionaire in relation to the Project.

8.7 No Waiver

No failure on the part of GOI or the Authority to exercise, and no delay on their part in exercising, any right, power, privilege or remedy under this MoU 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 MoU are cumulative and not exclusive of any other rights, powers, privileges or remedies (whether provided by law or otherwise).

GOI




Concessionaire

ANNEX I – ANIMAL QUARANTINE SERVICES

A. *Before Arrival:*

- (i) On receipt of an application for import of the animal, all the sheds and feed stores are thoroughly cleaned, disinfected with suitable disinfectants and also fumigated;
- (ii) All animals are transported on a suitable animal carrier, as per the standards and requirements for different species of animals;
- (iii) The animal carrier is properly disinfected one day prior to the scheduled date of arrival of animals;
- (iv) All the arrangements are made for collection of necessary samples.

B. *On Arrival at the Point of Entry:*

- (i) On the day of arrival and time fixed with the Importer, the Regional/Quarantine Officer and other staff reach the airport;
- (ii) The animal or the products are thoroughly examined physically;
- (iii) The veterinary certificate accompanying the animals or products is checked thoroughly to ascertain the specified health requirements;
- (iv) 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;
- (v) The imported live animals are brought to the quarantine station under the supervision of the Regional/Quarantine Officer;
- (vi) 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;
- (vii) In case of livestock products, representative samples shall be drawn and tested in the relevant laboratories as per conditions laid down in the sanitary import permit.

Gol

M



ANNEX 2 – CNS ATM SERVICES

GOI, through AAI or any other Designated GOI Agency, throughout the Term, provide or cause to be provided, at the Airport following CNS/ ATM Services, through a separate CNS/ATM agreement:

- (a) cause to be provided the 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 applicable to similar services at other airports in India, and in compliance with the directions of DGCA;
- (b) cause to be maintained the CNS/ATM Equipment, including carrying out of periodic flight calibration and tests of the CNS/ATM Equipment;
- (c) cause to be upgraded the CNS/ATM Equipment from time to time (i) as a minimum to comply with the relevant provisions of the Civil Aviation Requirements notified by DGCA to meet the operational requirements of current traffic demand and in accordance with Applicable Laws including the relevant ICAO Documents and Annexes; and (ii) as a result of the expansion/ upgradation of the Airport;
- (d) cause to be purchased at its own cost or at the cost of the Designated GOI Agency, as the case may be, the equipment required from time to time, for providing CNS/ATM Services at the Airport;
- (e) procure Meteorological facilities 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 at other similar airports in India; and
- (f) cause the Designated GOI Agency empowered to control and regulate air traffic to enable movement of aircrafts on the Runway in accordance with Applicable Laws and Good Industry Practice.

GOI

NV



ANNEX 3 – CUSTOMS CONTROL

- (a) Customs Control at Walkthrough Channel;
- (b) Customs Control at baggage examination counters in Green / Red Channel;
- (c) Provision of the services of the Baggage Assistant / Deputy Commissioner within the Baggage Mall;
- (d) Customs Control for detained goods;
- (e) Customs Control for mishandled baggage;
- (f) Customs Control for valuables;
- (g) Customs Control for re-shipment goods;
- (h) Customs Control for confiscated goods;
- (i) Manning by the Gate Officer near Exit Gate;
- (j) Issuance of Export Certificate;
- (k) Services of relevant officials in connection with Custom's functions;
- (l) Air Intelligence Unit.

ANNEX 4 – HEALTH SERVICES

PART A – Health Services

- (a) Health Services (“**Health Services**”) at International Airports are of two types:
- (i) Public Health Services; and
 - (ii) Medical/Flight Emergencies
- (b) Public Health Services are primarily provided by Airport Health Organization (“**APHO**”) officials appointed by DGHS/ MoHFW. APHO can also assist the other agencies responsible for providing medical care, when required. The detailed roles and responsibilities of APHO are set out in Part of this Annex 4.
- (c) The Parties hereby record that it is the intention of the DGHS/ MoHFW to endeavour to provide at the Airport terminal, the following services and undertake the following activities (“**Health Services**”):
- (i) “Public Health Services” including those provisioned under IHR-2005 at the Airport Terminal Building and the cargo complex at all times.
 - (ii) For the purpose of public health services, personnel, equipment and services shall be provided free of cost by DGHS/ MoHFW. Operational space inside the terminal building and land (for construction of quarantine centre) outside the terminal shall be provided by the Concessionaire. Details of space requirement for this purpose are detailed out in Part C of this Annex 4.
 - (iii) Coordination with regard to public health services amongst various agencies at the Airport during the times of any public health emergency shall be facilitated by the Concessionaire.
 - (iv) The Concessionaire shall identify a specialized agency to provide emergency medical treatment to passenger’s/ Airport staff. APHO shall assist the agency in case of need for medical and flight emergencies. This agency shall also support APHO during the times of a public health emergency.
 - (v) APHO staff and other DGHS personnel to be located at the Airport Terminal Building, as decided by DGHS from time to time.
 - (vi) DGHS shall, from time to time, determine the number of staff and fix timings of medical facilities at/ around the Airport.
 - (vii) DGHS shall also undertake such other functions at the Airport as may be directed by the Central Government from time to time.
- (d) It is clarified that in the event the DGHS/MoHFW does not provide all or any of the Health Services and/or the facilities mentioned in Para (c)(i) above, it shall have no liability of any kind whatsoever to the Concessionaire. Any such liability is hereby expressly disclaimed. The Concessionaire hereby expressly acknowledges that it shall have no recourse against the DGHS/ MoHFW or any other government body for non-provision or partial provision of any of the Health Services or the facilities mentioned in Para (c)(i) above.

Gol	NJ	M	Concessionaire
-----	----	---	----------------



PART B – Role of Airport Health Officer (as per IHR 2005)

Airport health officer shall,

- (a) be responsible for surveillance and application of public health measures at the airports, including health screening and medical examination of the travellers, if necessary, and inspection of baggage, cargo, containers, aircraft and conveyances, facilities, goods and postal parcels, human remains and relevant documents, whenever necessary;
- (b) supervise and coordinate with the concerned agency to ensure that facilities used by travellers are maintained in a sanitary and hygienic condition including potable water supplies, public wash rooms, appropriate liquid and solid waste disposal facilities and are kept free of sources of infection and contamination, including vectors by conducting periodic inspections;
- (c) supervise and provide technical guidance to the concerned agency for disinfection, disinfection and decontamination of baggage, cargo, containers, aircraft or conveyances, facilities, goods and postal parcels and human remains as appropriate;
- (d) provide technical guidance to the concerned agency for removal and safe disposal of any contaminated water, food, human or animal remains or excreta, waste water and any other contaminated matter from an aircraft and airport premises;
- (e) provide in place effective contingency plan to deal with public health emergency of international concern and any other infectious disease and shall direct the aircraft or conveyance operator for taking preventive measures;
- (f) disseminate information to the concerned agencies at the airport regarding the public health emergency of international concern and the measures to deal with it;
- (g) communicate as quickly as possible, with the National IHR focal point on the relevant surveillance activities, potential public health risk, and public health measures;
- (h) take all practicable measures to monitor and control the potentially disease-causing agents which might contaminate the airport premises;
- (i) coordinate additional health measures at the Airport as decided by the Government of India in the event of public health emergency of international concern;
- (j) consider, if there are verifiable indications or evidence that the measures applied on departure from the affected area were unsuccessful, imposition of and additional health measures for travellers, aircraft or cargo, containers, conveyances, goods, postal parcels and human remains arriving from an affected area on arrival.

PART C – Details regarding requirement of Space at Airport

A health unit requires provision of space (around 600 Sq. ft.) for operational functions (in pre-immigration area) and space (approx. 1550 sq. mtrs.) for establishing quarantine facility (preferably within the Airport Complex) for admitting any suspect traveller.

Gol	N	Concessionaire
-----	---	----------------

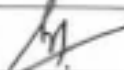
ANNEX 5 – IMMIGRATION SERVICES

Providing Immigration facilitation and service at the Airport and work relating to registration of foreigners under Applicable Laws.

<i>Gol</i>	<i>NU</i>	<i>h</i>	<i>Concessionaire</i>
------------	-----------	----------	-----------------------

ANNEX 6 – METEOROLOGICAL SERVICES

This includes provision of aviation weather services according to the technical provisions of the ICAO, Annex 3 and the World Meteorological Organization, as well as standards and recommended practices of Designated GOI Agency and conventions in air navigation towards the safety of aircraft operation.

Gol	N			Concessionaire
-----	---	--	---	----------------

ANNEX 7 – PLANT PROTECTION AND QUARANTINE SERVICES

These functions are performed under the Destructive Insects & Pests 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. Such functions include the following:

- (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.

ANNEX 8 - SECURITY SERVICES

- (a) Providing security through designated GOI Agency, in accordance with Annex 17 to Chicago Convention of ICAO, for airport operators, airlines operators, and their security agencies responsible for implementing AVSEC measures;
- (b) Ensure that designated GOI Agency and its persons implementing security controls are appropriately trained and possess all competencies required to perform their duties;
- (c) Planning and coordination of Aviation security matters;
- (d) Conducting - Surprise/Dummy checks through designated GOI Agency to test professional efficiency and alertness of security staff and mock exercises to test efficacy of Contingency Plans and operational preparedness of the various agencies.
- (e) BCAS, the designated security agency for Civil Aviation matters may be consulted for the space allowed to the shops/ outlets of the Concessionaire, to prevent blockage of passenger movement area and evacuation route.
- (f) The Concessionaire shall be required to follow all the security procedures. The goods of Concessionaire must be allowed to enter into the terminal building only after screening of goods screening point. Proper infrastructure like X-BIS, DFMD, HHMD etc. should be provided at goods screening point.
- (g) The staff of Concessionaire should be issued proper Airport Entry Permit and background checks of each of their employees should be carried out before issue of Airport Entry Permit.
- (h) Immigration being a sovereign function, Bureau of Immigration shall be exempted from payment of rent/ license fee/electricity bill/water charges. Any agreement of Bureau of Immigration/ CISF with the private party on the performance of Government function is not acceptable.

GoI

M

Page 24 of 25

[Signature]

Concessionaire

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

ged by

and on behalf of **GOVERNMENT OF INDIA**

Signature: M. Nayan Choubey

Mr. Rajiv Nayan Choubey

Signature: Secretary, Ministry of Civil Aviation, Government of
a

and on behalf of the **Concessionaire, NAVI MUMBAI
INTERNATIONAL AIRPORT PRIVATE LIMITED**

Signature: G. V. K. Reddy

Dr. GVK Reddy

Signature: Chairman, Navi Mumbai International Airport Private
imited

Witnessed by:

Arun Kumar
JSMOCA
ARUN KUMAR

Witnessed by:

A. K. JAIN
CEO, MIDL