

DELHI INTERNATIONAL AIRPORT LIMITED



SERVICE AGREEMENT

FOR

INTEGRATED INDOOR LANDSCAPE MANAGEMENT AND GARDENING SERVICES

AT

INDIRA GANDHI INTERNATIONAL AIRPORT, NEW DELHI

AGREEMENT

This Service Agreement is made on this [●] day of [●] [●] 2025, by and between:

DELHI INTERNATIONAL AIRPORT LIMITED, a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at New Udaan Bhawan, Opposite Terminal 3, Indira Gandhi International Airport, New Delhi – 110 037 (hereinafter referred to as “**DIAL**”, which expression, unless repugnant to the context or meaning thereof, shall be deemed to mean and include its successors and assigns);

AND

[●], an entity incorporated under the provisions of [●] and having its registered office at [●] (hereinafter referred to as “**Service Provider**”, which expression, unless repugnant to the context or meaning thereof, shall be deemed to mean and include its successors and permitted assigns);

Each of DIAL and the Service Provider are individually referred to as “**Party**” and collectively referred as “**Parties**”.

RECITALS

- A. AAI (*as defined hereinafter*) and DIAL entered into an operation, management and development agreement dated April 04, 2006 (“**OMDA**”) whereby AAI granted to DIAL the exclusive right and authority during the term of OMDA (including any extension thereof) to operate, maintain, develop, design, construct, upgrade, modernize, finance and manage the Airport (*as defined hereinafter*).
- B. Subject to the terms of OMDA, DIAL has the exclusive right to enjoy complete and uninterrupted possession and control of the Airport for the purpose of providing the Aeronautical Services (*as defined in OMDA*) and the Non-Aeronautical Services (*as defined in OMDA*).
- C. DIAL had accordingly issued the request for proposal dated [●] (“**RFP**”) requesting the bidders to submit their proposals in response to the RFP for the award of the Services (*as defined hereinafter*).
- D. After evaluation of the bids received, DIAL had accepted the Proposal of the Selected Bidder dated [●] for the performance, execution and implementation of the Services at the Service Areas (*defined hereinafter*) and issued the letter of intent to award, dated [●], (“**Letter of Intent to Award**” or “**LOIA**”) to the Selected Bidder requiring, *inter alia*, the execution of this Agreement.
- E. The Service Provider has in its Proposal represented that it has the experience, expertise, capability and know-how in provision of landscaping and gardening services which are similar to Services, and shall ensure that the Services are performed, executed and implemented, in compliance with international standards and in accordance with the terms of this Agreement and Applicable Laws in a safe and environmentally responsible manner. The Selected Bidder has agreed to enter into this Agreement with DIAL for undertaking and implementing the Services to the satisfaction of DIAL, in accordance with the terms set forth hereunder.
- F. Pursuant to the Bid Process, and relying upon the representations, covenants and warranties of the Service Provider, DIAL hereby engages the Service Provider for the performance and provisioning of the Services (*as hereinafter defined*), and the Service Provider hereby agrees to provide such Services, subject to and in accordance with the terms and conditions of this Service Agreement.

NOW THEREFORE, in consideration of the premises and the mutual terms and conditions hereinafter set forth, the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

The following words and expressions used in this Agreement shall have the meanings respectively assigned below:

“**AAI**” shall mean the Airports Authority of India constituted under Airports Authority of India Act, 1994.

“**Access Date**” shall mean the date on which the Service Provider is allowed access to the Service Areas by DIAL by way of a hand over take over document which shall be duly signed by both the Parties.

“**Additional Supply**” shall mean any supply of material(s) by the Service Provider to DIAL, in the event of unavailability of such material(s) at DIAL Nursery, at such rates as are applicable under the SOR.

“**Agreement**” / “**Service Agreement**” shall mean this Service Agreement, together with all schedules, appendices and annexes hereto, in each case as from time to time supplemented, modified or replaced as provided for herein.

“**Airport**” shall mean the Indira Gandhi International Airport at New Delhi, as located on the Airport Site.

“**Airport Site**” shall have the meaning as ascribed to such term in the OMDA.

“**Applicable Law(s)**” shall mean and include all laws or bye-laws, whether federal law, state law, local law or municipal law (statutory, common or otherwise), including, any and all statutes, regulations, rules, notifications, ordinances, protocols, codes, policies, notices, directives, directions, guidelines, licenses, approvals, office orders or memorandums, judgements, orders, decrees, requirements or restrictions or any similar form of decision or determination or administration or interpretation, having the force of law of any of the foregoing, issued by any government or regulatory authority. It is clarified that the term “Applicable Law” also means and includes, (a) the OMDA, (b) the Civil Aviation Requirements issued by DGCA from time to time, or (c) any rules, regulations, guidelines, policies, office orders or memorandums, or circulars framed / issued by AAI or DGCA or BCAS or DIAL, as may be in force and effect during the subsistence of the Agreement.

“**Applicable Taxes**” shall mean any and all taxes (direct and indirect taxes, custom duty), state and central taxes, levies, imposts, duties, charges, fees (statutory fee or charges) deductions or withholdings tax (as applicable) at present or during the Term that are, or that are to be, imposed, levied, collected, withheld or assessed; by Government Authority / Relevant Authority; together with any and all interest, penalties, claims or other liabilities arising under or relating thereto.

“**Approvals**” shall mean all authorizations, consents, approvals, including any statutory approvals, notifications and permissions and any license, permit, ruling, exemption or other authorization of whatsoever nature, which is required to be obtained to give effect to and for performance and provisioning of the Services in pursuance of the Agreement,

and all other approvals as may be required to obtain, including but not limited to the approvals from airport authorities and the approvals and consents required from DIAL or under OMDA or from other Governmental Authority, including any third party approvals as may be required by the Service Provider for provisioning of Services.

“Bill of Quantities” shall mean the detailed breakup of each item of the Services as provided by the Service Provider in the Proposal and a summary of which is provided in Schedule 5 of this Agreement.

“Control” shall mean: (i) the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person acting individually, directly or indirectly, including by virtue of their shareholding or management rights or shareholders’ agreements or voting agreements or in any other manner; or (ii) to have the direct and / or indirect shareholding (cumulative) of more than 50% (Fifty percent) in the issued and paid-up share capital whether itself and/ or through one or more subsidiaries. The terms “Controls” and “Controlled by” shall be construed accordingly.

“Contract Sum” shall mean the aggregate amount stated by the Service Provider in the Proposal for performance and provisioning of Services which shall be charged by the Service Provider, subject to the terms and conditions of the Agreement and as more particularly prescribed in Schedule 5.

“Day” or **“day”** shall mean a calendar day of twenty four (24) hours measured from midnight to the next midnight.

“DIAL Nursery” shall mean the plant nursery located at the Airport, which is authorised by DIAL to be utilised for the storage of the planters, plants, and all related material, machinery, tools-tackles, Service Provider Equipment’s, to be utilised for the Services during the Term..

“Effective Date” shall mean [.]¹.

“Encumbrance” shall mean any mortgage, right of way, pledge, equitable interest, prior assignment, conditional sales contract, hypothecation, right of others, claim, security interest, title retention agreement, voting trust agreement, interest, option, lien, charge, easement, encroachment or other condition, commitment, restriction or limitation of any nature whatsoever, including, any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership. The word “Encumber” shall be construed accordingly

“GoI” shall mean the Government of India and any agency, authority (including regulatory authority), department, inspectorate, ministry or statutory person (whether autonomous or not) under the control and direction of Government of India.

“GoNCT” shall mean the Government of National Capital Territory and any agency, authority (including regulatory authority), department, inspectorate, ministry or statutory person (whether autonomous or not) under the control and direction of Government of National Capital Territory, including but not limited to Delhi

¹ Date will be inserted at the time of execution of the Agreement basis the LOIA.

Development Authority, Delhi Cantonment Board, Municipal Corporation of Delhi, etc.

“**Good Industry Practice**” shall mean the exercise of that degree of skill, diligence, efficiency, reliability, prudence & foresight and those practices, methods, specifications and standards of equipment, safety, services and performance, as may change from time to time and which would reasonably and ordinarily be expected to be used by a skilled and experienced international operator / contractor engaged in designing, construction, operation and maintenance of a project similar to the Services.

“**Relevant Authority**” / “**Governmental Authority**” shall mean and include any supra-national authority or national, state, municipal, district or local governmental or quasi-governmental authority or regulatory authority or statutory authority, including any subdivision, governmental department, agency, board, commission or tribunal or court or other authority thereof, having or purporting to have jurisdiction on the Republic of India, or any state, municipal, district or local or other subdivision thereof in relation to the Airport and the Services. For avoidance of doubt, it is clarified that the term Relevant Authorities and/or the “Governmental Authority” will include but is not limited to (a) any person acting under the authority or directives of any such Governmental Authority and/or Relevant Authority, (b) the Government of India, (c) the GoNCT, (d) the Ministry of Civil Aviation, (e) the DGCA, (f) AAI, (g) Bureau of Civil Aviation Security, (h) the Municipal Corporation of Delhi; and (i) Central Industrial Security Force.

“**Month**” means a Gregorian English calendar month.

“**OMDA**” shall mean the Operation, Management and Development Agreement dated April 4, 2006 signed between AAI and DIAL.

“**Performance Bank Guarantee**” shall mean the performance bank guarantee to be furnished by the Service Provider from a Scheduled Bank in favour of DIAL, in the format prescribed in **Schedule 8** hereto, in accordance with the terms of Clause 7 of this Agreement.

“**Proposal**” shall mean the proposal dated [●] submitted by the Service Provider to DIAL in response to the RFP.

“**Scheduled Bank**” shall mean the Indian scheduled bank as defined under the Reserve Bank of India Act, 1934 (3 of 1934).

“**Schedule of Rates**” or “**SOR**” shall mean the per unit rate quoted by the Service Provider in the Bill of Quantities for different consumables and items for rendering the Services as set out in **Schedule 5**.

“**Selected Bidder**” shall mean the bidder whose Proposal was shortlisted pursuant to the RFP for undertaking the provisioning and performance of Services in accordance with the terms of this Agreement.

“**Service Provider Equipment**” shall mean the landscaping management and gardening services related equipment, vehicles and tools and tackles to be procured by

the Service Provider for the provision of Services in accordance with the terms of this Agreement and as set out in **Schedule 2** of this Agreement.

“**Services**” shall mean the landscaping management and gardening services and other associated services at the Service Areas to be provided by the Service Provider in accordance with the terms of this Agreement and as more particularly set forth in Part A of **Schedule 3** of this Agreement.

“**Service Areas**” shall mean and include location(s) as set out in **Schedule 1** of this Agreement.

“**Service Performance Standards**” shall mean the minimum service standards, requirements and/or parameters required to be achieved and maintained by the Service Provider in connection with the Services, as set out in Part B of the **Schedule 3** of this Agreement.

“**Service Team**” shall mean the team deployed by the Service Provider as more particularly set out in **Schedule 4** of this Agreement.

“**Term**” shall mean the period commencing from the Effective Date and expiring on April 30, 2030 unless terminated earlier in accordance with the terms of the Agreement;

“**Year**”/ “**Financial Year**”/ “**FY**” shall mean a period of 12 (twelve) consecutive months commencing from the first day of April of any year. Provided that the first Year shall mean the period commencing from the Effective Date and ending on the immediately succeeding 31st (thirty first) day of the month of March. Further provided that if the Agreement terminates prior to the end of a Year, the period from the commencement of that Year till the date of termination of the Agreement shall be construed as a Year.

1.2 Interpretation

Unless otherwise stated or unless the context otherwise requires, in this Agreement:

- (a) The titles or headings of the Clauses in this Agreement have been included solely for ease of reference and shall not be considered in the interpretation or construction of this Agreement;
- (b) For the purpose of this Agreement, where the context so admits, (i) the singular shall be deemed to include the plural and vice-versa, (ii) the word “include” and “including” shall be construed without limitation, and (iii) any reference to month shall mean a reference to an English calendar month;
- (c) Where a word or phrase is defined, other parts of speech and grammatical forms of that word or phrase shall have corresponding meanings;
- (d) References to the Recitals, Clauses and annexures shall be references to the recitals, Clauses and annexures of this Agreement. References to this Agreement shall mean and include an appropriate reference to the annexures. Recitals form part of this Agreement;

- (e) In addition to the terms defined in Clause 1.1, certain other capitalized terms are defined elsewhere in this Agreement and whenever such terms are used in this Agreement they shall have their respective defined meanings, unless the context expressly or by necessary implication otherwise requires;
- (f) References to a “person” shall, where the context so admits, include references to natural persons, partnership firms, companies, bodies corporate and associations, whether incorporated or not or any other organization or entity including any governmental or political subdivision, ministry, department or agency thereof;
- (g) Any reference herein to a statutory provision shall include such provision, as is in force for the time being and as from time to time, amended or re-enacted in so far as such amendment or re-enactment is capable of applying to any transactions covered by this Agreement. Any references to an enactment include references to any subordinate legislation made under that enactment and any amendment to, or replacement of, that enactment or subordinate legislation. Any references to a rule or procedure include references to any amendment or replacement of that rule or procedure;
- (h) Doctrine of Contra Proferentem shall not be applicable.

2. ENGAGEMENT OF THE SERVICE PROVIDER

- 2.1 Relying and acting upon the representations, warranties and covenants of the Service Provider as more particularly set out hereunder, DIAL hereby appoints the Service Provider to provide and perform the Services on non-exclusive basis at the Service Areas from the Effective Date and the Service Provider hereby accepts the appointment for the provision of the Services.
- 2.2 The Service Provider shall be responsible to obtain all necessary Approvals and permits for provision of Service on the Effective Date and shall continue to maintain the same during the entire Term. The Service Provider shall ensure that the Service Provider has all registrations and security clearance from Bureau of Civil Aviation Security (BCAS) and the personnel of the Service Team who are required to enter the Service Areas, has Airport Entry Passes, if required by the BCAS and any approval as may be required from DIAL.
- 2.3 The Services shall be performed and implemented fully and faithfully by the Service Provider, during the Term, in accordance with the terms of this Agreement, the Service Performance Standards, the Applicable Laws and Good Industry Practice, or as may be reasonably inferred from this Agreement to the satisfaction of DIAL.
- 2.4 The Service Provider acknowledges that it is essential that it cooperates fully and in every reasonable way with DIAL as well as all airport contractors, other service providers, licensees, concessionaires and all other entities providing services at the Airport, including, BCAS, police and other Government Authorities working at the Airport (collectively referred to as “**Airport**”

Operation Entities”) to ensure that the Airport functions seamlessly and without impacting its operational efficiency. The Service Provider undertakes and agrees to provide such cooperation to DIAL, Airport Operation Entities as is necessary to ensure optimal operational efficiency of the Airport and shall comply with all reasonable requests and directions of DIAL in this regard.

3. SCOPE OF SERVICES

- 3.1 The Service Provider undertakes to implement, execute and perform the Services with effect from the Effective Date and as per the terms of this Agreement and DIAL’s instruction. The Service Provider shall comply with the Service Performance Standards at all times while performing the Services. Any manifesting unintentional error, omission or inconsistency in the information provided by DIAL that may exist will not relieve the Service Provider from providing the Services and the Service Provider shall, at all time, be liable and responsible to render the Services at the Service Area in accordance with the Service Performance Standards and other terms and conditions of this Agreement.
- 3.2 The Service Provider shall ensure that the Services are provided regularly, diligently and carried out in such order, manner and time as DIAL may reasonably direct.
- 3.3 The Service Provider shall be required to carry out all ancillaries and associated works related to its Services, and shall provide all labour, materials, machinery, tools and tackles and/or equipment necessary for the provision of Services.
- 3.4 The Services executed by the Service Provider or material supplied including the bought out items as per the particulars mentioned in the Bill of Quantities shall be covered under warranty for all the manufacturing/ service defects, poor workmanship, and poor quality of material for a period of one (1) year from the date of last delivery/ date of completion of works/ receipt of material and final commissioning/ handing over to DIAL, whichever is later. Any manufacturing/ service defect/ defective parts noticed during warranty period shall be rectified / replaced by the Service Provider free of cost. The defective part shall carry fresh warranty as above.
- 3.5 The Service Provider shall be responsible for the supply and delivery of plants as per DIAL’s instructions from time to time and shall ensure that the plants, saplings supplied and delivered by the Service Provider are in accordance with the specifications and the requirements of DIAL. The Service Provider shall be responsible for the maintenance of the landscaping services which shall include but not limited to the replacement of dead or dying plants, cleaning of plants & planter, trimming and pruning of plants, implementing and growth of the plants at its own cost and during the Term.
- 3.6 The Service Provider shall at all times maintain and upkeep the DIAL Nursery as per the Service Performance Standards and instructions as issued by DIAL, from time to time. The Service Provider hereby agrees and acknowledges the right of DIAL to use the DIAL Nursery at any point of time for DIAL’s purpose.

- 3.7 In the event required for the implementation and performance of the Services, the Service Provider shall, after prior written consent from DIAL provide Additional Supply, which supply shall be at the rate provided in the SOR.
- 3.8 If in the opinion of DIAL, the Services are not progressing as per Service Performance Standards, DIAL's representative shall notify the Service Provider and the Service Provider shall thereupon take such steps as are necessary to catch up the programme/schedule. The Service Provider shall not be entitled to any additional payment or time for taking such steps.

4. MAINTENANCE OF WORKS

- 4.1 The Service Provider, at its own cost, undertakes to maintain and take proper care of the Service Areas, landscaping and associated works at different part of the Service Areas, throughout the Term.
- 4.2 The Service Provider agrees, at its own cost, to undertake all work of rectification and make good defects, imperfections or other faults in the landscaping works and each section and part thereof by replacing dead or dying plants, as the case may be and/or as may be required by DIAL.
- 4.3 In case, even upon due notification by DIAL, the Service Provider fails to rectify or remedy the defects, DIAL shall have the right to do so through any third party contractor and the entire expenditure incurred and incidental thereto for such work of repair, amendment, reconstruction, rectification and making good the defects shall be recovered as debt due from the Service Provider by making deduction from any amount due or which may become due to the Service Provider and the Service Provider acknowledges this debt towards DIAL and DIAL's right to recover the amount from the Service Provider. DIAL shall also be entitled to invoke Performance Bank Guarantee for recovering the said amount from the Service Provider.

5. LICENSE

- 5.1 Subject to Clause 5.2 below, security clearance and compliance with the provisions of this Agreement, DIAL hereby grants to the Service Provider, the license to enable the Service Provider and its personnel access to the Service Areas from the Access Date for the sole and exclusive purpose of providing the Services during the duration of the Term.
- 5.2 DIAL shall license to the Service Provider, the DIAL Nursery, at a nominal fee of Re1/- (Rupee One). DIAL Nursery shall be used by the Service Provider for purpose directly related to the performance of Services and for no other purpose. The total area of usage for the Service Provider in the DIAL Nursery shall be as decided by DIAL and as revised from time to time by DIAL. No storage of hazardous chemicals shall be allowed at the Airport, including the DIAL Nursery, unless the Service Provider complies with Applicable Laws and has obtained the prior consent of DIAL.
- 5.3 Save as afore stated, the Service Provider shall have no right, title or interest in the DIAL Nursery or Service Areas and the Service Provider shall not have

nor shall it be entitled to claim the rights of a lessee, sub-lessee, tenant or any other similar interest therein.

- 5.4 The Service Areas shall be and is provided to the Service Provider on “as is” and “where is” basis. DIAL has not made any representation regarding the suitability of the Service Areas.
- 5.5 DIAL has not granted to the Service Provider any right pursuant to this Agreement, except as provided under this Agreement and nothing contained in this Agreement is intended to, creates or shall be deemed to create any tenancy rights or any other rights, title or interest of any kind or nature whatsoever, in favour of the Service Provider.
- 5.6 For any operational/security reasons, DIAL may ask the Service Provider to relocate from Service Areas, which shall be done at the cost and responsibility of Service Provider within 30 days from the receipt of written notice from DIAL in this regard.
- 5.7 The access and possession of the Service Areas by the Service Provider shall not be exclusive to the Service Provider and shall be subject to access by DIAL, its contractors and subcontractors and other authorized persons. The Service Provider shall provide to the representative(s) of DIAL, at reasonable times and upon prior intimation, access to the Service Areas to review progress and to ascertain compliance with any of the requirements of this Agreement.
- 5.8 This Agreement shall not create any interest in the Service Area(s) in favor of the Service Provider and the Service Provider acknowledges, agrees and accepts that DIAL does not grant and has not granted any other right pursuant to this Agreement, except the right to use the Service Area for the purpose of provision of Services. Service Provider shall not create and shall ensure that no Encumbrance is created on/at the Service Areas. Under any circumstances, DIAL shall not be liable or responsible to the Service Provider or to any other entity and/or person whomsoever, for any loss of business, business competition, loss of investment, or any other loss or damage, costs or expenses for any reason whatsoever and it shall never be entitled to claim any consequential, direct or indirect damages, costs, expenses, inter alia, for such loss of business, loss of investment, business competition or any other loss etc. whether upon earlier termination or determination of this Agreement or otherwise, howsoever and whatsoever caused. Further, the rights of the Service Provider to access the Airport shall be subject to applicable security clearance. The Service Provider shall at its own costs be liable to and shall obtain necessary security clearances/ permits for its employees accessing any restricted areas or the Airport.
- 5.9 Further, the Service Provider agrees that prior to the execution of this Agreement it has, after a complete and careful examination, made an independent evaluation of the Service Area(s) and the Airport as a whole and has determined the nature and extent of the difficulties, costs, risks and hazards that are likely to arise or may be faced by it in provision of Service and in the course of the performance of its obligations under this Agreement.

- 5.10 The Service Provider shall use and consume electricity and water at the DIAL Nursery, at no charge, provided that DIAL is satisfied that such use and consumption of water and electricity by the Service Provider is in a manner, which is prudent, bonafide, reasonable and strictly for the purposes directly related to the performance of Services and for no other purpose.
- 5.11 The Service Provider shall also operate an administrative desk from the DIAL Nursery.

6. PAYMENTS

- 6.1 The Service Provider shall raise the detailed invoice on DIAL by 7th of every Month capturing information such as plants, equipment and other material used during the month for the Service, for evaluation by DIAL. In the event of any discrepancy in the invoice with respect to the particulars thereof, the same shall be intimated by DIAL to the Service Provider. Basis the comments from DIAL, the Service Provider shall submit the revised invoice within two (2) days from the date of communication by DIAL. Upon approval on the invoice/revised invoice, the Contract Sum shall be paid on a monthly basis, subject to the penalty for any delay and/or default in terms of the scope of Services, as per the payment schedule indicated in **Schedule 5** and in accordance with the terms and conditions of this Agreement. Subject to this Clause including any adjustments of the Contract Sum and DIAL's rights of set off for due compliance of this Agreement, DIAL shall pay to the Service Provider the sum approved by DIAL and properly incurred by the Service Provider in accordance with the payment calculation specified in the Schedule 5 and the terms of this Agreement.
- 6.2 Any payment for Additional Supply shall be made as per the SOR and only when the Additional Supply was made upon prior written consent of DIAL.
- 6.3 The Service Provider acknowledges that the failure to raise timely invoices and consequent late payment of Contract Sum by DIAL to the Service Provider shall not cast any liability on DIAL, contractual or otherwise and DIAL stands indemnified against any consequential losses of the Service Provider arising therefrom.
- 6.4 Neither the payment by DIAL shall indicate satisfactory performance of the Services nor shall any expression or implication of satisfaction or acceptance, any confirmation, consent, approval or notice by DIAL shall restrict, debar, exclude, or waive any claims or actions by DIAL for any breach of any obligations by the Service Provider and relieve the Service Provider from its responsibilities.
- 6.5 All payments made by DIAL to the Service Provider shall be subject to deduction of Applicable Taxes at source. The Service Provider shall cooperate fully in providing to DIAL such details, documents and records as may be considered necessary by DIAL in respect of determination and payment of such withholding taxes. DIAL shall provide, on an annual basis, the appropriate tax deduction certificates to the Service Provider evidencing the taxes deducted.

- 6.6 Any refund or credit of taxes (including interest) received by the Service Provider to the extent the same has been borne by DIAL, shall be passed onto DIAL immediately and unconditionally by the Service Provider.
- 6.7 The Service Provider shall be deemed to have satisfied itself as to the correctness and sufficiency of the Contract Sum which shall cover all its obligations under and in relation to this Agreement and all matters and things necessary for the proper execution of the Services, whether the same is expressly provided for in this Agreement or is to be reasonably inferred there from or is necessarily incidental thereto. The Contract Sum is a lump sum fixed price and includes any and all direct, indirect and ancillary charges and costs of whatsoever nature that the Service Provider may have incurred, , the cost of all accessories, consumable materials, special tools and all cost for the manpower used for providing Services hereunder and taxes, duties, tariffs, fees, penalties, levies, insurance premiums, including all Service Provider's Equipment and other charges relating to or arising out of this Agreement and in each case, all deductions and withholdings therefor. DIAL shall not be liable to make any payment for the increase in manpower except as provided in this Agreement and the Service Provider shall be solely liable to bear the cost of the same whether by change in the Applicable Laws or otherwise. DIAL's liability to the Service Provider hereunder shall not exceed the amount equivalent to Contract Sum in any manner whatsoever.

7. PERFORMANCE BANK GUARANTEE

- 7.1 The Service Provider shall for the due performance of its obligations under this Agreement provide to DIAL, on or before the execution of this Agreement, an unconditional and irrevocable bank guarantee, in favour of DIAL, encashable and enforceable at New Delhi, for a sum of Rs. [●]² being equivalent to 10% of the Contract Sum for the first year of Term from a scheduled Indian bank at New Delhi, acceptable to DIAL and issued in favour of Delhi International Airport Limited and in the form as set out in **Schedule 8**, which shall be maintained for the entire Term and a period of 6 months thereafter. The Performance Bank Guarantee shall be kept valid and subsisting and the Service Provider shall take all steps to ensure that the Performance Bank Guarantee does not lapse for the duration of the Term set out hereinabove.
- 7.2 Not later than 30 days prior to the completion of each year of the Term, the Service Provider shall submit to DIAL an amendment to the Performance Bank Guarantee by revising its amount equivalent to 10% of the Contract Sum including the increased amount of the minimum wages for the subsequent year of Term, which shall be maintained for the remaining Term and a period of 6 months thereafter.
- 7.3 The Performance Bank Guarantee is provided by the Service Provider as a security for the due and punctual performance and observance of the obligations of the Service Provider and terms and conditions under this

² To be inserted at the time of execution of the Agreement.

Agreement and against breach by the Service Provider of any of the representations, warranties or any terms, conditions or covenants of the Service Provider under this Agreement. DIAL shall also have a right to invoke the Performance Bank Guarantee in the event of any non compliance of the Applicable Laws and/or DIAL's instructions and/or termination of the Agreement for any Event of Default as provide in the Clause 24.

- 7.4 In case of any deduction or utilization of the Performance Bank Guarantee in accordance with the terms of this Clause 7, the Service Provider shall replenish the Performance Bank Guarantee, within 5 (five) days of such deduction or utilization, to its original amount or furnish a bank guarantee (on the same format and term as the Performance Bank Guarantee) for the amount equivalent to the amount for which the Performance Bank Guarantee is encashed.
- 7.5 The Service Provider shall maintain the said Performance Bank Guarantee at its own expense, so that it shall remain in full force and effect till the duration of the Term.
- 7.6 This Clause 7 shall survive the expiry/ termination of this Agreement.

8. SERVICE PROVIDER'S PERSONNEL/SERVICE TEAM

- 8.1 The Service Provider shall ensure that at all times during the Term, there shall be sufficient and adequate number of competent personnel available to perform the Services properly, timely, efficiently, diligently and in professional manner to ensure achievement of the Service Performance Standards. The Service Provider shall give in writing to DIAL the names, addresses and designations of the persons designated by it, from time to time, to perform the Services in accordance with this Agreement. In the event of any discrepancy in the details of such personnel, DIAL shall have the right to levy fine in accordance with the Scope of the Services.
- 8.2 The Service Provider warrants to DIAL that all staff and personnel assigned by the Service Provider, either itself or through its subcontractors/agents, for the performance of the Services shall be competent and experienced to carry out the respective part of the Services which they are assigned by the Service Provider, in accordance to the Service Performance Standards.
- 8.3 DIAL shall be entitled, after consultation with the Service Provider, to require the replacement of any person employed by the Service Provider in the performance of the Services who, in DIAL's reasonable opinion, has failed to perform satisfactorily, or who has mis-conducted himself in any way, or who is incompetent or negligent, or whose continued involvement in the Airport is detrimental to the interests of DIAL. The Service Provider shall promptly replace such person with an appropriately competent substitute at no additional cost to DIAL.
- 8.4 The Service Provider shall ensure that the personnel engaged by it comply with the requisite security and other relevant clearances as may be required,

from time to time, for working at/inside the Airport. The Service Provider shall, on a continuous basis, ensure to obtain the aforementioned permits from the Governmental Authority in case of new employees and surrender the same in case of discontinued staff. Further, the Service Provider shall ensure that the personnel engaged by it abide by all such legal rules and regulations and follow the standards of cleanliness, decency and decorum, safety and general discipline etc. as may be prescribed by DIAL from time to time.

- 8.5 The Service Provider shall ensure that its personnel/Service Team always carry with them an identification card. The personnel comprising the Service Team shall wear an approved uniform at all times at the Airport and maintain a good efficient image. No personnel shall smoke, chew or consume tobacco and liquor, litter, loiter, stand in passage way, mingle with the passengers or visitors at the Airport, while in uniform and/or on duty. In the event, the Service Provider is appointed by DIAL or DIAL stakeholders for some other services at Airport then, Service Provider shall ensure to provide distinct uniform to their manpower under those contract(s).
- 8.6 In the event the Service Provider intends to obtain services of contract labour, the Service Provider shall always hold a valid registration under the Contract Labour (Regulation and Abolition) Act, 1970 and any amendments thereto or any law if promulgated during the Term and continue to hold / renew a valid and effective registration certificate until the end of the Term. The provision of Services by the Service Provider at the Airport is basis the principal to principal agreement between DIAL and the Service Provider. Hence, the Service Provider shall always be the principal employer of all such the employees, temporary, casual, contracted, or permanent and the Service Provider under the obligation of Applicable Laws shall obtain the valid registration to this effect under the Contract Labour (Regulation and Abolition) Act, 1970.
- 8.7 The Service Provider shall at all times during the Term comply with the provisions of Applicable Laws as may be applicable to its employees including, but not limited to the Minimum Wages Act, the Employees State Insurance Act, Employees Provident Fund and Miscellaneous Provisions Act, Payment of Bonus Act, Contract Labour (Regulation and Abolition) Act, and all other applicable labour enactments in terms of coverage, returns, record maintenance and like, whether in force or come in force during the Term. The Service Provider shall alone be responsible for payment to the personnel engaged by it all such wages/salary/ reimbursements and other statutory payments including payments on account of employee state insurance, provident fund, gratuity and such other benefits as may be applicable to such personnel from time to time under the Applicable Laws. DIAL shall not be liable for any non-compliance on part of the Service Provider and only the Service Provider shall at all times be held responsible for all legal consequences.
- 8.8 The Service Provider shall ensure background verification of personnel of the Service Provider and of its vendors engaged at or in connection with this Agreement on their joining the Service Provider. The Service Provider shall also conduct the said background verification on annual basis at its cost and

responsibilities. The Service Provider shall also arrange for police verification of such personnel and vendors of the Service Provider and on request of DIAL shall provide such background & police verification reports of any/all of the aforesaid personnel of the Service Provider and its vendors to DIAL. The Service Provider shall also ensure that a proper training is imparted to the personnel of the Service Provider so that they work in ethical and legal manner and meet service quality standards.

8.9 The Service Provider shall engage the Service Team for the due and efficient performance of Services at its own cost. All such personnel engaged by the Service Provider shall be and remain to be the employees of the Service Provider and no claim shall lie against DIAL by the personnel of the Service Provider or any person claiming on behalf of the Service Provider in respect of any right or benefit due to the personnel in the Service Provider's employment, whether permanent, temporary, casual or otherwise.

8.10 The Service Provider shall at all times comply with the Applicable Laws, Good Industry Practise and rules and regulations as may be enforced by the Relevant Authorities with respect to the manpower for the Services and shall at all times comply with the Safety Management System and Occupational Health & Safety Management System guidelines as provided in Schedule 9 of this Agreement.

8.11 The Service Provider shall, without limiting its obligations and responsibilities under this Agreement and at its own cost, insure and keep insured the personnel of the Service Team any other representative, contractor, vendor of the Service Provider, so engaged at the Airport by the Service Provider or any of its contractor/vendors for the performance of the Services, against all liabilities for death or injury whatsoever, on account of any accident in the course of performing his/her obligations under this Agreement or otherwise at all times during the Term. DIAL shall not be responsible and be held liable for any such death, injury or accident to the personnel engaged by the Service Provider. In the event DIAL is made liable to pay any damages or compensation in respect of such employees, the Service Provider hereby agrees that the equivalent amount can be forfeited / recovered from the Performance Bank Guarantee.

8.12 The Service Provider shall at all times, save harmless and indemnify DIAL from and against all claims, liabilities, expenses, costs and losses suffered or incurred by DIAL which may arise out of or in connection with the employment of any labour for the performance of the Services by the Service Provider.

9. SERVICE PROVIDER EQUIPMENT

9.1 The Service Provider shall at its own cost and expense deploy the Service Provider Equipment meeting the technical requirements at the Service Areas for the performance of the Services on the Effective Date The Service Provider shall also provide and maintain all Service Provider Equipment including machinery, tools-tackles and vehicles which are required for the smooth and efficient performance of the Services, and shall ensure that such

Service Provider Equipment meets the requirement of DIAL as set out in Schedule 2 and Part B of Schedule 3.

- 9.2 The Service Provider shall always be responsible for undertaking the procurement, and upgradation of all Service Provider Equipment, in compliance with the technical standards, Good Industry Practice and Applicable Laws. The Service Provider shall further be responsible to obtain and maintain all necessary Approvals and permits for these Service Provider Equipment for the entire Term.
- 9.3 DIAL or its nominated agency (ies) shall have the right to inspect the Service Provider Equipment, as the case may be, and to issue such directions, as it may consider appropriate to direct the remedy any defect in Service Provider Equipment.
- 9.4 The Service Provider shall ensure that the provision of Services and installation/usage of Service Provider Equipment or items shall not adversely affect the operational efficiency, safety and security of the Airport.

10. DIAL'S INSTRUCTIONS

- 10.1 DIAL shall be entitled to give/ issue instructions with regard to, but not limited to, the following:
- (a) Removal from Service Areas any materials, debris and/ or equipment brought thereon by the Service Provider and substitution of any unsuitable or defective materials and/ or equipment;
 - (b) Removal or replacement of dead plants/dying plants or of any plant/s which are not in accordance with the specifications and requirement of DIAL's representative, at the sole cost of the Service Provider;
 - (c) Dismissal from the work of any persons employed by the Service Provider;
 - (d) amending and making good of any defects;
 - (e) Monitor the progress of Services at the Service Areas/ site as per the Service Performance Standards;
 - (f) Issue instructions to ensure that the activities of the Service Provider are coordinated with other related works contractor(s) at the Airport/Airport Operation Entities;
 - (g) Such other instructions as DIAL may deem appropriate in accordance with the terms of this Agreement to ensure fulfilment of the obligations by the Service Provider.

10.2 Compliance with DIAL's instructions

The Service Provider shall comply with all instructions and directions issued by DIAL to the Service Provider on any matter connected with or arising out of or

under this Agreement. Where the Service Provider fails to comply with an instruction, DIAL may engage others to give effect to the instruction. All costs and charges incurred by DIAL in engaging others shall be paid by the Service Provider to DIAL or may, without prejudice to any other method of recovery, be deducted by DIAL from any monies due to the Service Provider or may be recovered as due and payable to DIAL on demand.

11. REPRESENTATIONS AND WARRANTIES

11.1 Each Party represents and warrants to the other Party that as of the Effective Date and during the Term that:

- (a) It has the power and authority and has taken all actions necessary to validly execute and deliver this Agreement;
- (b) Its obligations under this Agreement will be legally valid and binding and enforceable against it;
- (c) It is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in respect of this Agreement;
- (d) It has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a material adverse effect on its ability to perform its obligations under this Agreement.

11.2 In addition, the Service Provider represents and warrants to DIAL as of the Effective Date and during the Term that:

- (a) It is duly incorporated, validly existing and in good standing under the laws of India as a corporate entity, and has the power to carry on its business pursuant to the terms of this Agreement and to own its assets and property;
- (b) It is aware of and is in knowledge of the Approvals required for performance of the Services and undertaking the obligations under this Agreement;
- (c) It has obtained and shall obtain and maintain such Approvals and possesses all such Approvals at all times under the Applicable Laws from the Government Authorities, as required from time to time to render the Services;
- (d) It shall fulfil, execute, perform, maintain and carry out all its obligations under this Agreement including DIAL's requirements, Service Performance Standards Good Industry Practice and Applicable Laws;
- (e) It shall comply with all the directions of DIAL, which are made in connection with this Agreement to enable DIAL to comply with Applicable Laws;

- (f) There are no bankruptcies, insolvency, reorganization, moratorium or similar proceedings affecting creditors' rights generally, filed and / or pending against the Service Provider;
- (g) The execution and delivery of, the performance of its obligations under, and compliance with the provisions of this Agreement by it and all instruments, equipment and documents to be delivered hereunder:
 - i. Do not and will not contravene any Applicable Laws;
 - ii. will not conflict with or result in the breach of, or constitute a default under any indenture, mortgage, deed of trust, lease, agreement, or other instrument to which it is a party or by which any of its property is bound; and
 - iii. Conform to the provisions of its organizational or constitutional documents.
- (h) It has read and understood the OMDA and implications thereof on this Agreement.
- (i) All representations and warranties made by the Service Provider in this Agreement, as part of its proposal, are true and correct, as on the Effective Date and shall continue to remain true and correct in all respects, during and throughout the term of this Agreement.

12. SERVICE PROVIDER'S COVENANTS

The Service Provider hereby covenants with DIAL as follows:

- 12.1 The Service Provider shall while providing the Services, take into consideration and be responsible for compliance with all relevant provisions of the Applicable Laws and obtain all such Approvals as may be necessary for the provision of Services including but not limited to complying with the relevant development standards as stipulated under the OMDA.
- 12.2 The Service Provider shall always ensure that Service Provider remains responsible for all its obligations under this Agreement during the Term from the Effective Date.
- 12.3 From the Effective Date for the entire Term, the Service Provider shall provide DIAL a quarterly report indicating/documenting the fulfillment of its obligations under this Agreement.
- 12.4 The Service Provider shall, after prior written consent from DIAL, provide Additional Supply as per the SOR. The Service Provider shall (i) in the performance of the Services, use and continue to use all reasonable endeavours to avoid or reduce the effect of the event(s) which may cause delay in the completion of the Services or any part thereof; and (ii) as soon as practicable, provide to the DIAL's representative in writing full and detailed

particulars of the measures adopted by the Service Provider to avoid or reduce the effects of such event.

- 12.5 The Service Provider shall be responsible and liable for the acts and omissions of all its employees, agents or representatives and shall ensure that such employees, agents or representatives, comply, at all times, with the Applicable Laws.
- 12.6 The Service Provider shall provide DIAL, at no cost, all necessary data and information that is required by DIAL, as well as all data in the formats and intervals as reasonably required by DIAL from time to time.
- 12.7 The Service Provider will be responsible for the security and safety of the Service Areas and Service Provider Equipment and provide the Services at all times.
- 12.8 The Service Provider shall at all times be solely responsible for complying with the Applicable Laws. It shall be the sole responsibility of the Service Provider to comply at all times with statutory guidelines laid down by competent authorities/Government Authorities under Applicable Laws and obtain, maintain, renew and update the necessary Approvals, permits and licenses from the competent authorities/Government Authorities for providing the Services. The Service Provider shall comply with the operational guidelines laid down by DIAL from time to time.
- 12.9 The Service Provider shall maintain its own standard operating procedures manual for performing, executing and implementing the Services and comply with the same and shall furnish a copy of such standard operating procedures manual to DIAL.
- 12.10 The Service Provider agrees and acknowledges that the Service Areas (in whole or part) may be regulated as a security area and the ingress and egress to the area may be monitored and regulated by BCAS or any Governmental authority or its authorized representatives. The Service Provider shall obtain and maintain the necessary security clearance/ Airport entry permits for its employees, manpower to be deployed in connection with the Services from the BCAS, Director General of Civil Aviation, Airports Authority of India, DIAL and any other Government Authority or any Governmental authority or its authorized representatives at its own cost, risk and responsibility. The Service Provider shall be responsible for obtaining the Airport entry permits for its personnel, employees and manpower. The Service Provider shall be liable and responsible for planning the movement of its goods and services to ensure problem free operations. The Service Provider shall obtain the necessary security clearance/ Airport entry permits from the relevant authority or its agencies at its own cost and risk as a condition precedent to handover of the Service Areas to the Service Provider by DIAL.
- 12.11 The Service Provider shall always provide high quality and international standard of Services under this Agreement. The Service Provider agrees to adhere to the Service Performance Standards as specified in Part B of the Schedule 3 of this Agreement.

- 12.12 Throughout the Term, the Service Performance Standards shall be monitored by DIAL. The criteria used to measure the performance shall be in accordance with the standards set out in this Agreement. The Service Provider will be required to take remedial action within the stipulated time frame based on the observation/recommendations of DIAL.

13. PROHIBITION

- 13.1 The Service Provider shall not permit the use of the Service Areas or any part thereof for any activity other than as permitted under this Agreement.
- 13.2 The Service Provider shall not leave any waste materials or other refuse in or near the Service Areas at any time. Such waste materials or other refuse shall be removed with extreme care and in accordance with the directions of DIAL and the Applicable Laws.
- 13.3 The Service Provider shall not do or permit to do at the Service Areas and/or Service Provide Area anything which may be or become a nuisance, annoyance, inconvenience or disturbance to the users or visitors to the Airport.
- 13.4 The Service Provider shall not leave any waste materials or other refuse in or near the Service Areas at any time and such waste materials or other refuse shall be removed with extreme care and in accordance with the directions of DIAL.

14. ENVIRONMENTAL COMPLIANCE

- 14.1 The Service Provider shall be solely responsible for complying with all Applicable Laws in connection with the Services including but not limited to municipal laws, laws relating to environment, public nuisance etc and overseeing the implementation of the environment management plan as provided by the Service Provider in its Proposal.
- 14.2 The Service Provider shall comply with all Applicable Laws for environment purposes for provision of Services at the Airport including applicable environment rules & regulations, relevant directions issued by Hon'ble courts, government and regulatory bodies and the rules, regulations and directions issued by DIAL from time to time in this regard.
- 14.3 The Service Provider shall be responsible for applying and obtaining all required environmental permits, consents, licenses and shall, as far as possible, eliminate or reduce the adverse impact of its operation on the environment and shall also eliminate or reduce the pollution of the environment caused by its operation.

15. STATUTORY COMPLIANCES

- 15.1 The Service Provider shall comply with all statutory requirements as applicable in connection with the Services and Applicable Law(s) and

particularly any procedural agreement and/or specific industrial relations provisions applicable to execution of the Services as notified in writing to the Service Provider by DIAL.

- 15.2 The Service Provider shall comply with the provisions of all applicable labour laws as regards the terms and manner of employment, terms of service, conditions of employment etc. including the Payment of Wages Act, 1936, Minimum Wages Act 1948, Employee's Provident Fund and Misc. Provisions Act, 1952, Employer's Liability Act, 1938, Child Labour (P&A) Act, 1986, Workmen Compensation Act 1923, Maternity Benefit Act 1961, Employee State Insurance, Contract Labour (Regulations and Abolition) Act 1970, etc. any law implemented during the Term in respect of all personnel/labour deployed at the Service Areas for or in relation to execution of Services. Further, the Service Provider shall ensure timely payment of all amounts towards provident fund, employee state insurance, welfare and assurance charges, contributions etc., including interest and penalties etc. All documents required under various statutes shall be maintained by the Service at the Service Areas and shall be made available for inspection by DIAL or its representatives on request.
- 15.3 The Service Provider, during the performance of the Services, shall furnish a declaration every month confirming compliance of all labour laws and regulations.
- 15.4 DIAL shall in no event and under no circumstances, be liable to or responsible for any default by way of non-observance/ non-compliance of any law / rules on the part of the Service Provider and the Service Provider shall always keep DIAL indemnified against any liabilities and costs/expenses from all proceedings in respect thereof.
- 15.5 Any failure by the Service Provider to satisfy the above statutory compliance may be made good by DIAL at cost to the Service Provider.

16. SAFETY AND SECURITY

- 16.1 The Service Provider shall, at its own cost, establish a safety programme to ensure that all activities required to undertake and complete performance of the Services in accordance with this Agreement are carried out in a safe manner and comply with all Applicable Laws. The Service Provider shall, in any event, report to DIAL, details of any accident occurring at the Service Area, as soon as reasonable after its occurrence.
- 16.2 The Service Provider shall carry out the Services with the safety as the first priority. The Service Provider shall provide for the necessary temporary roadways, footways, guards as may be rendered necessary by reason of his work, for the protection and accommodation of foot passengers or other traffic on the Service Areas. The Service Provider shall at all times provide sufficient temporary barriers, notice boards and lights to protect and warn the public and post necessary watchman to guard his site, materials, plants, saplings or trees and equipment. The Service Provider shall take all

precautions necessary and shall be responsible for the safety of the Services to be performed by him.

- 16.3 The Service Provider shall ensure that all equipment and tackles used on the Service Areas are rendered safe for working and meets with the Indian or international safety standards applicable for the use and operation of such equipment. The Service Provider shall ensure that all members of the Service Team and other visitors at the Service Areas are provided with and use proper safety gears like, helmets, safety jackets, shoes, belts etc. during the performance of the Services.
- 16.4 Adequate lighting at and near all the storage, handling, nursery and Service Areas for properly carrying out the Services and for safety and security shall be provided by the Service Provider. The Service Provider's work area would be adequately lit during night-time also as directed by DIAL. In case, DIAL feels that the lighting is inadequate, then the Service Provider at no extra cost shall provide the required level of lighting as suggested by DIAL. The Service Provider shall also engage adequate electricians, wiremen, and helpers etc., to carry out and maintain these lighting facilities. If the Service Provider fails to provide all the above listed facilities, DIAL may provide such facilities, as it may deem necessary, and charge the cost thereof to the Service Provider. In any case, the Service Provider shall be liable for all damages and consequences arising out of his neglect in this regard.
- 16.5 The Service Provider shall include all the measures as part of the security system during the term of this Agreement, and as may be prescribed by DIAL from time to time.

17. PROTECTION OF WORKS AND EQUIPMENT

- 17.1 During the performance of Services, DIAL or its other contractors may continue to operate plant, machinery, equipment and facilities in and around the vicinity of the Service Areas. The Service Provider shall protect all existing plant, structures, Service Provider Equipment and facilities against damage during performance of the Services.
- 17.2 DIAL shall not be responsible or held liable for any damage to person or property consequent upon the use, misuse or failure of any tools and equipment used by the Service Provider or any of its subcontractors. The Service Provider agrees to indemnify and hold harmless DIAL from any and all claims for damages resulting from said use, misuse or failure of such tools and equipment.
- 17.3 The Service Provider shall be responsible for the protection of the works which have been completed by other contractors/ subcontractors. Necessary care shall be taken by the Service Provider to see that no damage to the same is caused during the course of performance of the Services. The Service Provider shall be responsible for protection of the Service Areas and the landscaping works during the Term.
- 17.4 All other work completed or in progress as well as machinery and

equipment, which are vulnerable to damage by the performance of the Services, the Service Provider shall be protected by the Service Provider at its own cost and such protection shall remain and be maintained until its removal is directed by DIAL.

- 17.5 The Service Provider shall effectively protect the landscaping works from action of weather and from damages or defacement and shall cover the finished parts where required for their protection.

18. VARIATIONS

- 18.1 DIAL may, notwithstanding anything to the contrary contained in this Agreement, require a variation in the scope of Services as contemplated by this Agreement (including upon occurrence of a Force Majeure event) (“**Variation**”). DIAL’s representative may direct the Service Provider to:
- (a) Increase or decrease the quantity of any work included in the scope of Services;
 - (b) Omit whole or any part of work comprised within the scope of the Services;
 - (c) Change the character or quality or kind of any such work, plants, saplings or trees;
 - (d) Change the levels, lines, positions and dimensions of any part of the drawings provided to the Service Provider for the execution, implementation and performance of the Services; and
 - (e) Execute additional work of any kind necessary for the completion of the landscaping works.
- 18.2 If any such change causes any increase or decrease in the cost of or time required for performance of Services under this Agreement, an equitable adjustment in the Contract Sum shall be made as per prior written approval of DIAL.
- 18.3 The Service Provider shall implement the changes in the scope of the Services, as the case may be, accordingly within 15 (fifteen) days from the date of such written notice from DIAL.

19. SUSPENSION OF SERVICES

- 19.1 The Service Provider shall, upon being so informed, in writing, by DIAL representative, suspend the provision of the Services or any part thereof for such time or times (including for any Force Majeure Event) and in such manner as DIAL may consider necessary and shall during such suspension properly protect and secure the Service Areas Any variation in the cost for such suspended services shall be discussed between the Parties to arrive on a mutual consensus for any variation in the Contract Sum to the effect of

variation in the cost. The Parties understand that no cost variation will be accepted in the event suspension is:

- (a) Otherwise provided for in this Agreement; or
- (b) Necessary by reason of some default on the part of the Service Provider, or
- (c) Necessary by reason of adverse climatic conditions on the Service Areas, or
- (d) Necessary for the proper performance of the Services or for the safety of the landscaping works or any part thereof in so far as such necessity does not arise from any act or default by the DIAL's Representative or DIAL or from any of the Force Majeure Events.

20. SUBCONTRACTING

20.1 The Service Provider shall not under any circumstances subcontract any portion of the Services to any other service provider or any third Party without the prior written consent of DIAL. The Service Provider shall subcontract only after obtaining the prior written approval of DIAL of subcontractor and the terms and conditions of the contract between Service Provider and such subcontractor (except price). Each subcontractor shall enter into a written agreement with the Service Provider and copy of such agreement shall be made available to DIAL within 7 (seven) days by the Service Provider. All subcontractors shall be appropriately licensed to perform the subcontracted work.

20.2 However, notwithstanding any such subcontracting:

- (a) the Service Provider shall be fully responsible for the acts, defaults, omissions and neglects of any sub-contractors and their agents, employees, servants and workmen, as fully as if they were the acts, defaults, omissions and neglects of the Service Provider. The sub-contractor shall comply with the terms and conditions set out in this Agreement as they apply to the Service Provider.
- (b) no consent to the appointment of any sub-contractor or to the terms of any sub-contract by DIAL shall imply in any way that a sub-contractor has been nominated by DIAL, nor will it diminish in any way the Service Provider's responsibility and liability for the acts, defaults, omissions and neglects of that sub-contractor.
- (c) without prejudice to the foregoing, the Service Provider shall, on written notice from DIAL, terminate the employment of any sub- contractor whose acts or omissions, in the reasonable opinion of DIAL, are putting or shall put, the Service Provider in breach of its obligations under this Agreement. The Service Provider shall intimate DIAL prior to terminating any such sub contracts.

- (d) nothing contained in the Agreement shall render DIAL in any way liable to any sub-contractor and the Service Provider shall indemnify and keep indemnified DIAL against all and any liabilities to, and costs, claims and demands of whatsoever nature by any sub-contractor.

21. LIQUIDATED DAMAGES

- 21.1 For failure on the part of the Service Provider to meet the Service Performance Standards, the Service Provider shall be liable to pay such amounts as liquidated damages set out in Part B of **Schedule 3 (“Liquidated Damages”)**.
- 21.2 Nothing contained in this Agreement shall be deemed to construe as a waiver of any delay or default committed by the Service Provider. DIAL shall be entitled to deduct and retain the same from any payments to be made to the Service Provider under this Agreement and/or require the Service Provider to pay such amount to DIAL within 14 (fourteen) days after receipt of the notice pursuant to this Clause notwithstanding any dispute between the Parties as to the amount due or the liability to make payment of the same. The Parties acknowledge that the Liquidated Damages for delay are a genuine pre-estimation of and reasonable compensation for the loss and damage that will be suffered by DIAL in the event of any such failure on the part of the Service Provider and the Service Provider irrevocably undertakes that it will not, whether by legal proceedings or otherwise, contend that the levels of such liquidated damages are not reasonable.
- 21.3 The payment of Liquidated Damages does not in any way relieve the Service Provider from any of its obligations under this Agreement.

22. INSURANCE

- 22.1 The Service Provider shall take up and maintain at its own cost, at all times the insurances as set out in Schedule 6 and such other additional insurances as DIAL may reasonably consider necessary or prudent in accordance with Good Industry Practice. The Service Provider shall ensure, unless otherwise requested by DIAL or not permitted under Applicable Laws, that DIAL and AAI are co-insured in respect of any policies that the Service Provider effects pursuant to this clause.
- 22.2 The Service Provider shall, upon demand by DIAL, provide within 7 (seven) days of such demand any insurance policy certificate, such copies of policies certificates and the receipts that the premium has been paid to DIAL.
- 22.3 No such insurance shall be cancelled, modified or allowed to expire or lapse by any act or default on the part of the Service Provider without 30 days (except 7 days or such lesser period as is or may be customarily available in respect of war risks and allied perils) written notice by Service Provider’s insurers to DIAL.
- 22.4 Where the Service Provider fails to maintain insurance as set out

hereunder, DIAL shall have the right to keep in force such insurance and pay such premium as may be required, and recover the cost from the Service Provider. Any such cost shall be recovered from the Performance Bank Guarantee.

22.5 Service Provider to comply with the terms and conditions of each policy of the insurances and not to consent or agree to any act or omission which:-

- (i) invalidates or may invalidate the insurances; or
- (ii) renders or may render void or voidable the whole or any part of any of the insurances;

23. INDEMNITY

23.1 The Service Provider shall protect, defend, indemnify and keep indemnified and hold DIAL , its directors, employees, advisors, representatives, agents or other associates harmless from and against:

- (a) all claims, demands made against and/ or loss caused or likely to be caused and/ or damages suffered or likely to be suffered and/ or cost, charges/ expenses incurred or put to or likely to be put to and/ or penalty levied or likely to be levied and/ or any claim arising out of and as a result of action or failure on the part of the Service Provider or due to injury to or death of any person and/ or loss or damage caused or suffered likely to be caused or suffered, to property owned or belonging to DIAL, its agents and employees or third party as a result of any acts, deeds or thing done or omitted to be done by Service Provider or as a result of failure on the part of Service Provider to perform any of its obligations under this Agreement or on the Service Provider committing breach of any of the terms and conditions of this Agreement or on the failure of the Service Provider to perform any of its statutory duty and/ or obligations or failure or negligence on the part of Service Provider to comply with any statutory provisions in connection with or arising out of this Agreement and/ or arising out of or in connection with use and occupation of Service Areas and/ or the provision of Services.
- (b) any and all losses arising from or incurred or likely to be incurred by reason of the acts or omissions of Service Provider or any of its officers, directors, employees, servants or agents in the performance of Service Provider's obligations under this Agreement or upon any material misrepresentation, breach of obligation or covenant under this Agreement.
- (c) any and all losses arising from or incurred by reason of claims or sanctions or penalties imposed by any Governmental Authority or others for any actual or asserted failure by Service Provider or any of its officers, directors, employees, servants or agents to comply with any Applicable Laws.

- (d) any and all losses arising out of the claims or demands of the employees and staff of the Service Provider against DIAL for any payment whatsoever. If the responsibility of such payments to the employees and staff of the Service Provider is transferred to DIAL by operation of law or otherwise, DIAL shall have the right to adjust all such payments against the Performance Bank Guarantee, at the discretion of DIAL.

24. EVENT OF DEFAULT AND TERMINATION

24.1 Event of Default

DIAL shall have the right to serve a notice of termination of this Agreement in accordance with Clause 24.2 below, on the Service Provider and terminate the Agreement without prejudice to any of its other rights and remedies against the Service Provider and without being liable to pay any loss or compensation on the occurrence of the following events, each of which is a separate event of default (“**Event of Default**”), if:

- a. The Service Provider repudiates the Agreement or otherwise evidences an intention not to be bound by the Agreement or is guilty of any act of wilful misconduct; or
- b. The Service Provider fails to provide, maintain or renew and/or comply with its obligations in relation to the Performance Bank Guarantee; or
- c. if the Service Provider fails to perform or achieve the Service Performance Standards. or
- d. Any sum due and payable by the Service Provider under the Agreement has not been paid within a period of thirty (30) days; or
- e. if the Service Provider commits a breach of its representation, warranties, obligations and/or covenants under this Agreement which is considered to be material by DIAL.
- f. The Service Provider has failed to adhere to the DIAL’s requirements, including but not limited to Service Performance Standards as specified in the Agreement; or
- g. The Service Provider's personnel is/are incompetent, have acted in a manner prejudicial to the DIAL’s best interest or have failed to comply with the DIAL’s health, safety, environment or other rules or regulations and procedures; or
- h. in the default points as mentioned in the scope of Services, accumulated in one Month, exceeds 338; or
- i. As a result of Force Majeure, the Service Provider is unable to proceed with the Services for a period of 365 consecutive days, if not extended; or

- j. The Service Provider, without the consent of DIAL assigns or transfers all or any of its rights or obligations under the Agreement; or
- k. At any time during the currency of the Agreement there is a change in the effective Control of the Service Provider as at the date of the Agreement; or
- l. a resolution by the shareholders of the Service Provider is passed for winding up of the Service Provider or a liquidator is appointed in a proceeding for the winding up of the Service Provider or the Service Provider is entering into a compromise with its creditors or there is an order made by a court of winding up the Service Provider, or any distress or execution is levied upon any of the assets of the Service Provider.

24.2 Notice of Termination

- 24.2.1 Subject to the provisions of Clause 24.2.3 and Clause 24.2.4, DIAL shall be entitled to serve upon the Service Provider, a notice of termination for the Event of Default pursuant to this Clause 24.2 (each a "**Notice of Termination**"). If, within 15 (fifteen) days following the service by DIAL of a Notice of Termination, the Service Provider remedies the breach to the satisfaction of DIAL or pays all the sums which are due and payable to DIAL or existing as at the date of the Notice of Termination, then:
 - (a) DIAL shall revoke the Notice of Termination by issuing a letter to that effect; and
 - (b) The Service Provider shall continue to perform its obligations under the Agreement in a diligent and proper manner.
- 24.2.2 If the Service Provider fails to remedy the breach to the satisfaction of DIAL within the period specified in clause 24.2.1 above, then DIAL shall the right to terminate the Agreement immediately upon the expiry of the time specified in the Notice of Termination.
- 24.2.3 Provided however that DIAL may immediately terminate the Agreement in case of Event of Default as specified under Clause 24.1(j), (k) or (l).
- 24.2.4 Notwithstanding the foregoing or any other provisions of the Agreement, DIAL shall always have the right to terminate this Agreement at any time without assigning any reasons by serving at least (1) one month's notice to the Service Provider.
- 24.2.5 DIAL shall also have a right to terminate this Agreement immediately, if at any time during the term of this Agreement, due to operational or statutory reasons, the Service Areas are required to be taken back or for any reasons attributable to AAI / any other Government Authority.

24.3 Upon Termination/expiry of the Agreement

24.3.1 Upon termination/expiry for any reason whatsoever, the Service Provider shall:

- (a) cease all further work as informed by DIAL in the Termination Notice and the Service Provider shall carry out works for the sole purpose of securing, preserving and protecting that part of the Services already executed and any work required to leave the Service Areas in a clean, safe condition and free of all Encumbrances within 7 days from the date of the termination/expiry;
- (b) Ensure to comply with any requirement as mentioned in the Notice of Termination or this Agreement.
- (c) DIAL shall retain all plants, trees etc. supplied at DIAL Nursery and/or Service Areas till the date of termination/expiry of this Agreement;
- (d) Deliver to DIAL "as built drawings" showing all work carried out since commencement of the Services;
- (e) Promptly and in an orderly manner deliver to the DIAL all documents relating to the Services which are for the time being under the control of the Service Provider;
- (f) Shall pay all amounts due to DIAL within a period of 15 (fifteen) days;
- (g) remove Service Provider's and sub-contractor's (if any) personnel from the Service Areas, failing to which DIAL will expel the Service Provider and its sub-contractors therefrom and DIAL may get the Services performed itself or by employing any third party, at the cost and expense of the Service Provider;
- (h) DIAL may, to the exclusion of any right of the Service Provider, without any payment to the Service Provider take over and utilise any material, items, equipment, tools and tackles delivered to the Service Areas on or before the date of termination/expiry, for the performance of Services. DIAL may, at its sole discretion, sell any of the said material, items, equipment, tools and tackles, whether used or unused, and apply the proceeds of sale towards the satisfaction of any sums due or which may become due to DIAL from the Service Provider under the Agreement.

Subject to compliance with the above, DIAL shall pay to the Service Provider all amounts as are properly due and payable to the Service Provider within 6 (six) Months from the date of termination/expiry.

24.3.2 DIAL shall be entitled, inter alia, to recover all amounts due from the Service Provider including by invoking the Performance Bank Guarantee.

25. CONFIDENTIALITY

- 25.1 The Service Provider shall not disclose to any third parties, other than its agents and representatives on a need-to-know basis, any Confidential Information without the prior written consent of DIAL, provided that the Service Provider shall be entitled to disclose such terms to the extent required by any law or regulatory authority only upon prior written information to DIAL.
- 25.2 The Service Provider shall not and shall procure that its sub-contractors (if any) do not use the name "Delhi International Airport" or "Indira Gandhi International Airport" or any name which is likely to be confused with that name, or any image of the Airport in any manner or for any purpose whatsoever and shall not use, copy, publish, disclose or otherwise deal with any Confidential Information contained in this Agreement to any third party.
- 25.3 The Service Provider shall not use any device registered or used by DIAL whether alone or in a combination with the words "Delhi International Airport" or "Indira Gandhi International Airport" and shall not apply anywhere in the world for a trade mark or similar registration including the words "Delhi International Airport" or "Indira Gandhi International Airport" for any device used or registered by DIAL nor apply anywhere in the world for any trade mark or similar registration that is deceptively similar to the words "Delhi International Airport" or "Indira Gandhi International Airport" for any device used or registered by DIAL nor apply anywhere in the world for any trade mark or similar registration which may cause confusion as to the ownership of such trade marks or similar rights on the part of the public.
- 25.4 The Service Provider acknowledges that damages alone would be an inadequate remedy for any breach of this Clause and that DIAL should, therefore, be entitled to injunctive relief. The Service Provider shall indemnify DIAL in respect of any and all loss, damage, costs, liabilities and expenses incurred in taking such action. The Service Provider shall not use any image of the airport for publicity in any electronic or print media.

26. FORCE MAJEURE

- 26.1 In this Agreement, "Force Majeure" means any event or circumstance or a combination of events and circumstances, which satisfies each of the following conditions:
- (a) materially and adversely affects the performance of an obligation;
 - (b) are beyond the reasonable control of the affected party;
 - (c) such affected party could not have prevented or reasonably overcome with the exercise of Good Industry Practice or reasonable skill and care;
 - (d) does not result from the negligence or misconduct of such Party or the failure of such Party to perform its obligations hereunder.
- 26.2 "Force Majeure" includes the following events and/ or circumstances to the extent that they, or their consequences satisfy the requirements set forth in Clause 26.1 of this Agreement:

- (a) war, invasion, armed conflict or act of foreign enemy in each case involving or directly affecting India;
- (b) revolution, riot, insurrection or other civil commotion, act of terrorism or sabotage in each case within India;
- (c) nuclear explosion, radioactive or chemical contamination or ionizing radiation directly affecting the Airport, unless the source or cause of the explosion, contamination, radiation or hazardous thing is brought to or near the Airport by the affected party or any contractor or sub-contractor of the affected party or any such affiliate or any of their respective employees, servants or agents;
- (d) strikes, working to rule, go-slows and/or lockouts which are in each case widespread, nationwide or political;
- (e) any effect of the natural elements, including lightning, fire, earthquake, unprecedented rains, tidal wave, flood, storm, cyclone, typhoon or tornado, within India;
- (f) explosion (other than a nuclear explosion or an explosion resulting from an act of war) within India;
- (g) epidemic or plague within India;
- (h) any event or circumstance of a nature analogous to any events set forth in Clause 24.2 (a) to (g).

26.3 Application

This Clause shall apply if the performance by any Party (the “**Affected Party**”) of its obligations under this Agreement is prevented in whole or in part by reason of Force Majeure.

26.4 Consequences of Force Majeure

26.4.1 Performance Obligation

Provided it complies with this Clause, if the Affected Party is rendered wholly or partially unable to perform any of its obligations under this Agreement because of an event of Force Majeure, it shall be excused from performance of such obligations to the extent it is unable to perform the same on account of such Force Majeure provided that:

- a. the excuse from performance shall be of no greater scope and of no longer duration than is necessitated by the event of Force Majeure;
- b. the Affected Party shall make all reasonable efforts to prevent and to minimize the effect of an event of Force Majeure caused to the Service Areas;
- c. the Affected Party shall use its best endeavors to minimize the effects of the Force Majeure and to remedy the situation as soon as possible, including duly prosecuting and exhausting all such remedies available to the Affected Party under the Applicable Laws.

26.4.2 Notification

As soon as reasonably practicable but not more than 24 (twenty-four) hours following the date of commencement of any event of Force Majeure, if either Party desires to invoke such event of Force Majeure as a cause for delay or failure in the performance of any obligation hereunder, it shall notify the other Party in writing of such date and the nature and expected duration of such event of Force Majeure. Within a reasonable time following the date of such notice of such event of Force Majeure, the Party having invoked such event of Force Majeure as a cause for such delay shall submit to the other Party sufficient proof of the nature of such delay or failure and its anticipated effect upon the time for performance. The Affected Party shall continue to perform such of its obligations which are not affected by the event of Force Majeure and which are capable of being performed in accordance with this Agreement.

26.4.3 Mitigation

The Affected Party shall take all reasonable steps to prevent, reduce to a minimum and mitigate the effect of the event of Force Majeure.

26.4.4 Liability for other losses, damages etc.

Save and except as expressly provided in this Clause, neither Party hereto shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any event of Force Majeure.

27. GOVERNING LAW AND DISPUTE RESOLUTION

- 27.1 Any dispute or claim (“**Dispute**”) arising out of, relating to, or in connection with this Agreement, termination or validity hereof, shall initially be resolved by amicable negotiations among senior executives of the Parties and, if not resolved through such negotiations within 30 (thirty) days of written notice of the existence of such Dispute, be finally settled by binding arbitration as per the provisions of the Arbitration and Conciliation Act, 1996 as amended from time to time, by a panel of 3 (three) arbitrator. Each Party shall appoint 1 (one) arbitrator within 10 (ten) days of the invocation of the arbitration clause hereunder, the two arbitrators thus appointed shall then jointly appoint a third arbitrator, who shall act as the presiding arbitrator. If a Party fails to appoint an arbitrator within the specified time frame, or if the 2 (two) arbitrators fail to agree on the appointment of third arbitrator within 30 (thirty) days, the appointment shall be made in accordance with the provisions of the Arbitration and Conciliation Act, 1996.
- 27.2 The seat and venue of arbitration shall be Delhi, India and it shall be conducted in the English language.
- 27.3 The arbitral award shall be in writing, state the reasons for the award, and be final and binding on the Parties concerned. The award may include an award of costs, including reasonable attorneys' fees and disbursements.

- 27.4 This Agreement shall be governed by the laws of India. In respect of all matters arising out or relating to this Concession Agreement, the courts at Delhi, India shall have exclusive jurisdiction.

28. OMDA REQUIREMENTS

- 28.1 The Service Provider agrees, understands and acknowledges that the right of DIAL to enter into this Agreement with the Service Provider is under the provisions of the OMDA. In this respect, the Service Provider expressly agrees that upon termination/expiry of OMDA howsoever caused:
- 28.1.1 AAI shall have the right to acquire all the rights and obligations of DIAL contained in this Agreement, and the assets of the Service Provider, in accordance with the provisions of the OMDA. In such event, in consideration for AAI acquiring DIAL's obligations contained in this Agreement, all of DIAL's rights contained in this Agreement shall be vested in AAI or its nominee, clear of any Encumbrances and with good title and the Service Provider agrees to discharge all such actions as are necessary or required by AAI to enable such assumption of rights and obligations by AAI or its nominee.
- 28.1.2 AAI has a right, upon expiry or termination of the OMDA, to acquire the buildings, structures and other assets relatable to the Transfer Asset, (as defined in OMDA), created under this Agreement (including the reversion of the underlying land) in the manner provided under the OMDA.
- 28.1.3 all the immovable and moveable property, assets/stock, material and rights relatable to the facilities shall, in consideration of AAI's acquiring such assets/property be vested in AAI or its nominee clear of any Encumbrances and good title, in accordance with the provisions of the OMDA
- 28.1.4 if any part of the facilities is not fit for purpose/in a good state of repair as would be expected of an international world class airport then, the Service Provider shall repair such part of the facilities to bring it to good state of repair at its cost. In case Service Provider fails to repair them in the condition to the satisfaction of DIAL, then DIAL shall have the right to undertake such repairs and Service Provider shall reimburse DIAL for the costs and expenses incurred by DIAL, which cost and expenses to the extent recoverable shall be adjusted in terms of this Agreement, without prejudice to DIAL's right to claim such costs from the Service Provider.
- 28.1.5 The Service Provider shall cause to be incorporated in all its contract with third parties executed with an express provision wherein the said third party shall recognize the rights of AAI as contained in this Clause and an undertaking by said third party, to the effect as contained in this Clause to the satisfaction of DIAL.
- 28.1.6 DIAL and its representative or AAI and its representatives shall have the right but not the obligation to inspect at any time but with prior notice of at least 7 (seven) days compliance with the Service Provider's obligations under this Agreement and/or OMDA, as the case may be.

28.1.7 The Service Provider agrees and acknowledges that in the event AAI exercises rights as referred to hereinabove, the valuation of such assets including its methodology for the purpose of acquisition by AAI and payment of consideration of such acquisition shall be as per the relevant provisions of the OMDA.

28.2 DIAL and its representative or AAI and its representatives shall have the right but not the obligation to inspect at any time but with prior notice of at least 7 (seven) days any part of the Airport and undertake any survey to monitor compliance with the Service Provider's obligations under this Agreement and/or OMDA, as the case may be.

29. ASQ RATING

The Service Provider acknowledges that as part of the Subjective Service Quality Requirements (which includes courtesy, helpfulness of airport staff, etc. as one of its parameters) under OMDA, DIAL is required to achieve a specific rating of the ACI/ASQ quarterly passenger survey and maintain the same throughout the term of the OMDA. The Service Provider shall ensure that it provides the Services in such manner and more particularly to ensure that the ratings of DIAL in any quarterly ACI/ASQ passenger survey does not fall below 4.96 (overall ASQ Rating) or the rating defined and communicated by DIAL management from time to time on account of defaults in Services, lack of courtesy, helpfulness of the Service Provider/ Service Team and other associated parameters

30. MISCELLANEOUS

30.1 Amendments

No amendment or waiver of any provision of this Agreement, nor consent to any departure by any of the Parties therefrom, shall in any event be effective unless the same shall be in writing and signed by the Parties hereto and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it is given.

30.2 Entire Agreement

This Agreement constitutes the entire understanding between DIAL and the Service Provider in relation to the subject matter of this Agreement and supersedes all previous documents, agreements or arrangements between the Parties and represents the entire understanding between the Parties in relation thereto.

30.3 No Waiver; Remedies

No failure on the part of any Party to exercise, and no delay in exercising, any right, power or privilege hereunder shall operate as a waiver thereof or a consent thereto; nor shall any single or partial exercise of any such right, power or privilege preclude any other of further exercise thereof or the exercise of any other right, power or privilege. The remedies herein provided are cumulative and not exclusive of any remedies provided by Applicable Laws.

30.4 Severance of Terms

If any provision of this Agreement is declared to be invalid, unenforceable or illegal by any competent arbitral tribunal or court, such invalidity,

unenforceability or illegality shall not prejudice or affect the remaining provisions of this Agreement which shall continue in full force and effect and in such event, the Parties shall endeavour in good faith to forthwith agree upon a legally enforceable substitute provision as will most closely correspond to the legal and economic intent of the unenforceable provision.

30.5 Language

All notices, certificates, correspondence or other communications under or in connection with this Agreement shall be in English

30.6 Assignment

(a) By Service Provider

Save and except as otherwise permitted by this Agreement, the Service Provider shall not assign, transfer, mortgage, charge, sub-let, deal with, sub-contract, sub-license or otherwise grant rights in or over all or any of the rights, or all or any of its obligations or liabilities under this Agreement.

(b) By DIAL

Notwithstanding anything contained in this Agreement, DIAL may at its discretion and without requiring the consent of the Service Provider assign the benefits, rights and obligations or create any other encumbrance upon all or any of its rights hereunder, either in full or part to any Person

30.7 No Partnership

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

30.8 Taxes

The Service Provider shall pay all contributions, Applicable Taxes and premiums payable under Applicable Laws, during its performance under the Agreement and shall save DIAL harmless from liability for any such contributions, premiums and Taxes.

30.9 Stamp Duty

The Service Provider shall pay stamp duty and registration charges, as prescribed by the Applicable Laws.

30.10 Transfer Restrictions/ Change In Control

The shareholding pattern of Service Provider as on the Effective Date is as set forth in Schedule 7.

There shall be no change in the ownership or Control of the Service Provider without the prior written consent of DIAL, failing which DIAL shall have the right to terminate the Agreement forthwith.

IN WITNESS whereof DIAL and the Service Provider have signed this Agreement through their authorised representatives, as above stated, as of the date first hereinabove mentioned.

For **Delhi International Airport Limited**
Authorized Signatory

For [name of the Service Provider]
Authorized Signatory

Name:

Name:

Designation:

Designation:

Witness:

Witness:

1.

2.

SCHEDULE 1
SERVICE AREAS

[To be inserted at the time of execution of the Agreement]

SCHEDULE 2

SERVICE PROVIDER EQUIPMENT

[To be inserted basis the Proposal of the Service Provider]

SCHEDULE 3

SCOPE OF SERVICES AND SERVICE PERFORMANCE STANDARDS

Part A
Scope of Services

Part B
Service Performance Standards

[To be inserted at the time of execution of the Agreement]

SCHEDULE 4
SERVICE TEAM

[To be inserted basis the Proposal of the Service Provider]

SCHEDULE 5

PRICE SCHEDULE

[To be inserted basis the Proposal of the Service Provider]

A. CONTRACT SUM AND PAYMENT SCHEDULE

B. SUMMARY OF BILL OF QUANTITIES

C. SCHEDULE OF RATES FOR ADDITIONAL ITEMS (SOR)

SCHEDULE 6

INSURANCES

1. Insurance to be effected from the Effective Date:
 - 1.1 Subject to Applicable Laws, the Service Provider must at its own cost and expense ensure that the insurances specified in this paragraph are effected from the Access Date and are maintained in full force for the remainder of the Term.
 - (a) All statutory insurances including Workmen Compensations, Employers Liability and Motor Third Party Liability.
 - (b) All Risks property insurances in respect of assets, plants, machinery, equipment and related material on the premises on DIAL either owned and / or operated and / or leased or for which Service Provider has agreed to be responsible (property to exclude any property owned and / or leased by DIAL).
 - (c) Public Liability Insurance covering the liabilities arising from the Service Provider's operations with a Combined Single Limit (CSL) of at least INR 5 Cr.
 - (c) Any legal liability of the Service Provider in respect of loss or damage as a result of the death and/or personal injury suffered by an employee of the Service Provider or any person for whom the Service Provider is responsible.
 - 1.2 Service Provider will be responsible for any deductible under its insurances.
2.
 - 2.1 All required under 1.1 (b) above will include provisions as under:-
 - (i) Waiver of subrogation against DIAL, its subsidiaries, directors, officers, agents, employees;
 - 2.2 All required insurances under 1.1(c) above will include provisions as under:-
 - (i) Include DIAL and their respective successors and assigns and their respective, subsidiaries, directors, officers, agents, employees as additional insured for their respective rights and interests;
 - (ii) Include a severability of interest clause which provides that the

insurance, except for the limit of liability, will operate to give each assured the same protection as if there was a separate policy issued to each assured;

- (iii) Contain a provision confirming that the policy is primary without right of contribution and the liability of the insurers will not be affected by any other insurance of which the additional insured's have the benefit so as to reduce the amount payable to the additional insured's under such policies;
- (iv) provide that, in relation to the interests of each of the additional insured's the insurances will not be invalidated by any act or omission by Service Provider, or any other person other than the respective additional assured seeking protection and shall insure the interests of each of the additional assureds regardless of any breach or violation by Service Provider, or any other person other than the respective additional assured seeking protection of any warranty, declaration or condition, contained in such insurances;
- (v) Provide that the insurances will continue unaltered for the benefit of the additional assureds for at least 30 days after written notice by registered mail or telex of any cancellation, change, event of non-payment of premium or installment thereof has been sent to DIAL.

3. Additional Insurances

- 3.1 Without prejudice to the other provisions of this Schedule, the Service Provider must, throughout the Term:
 - 3.1.1 from time to time effect and maintain in full force those insurances which it is required to have by any Applicable Laws or by the terms of any contract entered into by it in respect of the Airport; and
 - 3.1.2 use best efforts to effect and maintain in full force those insurances which it is required to have by the terms of any other contract to which it is at any time a party.
- 3.2 The Service Provider must at any time effect such other insurances in addition to or supplementing those referred to elsewhere in this Schedule as it may think fit. The Service Provider must notify DIAL of any such additional or supplementary insurance.

SCHEDULE 7

SHAREHOLDING PATTERN OF SERVICE PROVIDER

[To be inserted basis the Proposal of the Service Provider]

SCHEDULE 8

FORMAT FOR PERFORMANCE BANK GUARANTEE

This Deed of Guarantee (“**Guarantee**”) is made at New Delhi, on this the [●] day of [●] [●] by [*insert name of the Bank*], having its registered office at [*registered office address of the Bank*] (hereinafter referred to as “**Bank**” which term shall mean and include, unless to repugnant to the context or meaning thereof, its successors and permitted assigns), in favour of Delhi International Airport Limited, a company incorporated under the Companies Act, 1956, having its registered office at New Udaan Bhawan, Opposite Terminal 3, Indira Gandhi International Airport, New Delhi 110 037 (hereinafter referred to as “**Beneficiary**”, which expression unless repugnant to the context hereof shall mean and include its successors-in-interest and assigns),

WHEREAS, [*insert the complete name of the Service Provider*], incorporated [*jurisdiction and laws of incorporation of the Service Provider*], having its registered office at [*registered office as per incorporation details*] (hereinafter referred to as “**Service Provider**”), is submitting its Proposal in response to the issue of the Request for Proposal issued by DIAL on [*date*] (hereinafter referred to as the “**RFP**”) **TO [●] AT INDIRA GANDHI INTERNATIONAL AIRPORT, NEW DELHI**, and in respect thereof, as condition, the Service Provider is required to submit a Performance Bank Guarantee for an amount of INR [●]/- (Indian Rupees [●]) in the form of a bank guarantee in favour of Beneficiary (hereinafter referred to as “**Tender Security**”);

AND WHEREAS, the Service Provider has informed the Bank that the Service Provider has undertaken to the Beneficiary to provide and furnish to the Beneficiary a bank guarantee in the format prescribed by the Beneficiary;

AND WHEREAS, in consideration of such an undertaking made by the Service Provider and as a condition of the RFP and the Agreement and in due compliance thereof, the Service Provider has approached the Bank to issue and the Bank has agreed to furnish a bank guarantee in the format provided in the RFP as Performance Bank Guarantee, in favour of the Beneficiary, *inter-alia*, guaranteeing due discharge of the obligations of the Service Provider in respect of Performance Bank Guarantee.

NOW THIS DEED WITNESSETH THAT in consideration of the premises and at the request of the Service Provider, we, the Bank, hereby declare and agree as follows:

1. We, the Bank hereby irrevocably undertake to pay forthwith, as principal debtor and primary obligor, to the Beneficiary on its first demand in writing sent / delivered to us either by registered post or by hand or fax immediately and forthwith and without any delay, any sum demanded in writing not exceeding INR [●]/- (Indian Rupees [●]) (“**Amount**”), without any protest, demur, caveat, recourse or reservation, without any reference to the Service Provider etc., notwithstanding any dispute or controversy or contest between the Beneficiary and/or Service Provider, whether or not arising out in respect of the Bid Documents. Any such demand made on us by the Beneficiary shall be final, binding and conclusive evidence and absolute as regards the invocation of the

Guarantee and the amount due and payable under this Guarantee. We expressly acknowledge that this Guarantee may be invoked more than once.

2. We, the Bank further agree and affirm that no change or addition to or other modification to the terms of the RFP and/or the Agreement, shall in any way release the Bank from any liability under this unconditional and irrevocable Guarantee and we hereby waive notice of any such change, addition or modification. We further agree with the Beneficiary, that the Beneficiary shall be the sole and exclusive judge to determine that whether or not any sum or sums are due and payable to it by the Service Provider, which are recoverable by the Beneficiary by invocation of this Guarantee.
3. This Guarantee shall be valid for a period until 120 (One Hundred and Twenty) days after the Term (“**Expiry Date**”) and shall continue to be enforceable till all amounts under this Guarantee are paid. All the demands and claims by the Beneficiary under this Guarantee may be made in writing until three (3) months after the Expiry Date (“**Claim Period**”).
4. This Guarantee, herein contained, shall not be impaired or discharged or determined or affected by the liquidation or winding up, determination or change of constitution of the Bank, Service Provider or Beneficiary or by any arrangement made between the Service Provider and Beneficiary or by any alteration or amendment of the terms of Services, revision of the Performance Bank Guarantee or by any alteration in the obligations undertaken by the Service Provider or by any forbearance as to time, performance or otherwise but shall in all respects and for all purposes be binding and operating on us with respect to such monies as demanded by the Beneficiary. We shall not be relieved from our obligations and liability under this Guarantee, by reason of any variation or extension being granted to the Service Provider or forbearance or omission on the part of the Beneficiary or any indulgence by the Beneficiary to the Service Provider to give such matter or thing whatsoever, which under the law relating to sureties would but for this clause/provision have effect of so relieving us.
5. All payments made hereunder shall be free and clear of and without deduction for, or on account of, any present or future charges, fees, commissions, deductions, whatsoever and by whomsoever imposed.
6. Any demand certificate, notice or any other communication under this Guarantee shall be in writing, and (i) by email or (ii) sent by person or (iii) sent by courier or (iv) sent by registered post on or before the expiry of Claim Period, at the following addresses:

Designation:

Branch Address:

Tel. no.:

Fax no.:

Email ID:

7. All such demand certificates, notices and communications shall be effective only if received by the Bank on or before the expiry of Claim Period
 - (a) if sent by email, immediately upon it being sent by the Beneficiary;
 - (b) if sent by person, when delivered;
 - (c) if sent by reputed courier 1 (one) day after deposit with an overnight courier; and
 - (d) if sent by registered letter when the registered letter would, in the ordinary course of post, be delivered.
8. This Guarantee shall be invoked on or before the expiry of the Claim Period. If the Guarantee is invoked on the last day of the Claim Period after public dealing hours, the claim of the Beneficiary shall be valid and Bank shall be liable to make payments on the immediate next working day. For the purposes of this Guarantee, any claims made on the last day of the Claim Period shall be considered to be duly received within the Claim Period.
9. This Guarantee shall be irrevocable and we, the Bank, undertake not to revoke this Guarantee till its currency except the previous and express consent of the Beneficiary in writing.
10. Notwithstanding anything to the contrary as contained hereinabove,
 - (a) at any given time our liability under this Guarantee is restricted to INR 20,00,00,000 (Indian Rupees Twenty Crore Only),
 - (b) this Guarantee shall be irrevocable and shall come into force on its execution,
 - (c) our liability under this Guarantee shall remain valid up to the Claim Period only whereafter all your rights under this Guarantee shall be forfeited and we shall be discharged from all liability hereunder.
11. All claims under this Guarantee will be made payable at the New Delhi branch of the Bank, presently located at [x] or any other branch located at Delhi.
12. This Guarantee is subject to the laws of Republic of India. Any suit, action, or other proceedings arising out of this Guarantee or the subject matter hereof shall be subject to the exclusive jurisdiction of courts of New Delhi, India.
13. The Bank represents that it has power and authority to validly execute and issue this Guarantee and the undersigned is duly authorized to execute and deliver this Guarantee and this Guarantee will be legally valid and binding and enforceable against the Bank.

IN WITNESS WHEREOF, this Deed of Guarantee has been signed on this the [●] day of [●] [●].

EXECUTANT

WITNESSES:-

Signature Name Address

1

2.