

**Tripartite Agreement (Supplier)**

by and between

**Mumbai Aviation Fuel Farm Facility Private Limited**  
as 'MAFFFL'

and

**Bharat Petroleum Corporation Limited**  
as 'Operator'

and

Name: [●insert]

**as Supplier**

- in relation to 'O&M-FF Services' at the Chhatrapati Shivaji Maharaj International Airport at Mumbai

Date of Execution: \_\_\_\_\_, 2021

Place of Execution: Mumbai

## Table of Contents

|                |                                             |    |
|----------------|---------------------------------------------|----|
| 1.             | Definitions and Interpretation.....         | 4  |
| 2.             | Effective Date .....                        | 12 |
| 3.             | Scope .....                                 | 12 |
| 4.             | Supplier's right .....                      | 12 |
| 5.             | Operator's Obligations .....                | 13 |
| 6              | Delivery, Handling and Storage of ATF ..... | 14 |
| 7              | Withdrawal of ATF .....                     | 21 |
| 8              | Liabilities and Indemnities .....           | 23 |
| 9              | Suspension .....                            | 24 |
| 10             | Covenants .....                             | 26 |
| 11             | Payments .....                              | 29 |
| 12             | Termination .....                           | 31 |
| 13             | Representations and Warranties .....        | 32 |
| 14             | Other Provisions .....                      | 33 |
| Exhibit 1      | .....                                       | 40 |
| Exhibit 2      | .....                                       | 46 |
| Exhibit 3..... | .....                                       | 50 |
| Exhibit 4..... | .....                                       | 51 |

This Tripartite Agreement (Supplier) ('Agreement') is executed on this [●insert] day of [insert] , 2021 ('Date of Signature'), at Mumbai, Maharashtra, Republic of India, between:

**Mumbai Aviation Fuel Farm Facility Private Limited**, a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at Opp. ITC Maratha, Sahar Police Station Road, Chhatrapati Shivaji Maharaj International Airport, Sahar, Andheri (East), Mumbai - 400 099, Maharashtra, Republic of India (hereinafter referred to as 'MAFFFL', which expression shall unless it be repugnant to the context or meaning thereof include its successors and assigns), of the first part;

**Bharat Petroleum Corporation Limited**, a company incorporated under the provisions of the Companies Act, 1913 and having its registered office at Bharat Bhawan, 4&6, Currimbhoy Road, Ballard Estate, Mumbai - 400 001, Maharashtra, Republic of India (hereinafter referred to as 'BPCL' or 'Operator', which expression shall unless it be repugnant to the context or meaning thereof include its successors and assigns), of the second part; and

[●insert full name], a company incorporated under the provisions of the Companies Act, [●insert] and having its registered office at [●insert] (hereinafter referred to as 'Supplier', which expression shall unless it be repugnant to the context or meaning thereof include its successors and assigns), of the third part.

MAFFFL, BPCL and Supplier may hereinafter collectively be referred to as 'Parties' and individually as 'Party'.

#### **WHEREAS**

- A. MAFFFL has the right to develop, own and operate the fuel farm facility at the Airport (as defined below) under a License Agreement dated December 30, 2014 executed between MIAL (as defined below) and MAFFFL ('License Agreement') read with the Into Plane Fueling Service Agreement dated December 30, 2014 executed between MIAL and MAFFFL ('ITP Agreement').
- B. The Operator has been selected by MAFFFL through a public tendering process for rendering operation and maintenance services with respect to Facility (as defined below). MAFFFL as owner of the Facility and the Operator, being the selected bidder have entered into the Operating Agreement dated March 25, 2015 (as defined below).
- C. Parties have entered into this Agreement pursuant to the Operating Agreement.

**NOW THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES  
HERETO AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 In this Agreement the following capitalized terms shall, unless repugnant to the context or meaning thereof, have the respective meanings ascribed to them below. Other terms are defined in the context in which they appear in the Agreement:

'AAI' means the Airports Authority of India, constituted under the Airports Authority of India Act, 1994.

'Agreement' means this Tripartite Agreement (Supplier) entered into between MAFFFL, Operator and the Supplier together with all schedules, appendices, addenda and annexure hereto as from time to time supplemented, modified or replaced as provided for herein.

'Aircraft' means a machine or device, vehicle or craft, including an airplane, helicopter that is capable of atmospheric flight, with the use of ATF.

'Aircraft Defueling' means the removal of fuel from the tanks and fuel lines onboard an Aircraft.

'Aircraft Fuelling' means the supply and delivery of ATF, lubricants and related products via the Facility and the Mobile Equipment, to an Aircraft and related operations and services.

'Aircraft Operator' or 'Air Carrier/s' means any aircraft operator undertaking service for the carriage of passengers, baggage or cargo by air, including without limitation, scheduled and chartered airlines, military flights, general aviation operators and executive jets which requires the supply of ATF at the Airport.

'Aircraft Refueling' means the delivery of fuel to Aircraft which fuel has previously been defueled in the manner provided in the standard operating procedures as approved by MAFFFL which, inter-alia requires that such fuel is delivered back to an aircraft operated by the Aircraft Operator of the aircraft which was the object of the original Aircraft Defueling.

'Airport' or 'CSMIA' means the Chhatrapati Shivaji Maharaj International Airport at Mumbai located on the Airport Site.

'Airport Agreement' means the agreement between MIAL and each Supplier for payment of 'airport operator fee'. For clarity, with respect to Oil PSUs, the airport agreement will be a recordal of the minutes of meeting dated September 4, 2008.

'Airport Site' means the entire land demised to MIAL by AAI and such other land which may be from time to time demised by AAI to MIAL.

'Applicable Laws' means any and all applicable laws including rules, direction, regulations and notifications made thereunder and judgments of the Supreme Court of India or other courts, tribunals, regulatory body, as may be in force and effect in India during the subsistence of this Agreement.

'Approvals' means all authorisations, consents, approvals, permissions, licenses, exemptions, no-objections, security clearances, permits and other authorizations of whatsoever nature, which are required to be granted pursuant to Applicable Laws, or any registration or filing with, any authority under Applicable Laws.

'ATF' means Aviation Turbine Fuel.

'Aviation Operation Manual' means a manual prepared by the Operator and approved by MAFFFL, for operating and managing the Facility.

'BPCL' means Bharat Petroleum Corporation Limited, a company incorporated under the Companies Act, 1913 and functioning in accordance with the Companies Act 1956 and Companies Act 2013.

'Bank Guarantee' shall mean the bank guarantee issued by public sector bank or scheduled bank having a branch in Mumbai, Maharashtra (India) in the format set forth in Exhibit 2.

'Business Days' means any day other than a Sunday or any public holiday, on which banks in Mumbai, India are generally open for business.

'Contract' or 'Operating Agreement' shall mean the agreement between MAFFFL and the Operator for providing O&M-FF Services alongwith any document, undertaking or bond furnished by the Operator thereunder.

'Date of Signature' means the date of execution of the Agreement by the Parties.

'Dedicated Supply Pipeline' means a pipeline dedicated exclusively to the transportation and delivery of ATF on behalf of the Supplier and Other Suppliers to the Facility.

'Dedicated Supply Vehicle' means a vehicle dedicated exclusively to the transportation and delivery of ATF to the Facility, or a vehicle upgraded in accordance with Quality Control, Assurance and Operating Manual and dedicated exclusively for transportation and delivery of ATF as designated by or on behalf of the Supplier.

'Delay Interest Rate' shall mean interest at the rate of SBI base rate + 4.25% per annum or pro rata part thereof on the amount delayed, for the period of such delay.

'Deliverable Quantities' means the quantity of ATF which the Supplier is holding or is available in the Facility at that time after adjusting quantities towards Operating Losses or Operating Gains, all of which shall be measured at natural temperature.

‘DGCA’ means the Director General of Civil Aviation, Republic of India.

‘Delivery Certificate’ means a standard form delivery certificate in a form approved by the Operator on which details of any withdrawal of ATF by the Supplier, through its Into-Plane Agent, including details which are set out in Quality Control, Assurance and Operating Manual are recorded.

‘Existing Facilities’ mean the aviation fuel facilities including the Hydrant System of IOCL, BPCL, HPCL and MIAL as on the ‘commencement date’ under the Contract.

‘Facility’ means the aviation fuelling facilities at CSMIA that are owned by MAFFFL, comprising:

- (i) the Existing Facilities;
- (ii) the Integrated Facility;
- (iii) the Hydrant System; and

any other facilities that are mutually agreed in writing between MAFFFL and MIAL to form a part of the Facility.

‘Facility Capital Assets’ means the structures, buildings, plant, vehicles and equipment whether fixed or movable used by Operator in the course of operating the Facility, including associated pit cleaner, flushing truck, mobile workshop, truck, car, fixtures and fittings, IT and SCADA systems, computers, testing, safety and environmental facilities, quality control equipment and flow meters and office equipment.

‘Force Majeure’ means events which satisfy all of the following conditions: (i) materially and adversely affect the performance of an obligation by a Party; (ii) are beyond the reasonable control of the affected Party; (iii) are such that the affected Party could not have prevented or reasonably overcome with the exercise of Good Industry Practice or reasonable skill and care; and (iv) do not result from the gross negligence, willful misconduct, breach or default (but not technical breach or default) on part of the affected Party.

Force Majeure includes without limitation the following events provided they satisfy the foregoing conditions: (a) war (declared or undeclared), invasion, armed conflict or act of foreign enemy in each case involving or directly affecting India; (b) act of sabotage, revolution, act of terrorism, riot, insurrection or other civil commotion, in each case within India; (c) nuclear explosions, radioactive or chemical contamination, ionizing radiation directly affecting the Airport; (d) strikes, working to rule, go-slows and / or lockouts which are in each widespread, nationwide or political; (e) any effect of the natural elements, including lightning, fire, earthquake, unprecedented rains, floods, earthquake, tidal wave, flood, storm, cyclones, typhoon or tornado, within India; (f) explosion (other than nuclear explosion or an explosion resulting from an act of war) within India; (g) epidemic or plague within India; (h) aircraft accidents or breakdowns (i) any period of step-in by AAI exceeding a period of three months; or (j) any event or circumstances of a nature analogous to any events set forth in paragraphs (a) to (h) above. Notwithstanding anything contained herein, a strike by general employees at the Airport shall be an event of Force Majeure.

‘Fuel Farm Utilization Information’ shall mean (i) tariff applicable (i.e., the AERA regulated fare) for various services, including discounts offered, if any; (ii) maximum storage capacity used by various ATF suppliers vis-à-vis the allotted monthly capacity, on a monthly basis; (iii) any change in

availability of storage capacity on account of scheduled maintenance, cleaning etc at least one month in advance; (iv) rates approved by AERA on every revision, and (v) such other information as may be included under this head from time to time.

'Fuel Infrastructure Fee' means the tariff as approved by Airport Economic Regulatory Authority ('AERA') for providing the fuel storage and handling services at CSMIA by MAFFFL.

'Fuel Infrastructure Charges' means, Fuel Infrastructure Fee multiplied by Throughput.

'Good Industry Practice' means the exercise of that degree of skill, diligence efficiency, reliability and prudence 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 owner of a fuel farm facility and or Operator and or Supplier, as the case may be.

'HPCL' means Hindustan Petroleum Corporation Limited, a company incorporated under the Companies Act, 1956 and functioning in accordance with the Companies Act 1956 and Companies Act 2013.

'Hydrant Dispenser' or 'Dispenser' means a light truck type vehicle specifically designed for aircraft fueling from a Hydrant System.

'Hydrant System' means the ATF hydrant delivery system part of the Facility which comprises:

- (i) Pipes, fittings, valves, risers, cables and manhole covers;
- (ii) valve chambers and valves;
- (iii) Hydrant pits and hydrant valves and risers, high point vents and low point drains;
- (iv) Any provisions for pressure, temperature, flow sensors and instrumentation;
- (v) Power cables and earth bonding from motor operated valves to distribution board connection;
- (vi) Emergency shutdown equipment and communication cabling;
- (vii) Cathodic protection, corrosion protection;
- (viii) Leak detection and tightness monitoring system; and
- (ix) any other facilities ancillary or associated with the foregoing.

'IOCL' means Indian Oil Corporation Limited, a company incorporated under the Companies Act, 1956 and functioning in accordance with the Companies Act 1956 and Companies Act 2013.

'Indemnity Agreement' means the agreement in the form attached hereto as Exhibit 1, to be entered into by MAFFFL, Operator and the Supplier and the Other Suppliers (including Aircraft Operators who are suppliers) for providing liability for;

- (i) claims arising out of Aircraft Fueling, Aircraft Defueling, Aircraft Refueling as covered under the Aircraft Refueling Liability Insurance;
- (ii) any loss or damage resulting from the delivery of any product which is not in keeping with the Specification; and
- (iii) any loss or damage resulting from the tanker carrying product including collision, overturn of tanker, irrespective of whether or not such loss or damage is occasioned by any act of

commission or omission of the Supplier, or representatives, employees, officers, personnel, subcontractors of the Supplier, at the Airport.

(iv) any loss or damage or claims arising out of any act or omission on the part of the representatives, employees, officers, personnel, subcontractors of the Supplier at the Airport.

'Integrated Facility' shall mean the integrated aviation fueling facility to be constructed and developed at the Integrated Facility Site, by modifying and upgrading the Existing Facilities, adding additional capacity and developing new facilities.

'Integrated Facility Site' shall mean the merged existing sites of IOCL and HPCL near terminal 1A of CSMIA at Santacruz, Mumbai, Republic of India.

'Into-Plane Agent' or 'ITP Agent' means the into plane agent duly authorized by MAFFFL to render ITP Services at the Airport.

'Into-Plane Vehicle (s)' means any Hydrant Dispenser, Fuel bowser or fueller or defueller, including any jeeps, car etc., operated by any Into-Plane Agent at the Airport.

'ITP Agreement' shall have the meaning ascribed to it in Recital A above.

'ITP Assets' or 'Mobile Equipment' means the Hydrant Dispensers, fuel bowsters, into-Plane vehicle(s) and other vehicles and loose plant and equipment used to provide the ITP Services.

'ITP Services' means all functions necessary for the Aircraft Fuelling, Aircraft Defueling and Aircraft Refueling at the Airport utilizing the ITP Assets including, without limitation:

- (i) dispensing Aviation Fuel from the hydrant pits to the fuel tanks of Aircraft using the Hydrant Dispensers or bowsters; or
- (ii) withdrawing ATF from the fuel tanks of Aircraft using the bowsters, and dispensing ATF withdrawn from Aircraft to the same Aircraft or to other Aircraft operated by the same Aircraft Operator, including services associated with aircraft fuel trimming and supply and delivery of lubricants at the Airport; or
- (iii) the temporary storage in bowsters of Aviation Fuel withdrawn from aircraft pending Aircraft Fueling Refueling.
- (iv) Supply and delivery of lubricants at the Airport.
- (v) Documentation related to above including statutory norms.

'JCC' means the committee constituted by MAFFFL in consultation with MIAL, members of which shall comprise representative(s) of MAFFFL, MIAL, each authorized ITP Agent, Supplier, Other Suppliers, Operator, and other stake holder such other person(s) as may be decided by MAFFFL.

'Joint Check List' means at any time the latest issue of the ATF quality requirements for jointly operated systems (AFQRJOS) issued by Joint Inspection Group at that time, together with any amendments or additions thereto in force at that time.

'Joint Guidelines' means at any time the latest issue of the Joint Inspection Group guidelines for Aviation Fuel Quality Control & Operating Procedures for Jointly Operated Supply and Distribution Facilities, the Guidelines for Aviation Fuel Quality Control & Operating for Joint Airport Depots at that time, together with any amendments or additions thereto in force at that time.

'Joint Inspection Group' means the group of international oil companies, presently incorporated as the Joint Inspection Group Ltd., who have laid out guidelines amongst other matters, for aviation fuel quality control and operating procedures joint into plane fueling services, joint airport depots and jointly operated supply and distribution facilities.

'License Agreement' shall have the meaning ascribed to it in Recital A above.

'MIAL' means the Mumbai International Airport Limited, a company incorporated under the Companies Act, 1956.

'MAFFFL Representative' shall mean at least one person identified by MAFFFL and communicated in writing to the Operator and the Supplier, from time to time.

'Maximum Quantity' with respect to any given calendar month means the maximum quantity of ATF which may be stored by the Supplier at the Facility at a given point in time during such calendar month, which shall be determined in accordance with this Agreement.

'Minimum Inventory' shall mean minimum volume equivalent to two days sales determined on the basis of total sales volumes of the preceding month which shall be stored by the Supplier at the Facility at a given point in time during such calendar month, which shall be determined in accordance with this Agreement.

'Notice of Suspension' shall have the meaning ascribed to it under Section 9.2 of this Agreement.

'O&M-FF Services' or 'Services' includes all functions necessary for the management, operation and maintenance of the Facility including quality control checks of the hydrant pits.

'OMDA' shall mean the Operating, Managing and Development Agreement executed between MIAL and Airports Authority of India dated April 04, 2006 as may be amended from time to time.

'Oil PSUs' means a collective reference to IOCL, BPCL and HPCL.

'Open Access' means the provision of access to and use of the Facilities and its services to all qualified Suppliers on an equitable, non-discriminatory basis and on the common user principle in order to enable the Air Carriers to freely select the Supplier of their choice to supply ATF at the Airport, subject to any airport operational constraints and requirements as finally determined by MIAL.

'Operating Gains' means normal operating gains, including temperature gains and gains occurring due to overage or underage tolerances in the normal operations of the Facility.

'Operating Losses' means normal operating losses, including temperature losses, losses due to tank cleaning, testing of ATF or equipment and losses occurring due to overage or underage tolerances in the normal operations of the Facility.

'Operator Representative' shall mean at least one person identified by the Operator and communicated in writing to MAFFFL and the Supplier, from time to time.

'Other Supplier(s)' means any entity or entities (other than the Supplier) which has or have entered into an agreement with MAFFFL on similar terms and conditions to the Agreement and has the right thereunder to supply ATF at the Airport at the relevant time.

'Operational Review Committee' or 'ORC' means a committee constituted by MAFFFL and comprising of representative of MAFFFL, Supplier, ITP Agent and Operator.

'Qualified Supplier' means an entity authorized by Government of India that which is willing, able to market ATF in India to Aircraft Operators or Air Carriers and would include Air Carriers who can bring the ATF for their own use via the Aviation Fuel Facility.

'Quality Control, Assurance and Operating Manual' means the manual prepared by the Operator which set out the procedures, standards and requirements for using, accessing and operating the Facility, as revised, supplemented and up-dated by the Operator in consultation with and subject to the prior approval in writing of the DGCA.

'Relevant Authorities' means the Government of India ('GOI'), the Ministry of Civil Aviation ('MOCA'), Ministry of Petroleum and Natural Gas ('MoPNG'), Government of Maharashtra (including its ministries, departments, instrumentalities and agencies), Airport Authority of India ('AAI'), Directorate General of Civil Aviation ('DGCA'), Petroleum and Explosive Safety Organization ('PESO'), Chief Controller of Explosives ('CCOE'), Airports Economic Regulatory Authority ('AERA'), Bureau of Civil Aviation Security ('BCAS'), Oil Industry Safety Directorate ('OISD') and any other present or future statutory authority or governmental body having jurisdiction over any aspect covered under the Agreement.

'SCADA' means Supervisory Control and Data Acquisition System.

'Specification' means the specifications relating to ATF quality being the latest issue of Aviation Fuel Quality Requirements for Jointly Operated Systems for Jet A-1 from time to time, which currently represents the most stringent requirements of the following two specifications and IS:1571 issued by the Bureau of Indian Standards:

(i) British Ministry of Defence Standard DEF STAN 91-91/Issue 6 and Amendment 1 of 25 August, 2008 for Turbine Fuel, Aviation 'Kerosene Type', Jet A-1, NATO Code F-35, Joint Service Designation AVTUR;

(ii) ASTM Standard Specification D1655-08a for Aviation Turbine Fuels 'Jet A-1'.

'Supplier Representative' shall mean at least one person identified by Supplier and communicated in writing to the Operator and MAFFFL, from time to time.

'Throughput' means the total volume of ATF delivered via the Facility at ambient temperature over a specified period of time into the Aircrafts as accounted towards all the Mobile Equipment which carried out the subject deliveries over that period of time and as evidenced by the Delivery Certificate or volume of ATF withdrawn from the Facility as may be permitted by MAFFFL.

'Tax' means any and all taxes, duties, levies, cesses, imposts, surcharges, assessments, or other statutory deductions, withholdings or payments, together with any and all penalties, claims, interest or liabilities in relation thereto. For the avoidance of doubt, this expression includes stamp duty and registration charges.

'Undertaking' mean the undertaking with respect to Minimum Inventory given by Supplier to MAFFFL substantially in the format set forth in Exhibit 3.

'User' means any person that uses or has access to the Facility and or the Services of the Operator. This expression includes Suppliers and Aircraft Operators and shall include other persons that may subsequently become Users, including without limitation, Into-Plane Fueling Service Providers and other service providers.

'Year' means the period commencing from April 1 of a calendar year and ending on March 31 of the following calendar year, except that the first and last Years of any period specified under the Agreement may be shorter, with the first Year commencing on the commencement of such period and ending on the March 31 immediately following such commencement and the last Year commencing on the April 1 immediately preceding the end of such period and ending at the end of such period. Where the term 'year' is used without capitalization, it means the period from a particular day to the day immediately preceding the anniversary of such day in the following calendar year. Any rate specified 'per annum' is for a whole year (un-capitalized term).

## 1.2 Principles of Interpretation

In this Agreement, unless the context otherwise requires: words importing singular include the plural and vice versa; a reference to any gender includes the other gender; words denoting natural persons include partnerships, companies, corporations, trusts, associations, organisations or other entities (whether or not having a separate legal entity) and vice versa; a reference to a person, party or entity includes a reference to that person, party or entity's legal successors and permitted assigns; a reference to a law or statutory provision includes such law or provision as is from time to time amended, modified, supplemented, consolidated or re-enacted; the words 'include' and 'including' are to be construed without limitation; headings are for convenience of reference only and shall not affect the construction or interpretation of the Agreement; the words 'herein', 'hereof', and 'hereunder' and other words of similar import refer to the Agreement as a whole and not to any particular section or other subdivision; annexures, schedules, exhibits and attachments to the Agreement form an integral part of the Agreement; a reference to an agreement, contract, deed, instrument or other document shall include a reference to that agreement, contract, deed, instrument or document, as amended, novated, modified or supplemented from time to time; references to recitals, sections, paragraphs, annexures, exhibits, schedules or attachments, in the

Agreement shall be deemed to be references to recitals, sections, paragraphs, annexures, exhibits, schedules or attachments, of or to this Agreement; where several standards and requirements are applicable to a particular work, service or operation, the most stringent of such standards and requirements shall be complied with; and the rule of construction, if any, that a contract should be interpreted against the parties responsible for the drafting and preparation thereof, shall not apply.

## **2. Effective Date**

- 2.1 Section 10.2 [Performance Security] of this Agreement shall come into effect as on the Date of Signature.
- 2.2 The remaining provisions of the Agreement shall come into effect as on the 'commencement date' under the Contract, which date shall be as communicated by MAFFFL to the Supplier. In case such 'commencement date' occurs prior to the Date of Signature, Parties acknowledge that this Agreement shall be considered as a recordal of terms and conditions already agreed as of the 'commencement date'.
- 2.3 In case the Date of Signature occurs after the commissioning of Integrated Facility, the Agreement shall come into effect on such Date of Signature.

## **3. Scope**

- 3.1 Operator shall render services to the Supplier as set forth in the Agreement.
- 3.2 Supplier shall perform its obligations towards the Operator and MAFFFL as set forth in the Agreement.
- 3.3 The Supplier acknowledges that the Operator's obligations with respect to operations of the Facility shall commence in phases based on the portion of the Facility handed over to the Operator under the Contract.
- 4.1 Supplier's Rights: Subject to and in accordance with the provisions of the Agreement, the Supplier shall have the following rights during the subsistence of the Agreement:
  - i. (a) To make deliveries of ATF at the Facility through pipeline or
    - (b) To make deliveries of ATF at the Facility through tank trucks, compatible with the gantry design, at its own cost by its own arrangements through Offsite Facility. Provided however, the cumulative number of tank trucks of all the suppliers which can be decanted in a day will be limited to the Decantation Facility Capacity available at the Facility. Further the decantation facility capacity shall be discussed and decided in ORC meeting.
  - (b.i) Scheduling of deliveries shall be determined in accordance with Section 6.2.

(b.ii) The maximum number of tank truck deliveries per supplier per day at the facility shall be determined on pro-rata basis based on the volume of business of the supplier and total available capacity at the Facility and in accordance with Section 6.6.

(b.iii) Provided that, such Supplier will be required to pay an additional charges to the Operator for tank truck decantation, as approved by ORC, to compensate cost incurred by Operator for such activity.

- ii. To require the Operator to store the ATF within the Facility subject to the quantity limits as set forth in Section 6.6 below, in accordance with the terms of this Agreement.
- iii. To supply ATF through the Facility through the ITP Agent.
- iv. To inspect the Facility as and when required, subject to compliance with Section 6.5(iii).
- v. To receive the details of ATF received by Operator from the Supplier and stocks data on day to day basis. In the event the Supplier becomes aware of any information that is inaccurate or incomplete in respect of the Fuel Farm Utilization Information, it shall promptly advise the Operator of the same in writing. The Parties acknowledge that the Fuel Farm Utilization Information displayed on the official website of MAFFFL is based on the information furnished by the Operator to MAFFFL.
- vi. To undertake in-tank transactions in accordance with Section 6.5(ii).

**4.2 Supplier's rights under the Agreement shall be conditional upon:**

- i The Supplier is a Qualified Supplier having a valid license/ authorisation to supply ATF.
- ii Supplier entering into the Airport Agreement,
- iii Supplier entering into an 'Indemnity Agreement' by way of executing schedule 1 of the Indemnity Agreement which also contains the particulars and signatures of the Other Supplier(s).
- iv Supplier furnishing and replenishing Performance Security (as specified in Section 10.2(i)).
- v Supplier entering into a valid agreement with the ITP Agent.
- vi The Supplier demonstrating, to the reasonable satisfaction of Operator, that the Supplier has taken out and maintains an insurance cover, where under the Operator and other parties to the Indemnity Agreement are co-insured, for a sum not less than 1 billion US\$ or as per the IATA norms, as revised from time to time, in respect of claims in connection with or arising out of fueling operations ('Aircraft Refueling Liability Insurance') whereby Operator and the other parties to the Indemnity Agreement are indemnified by such insurance with the condition of waiver of subrogation against the parties to the Indemnity Agreement.
- vii The Supplier providing evidence that it has access to DGCA approved laboratory testing facilities for the testing of the quality of ATF. Such laboratory shall have valid license or approval from the DGCA.
- viii Supplier has valid supply contract with Aircraft Operator to supply ATF at CSMIA.

**5 Operator's Obligations:**

- 5.1** The Operator shall act as bailee of the co-mingled ATF within the Facility, and shall accept, maintain and make available Deliverable Quantities of ATF for withdrawal by Supplier through its ITP Agent. The Operator shall convey daily opening quantity available against each Supplier to MAFFFL and Supplier, in the format as advised by MAFFFL from time to time.

- 5.2 The Operator shall adhere to the Quality Control, Assurance and Operating Manual and the Aviation Operation Manual and ensure due care of the ATF stored in the Facility.
- 5.3 Non-discrimination: The Operator shall neither treat any Other Supplier more favourably than the Supplier, nor shall the Operator treat the Supplier more favourably than any Other Suppliers i.e, equal treatment shall be given to the Supplier and Other Suppliers, For the avoidance of doubt, the waiver by the Operator of any provision of this Agreement or any provision of any similar agreement entered into by the Operator with any Other Supplier, or the exercise of any discretion by the Operator under this Agreement or under any such other agreement, shall neither be considered as the Operator treating the Supplier more favorably than any Other Suppliers nor treating any Other Supplier more favorably than the Supplier, if the Operator reasonably considers it necessary or exercise such right or discretion in order to ensure compliance with its obligations under the Operating Agreement.
- 5.4 Open Access of integrated facilities  
Operator shall operate Integrated Facilities on the principle of Open Access. For the purposes of this Agreement, Under Open Access, ATF shall be stored by Operator in the co-mingled state and no User shall be entitled for separate storage for its ATF. The following principles shall be complied with for Open Access:
- i Operator shall provide access to its facilities and provide its services, only to Suppliers who are approved by MIAL. The foregoing shall not apply in the event MIAL issues a waiver in respect of execution of the Airport Agreement, in writing to the Supplier. Operator, on being notified by MAFFFL, shall cease providing access to its facilities and services to Suppliers in respect of whom MIAL withdraws its approval and notifies MAFFFL in writing of the same.
  - ii Operator shall provide equitable and non-discriminatory access to its facilities and services, in accordance with the principle of Open Access and in terms of the OMDA, to all Users, including without limitation, by applying (subject to Applicable Laws) charging and pricing principles to determine, levy and collect fees and charges that are fair, non-discriminatory and consistent for all Users. Operator shall enter into agreements with all Users on a fair, non-discriminatory and consistent basis. The Operator shall ensure that no such agreement with the User restricts the ability of Aircraft Operators to select such User.

## **6 Delivery, Handling and Storage of ATF**

- 6.1 Subject to Section 6.2, the Supplier shall have no right to make a delivery of ATF to the Facility, whether by pipeline or tank trucks, unless the Operator is reasonably satisfied that:
- i. The Supplier has a valid 'Fuel Supply Contract' with the Aircraft Operator existing as on the date of the proposed delivery.
  - ii. Dedicated Supply Pipeline and or Dedicated Supply Vehicle to be used for delivery of ATF shall satisfy the requirements of the Quality Control, Assurance and Operating Manual.
  - iii. Supplier's rights are not suspended as on the date of proposed delivery pursuant to Section 9.
  - iv. Supplier has necessary Approvals, registrations from Relevant Authorities as required under Applicable Law for delivery of ATF to the Facility.

- v. Supplier shall make available information as required by Operator and or MAFFFL from time to time including details (other than price) of fuel sales contracts with Aircraft Operators.

6.2 Deliveries to the Facility:

- i. Upstream Handling and Transport Requirements
  - a. Supplier shall ensure that road tank trucks (bridger(s)) shall be dedicated to ATF service and shall meet all physical and logistics requirements specified in the Quality Control, Assurance and Operating Manual.
  - b. If in the reasonable opinion of the Operator, any bridger or equipment is not safe or shows any deficiencies or if it considers the calibration of such bridger or equipment to be tampered with, such bridger or equipment shall be denied access to the Facility and the same shall be brought to the notice of the Supplier's Representative for taking suitable remedial measures.
  - c. Operator shall be entitled to physically verify the calibration of the bridger or equipment with master meter. In case of any errors in the calibration, the Operator shall have the right to recover the loss of product, received through the truck since last calibration and deny the truck from any future supplies to the Facility.
  - d. Where the bridger or equipment is not maintained in terms of its calibration certificate, explosive license and requirements under Applicable Law, the Supplier shall be liable to the Operator and to Other Suppliers for any shortfall and or other consequences arising from the use of such bridger or equipment.
  - e. Operator shall be entitled to make reasonable enquiries pertaining to the quality of ATF which the Supplier proposes to deliver to the Facility. Operator shall be entitled to deny Supplier access to deliver ATF into the Facility, if it is not satisfied as to the assurance of the quality of the ATF and compliance with the Quality Control, Assurance and Operating Manual, Joint Checklist and Joint Guidelines.
  - f. Supplier shall ensure that supply of ATF is affected through means dedicated for supply, maintained and operated in accordance with DGCA standards and procedures.
- ii. Scheduling and delivery. The Scheduling and delivery of ATF to the Facility by or on behalf of the Supplier shall be made in accordance with Quality Control Assurance and Operating Manual and shall be in the following manner:
  - a. Scheduling of receipt of ATF into the Facility through pipelines shall be determined by reservations made by Supplier by advance notice whereby the Operator will reserve and allocate the best fit delivery slot to the Supplier(s). Scheduling of receipt of ATF into the Facility through tank trucks shall be on first-in-first-out basis, (FIFO) and subject to the availability of ullage of the Supplier whereby the Operator will reserve and allocate the best fit delivery slot to the Supplier(s). The unloading of tank truck operation will be undertaken preferably from 0700 hrs to 1900 hrs.
  - b. Supplier shall have sufficient inventory to meet its customers' requirements. The Supplier alone shall be liable for any consequences arising from such shortfall.
  - c. Available ATF storage capacity in the Facility shall be allocated to the Supplier by the Operator in the ratio of its customers' uplifts to Airport's total uplift.
  - d. Supplier shall plan the transfer and or bridging of ATF as per availability of ullage allotted to it and as and when required, shall make replenishments of inventory.

- e. Particularly in case of delivery through Dedicated Supply Pipeline, it is not envisaged that each delivery will be matched against specific deliveries to the Aircraft Operator but that inventories shall be kept approximately in balance. In the event that a trend emerges whereby deliveries to the customer of the Supplier are not matched by its inventory replenishments, Operator will instruct the Supplier to propose a revised delivery programme to remedy the discrepancy or to arrange transfer of inventory with Other Suppliers.
- f. The quantity of ATF received at the Facility shall;
  - f.1) In case of receipt through tank truck, be measured by tank truck dip in accordance with Aviation Operation Manual. The temperature, transit loss or gain and or claimable loss shall be calculated at actuals and will be adjusted accordingly.
  - f.2) In case of receipt through pipelines, be measured based on the quantity received in the tanks at the Facility. In case of delivery of ATF through pipelines, the Supplier may, in its discretion and at its sole cost and expense, either itself or through a third party surveyor appointed by the Supplier, witness and record measurements of the receipt tank. MAFFFL or Operator shall have the right to cross check the receipts through flow meters or weigh bridge and initiate suitable action with the Supplier accordingly.
  - f.3) The Operator shall monitor the receipt of ATF through pipelines at the Facility.
- iii. Tests and inspections
  - a. Supplier shall be solely responsible for ensuring that ATF received by the Operator meets the ATF Specification and the Supplier shall produce necessary certificates or test reports to that effect to the Operator at the time of delivery of the ATF to the Facility.
  - b. Without prejudice to Section 6.2(iii) (a) and Section 6.2(v)(a), the Operator may in its discretion, at any time, make such enquiries into the origin, physical storage or transportation of any product proposed to be delivered by the Supplier to the Facility (including laboratory testing and other facilities and procedures used by the Supplier), and may perform such tests and inspection thereon, in each case as it reasonably considers necessary to determine whether such product is ATF at the point of delivery into the Facility. The Supplier shall promptly respond to any such enquiries and provide all reasonable assistance to the Operator in connection with any such tests and inspections.
  - c. Without prejudice to Section 6.2(iii) (a) and Section 6.2(v)(a), the Operator shall have the right to reject a batch or consignment of ATF which, does not comply with the Specification, Quality Control Assurance and Operating Manual and or any other quality norms as required by DGCA.
- iv. Temporary Arrangements

The Operator may by advance notice to the Supplier make such temporary arrangements for the scheduling and / or delivery of ATF to the Facility as may seem appropriate to the Operator where operation of the Facility at its full capacity would otherwise be impossible or impractical for reasons attributable to scheduled maintenance or otherwise.
- v. Liabilities towards Deliveries made

- a. **Quality Inspection:** Supplier shall be solely responsible for ensuring that ATF meets the required Specifications at the time of receipt by the Operator. The Supplier shall be fully and solely responsible to the Operator, Other Suppliers or to third parties for any loss or damage resulting from the delivery of any product which is not in keeping with the Specification.  
Any waiver by Operator to test or failure to reject any such product shall not make the Operator liable and or responsible, either to the Supplier(s) and or Other Supplier and or third parties, from any loss or damage resulting from such product not complying with requirements of ATF as defined after the same is received in the Facility.
  - b. The Operator shall be liable to the Supplier for the cost of ATF and for the cost of its removal from the Facility, in case loss, leakage or contamination of ATF, except to the extent the liability is covered under the Aircraft Refueling Liability Insurance.
  - c. The Supplier shall be liable to the Operator for any loss or damage resulting from the tanker carrying product including collision, overturn of tanker, irrespective of whether or not such loss or damage is occasioned by any act of commission or omission of the Supplier or representatives, employees, officers, personnel, subcontractors of the Supplier at the Airport.
  - d. In the event of ATF spills or other environmental polluting discharge, the Operator shall commence containment or cleanup operations as deemed appropriate or necessary by the Operator or required by any Relevant Authorities and the Operator to notify Supplier immediately of such operations.  
However, the Operator shall be responsible for all costs and works necessary to remedy any environmental damage resulting from ATF spills or leakage or other environmental polluting discharge only to the extent not covered under the Aircraft Refueling Liability Insurance.
  - e. ATF supplied by or on behalf of the Supplier pursuant to the Agreement and in which Supplier has title, shall remain the property of the Supplier. In the event such ATF enters into unsegregated storage, then the Supplier shall become an owner-in-common of such unsegregated ATF in proportion to the quantity of ATF stored by Operator and, subject to the other provisions of this Agreement, shall be entitled to withdraw an equivalent amount on demand.
  - f. The Operator shall ensure that ATF is protected against theft and or pilferage while it remains stored in the Facility. Any liability arising out of theft and or pilferage shall be the responsibility of the Operator.
- vi. **Rejection of the Supplier's product**  
If product proposed to be delivered to the Facility is found not to be in compliance with the requirements of ATF as defined, at the point of delivery into the Facility as revealed by the test report submitted by the Supplier or by the test conducted by Operator, the Operator shall be entitled to reject such product.
- vii. **Removal of downgraded product**  
Each Supplier shall be responsible for the removal of its quantity of downgraded or contaminated product at the Facility within 10 (ten) days of intimation in writing from Operator to Supplier. However, in case of any exigency Operator shall be entitled to remove

or segregate such downgraded or contaminated product from the Facility without notice to the Supplier and inform the Supplier after such removal accordingly. The cost of such removal or segregation shall be borne by the Supplier(s) or Operator after due enquiry or investigation. Notwithstanding anything contained herein, pending enquiry or investigation or in the event of any disagreement between the Operator and Supplier, the Supplier shall continue making payments in accordance with Section 11 of the Agreement. In case of any disagreement between the Operator and Supplier, the decision of ORC shall be final and binding on both the Parties.

6.3 Product liability

Operator shall insure the product inside the Facility against the risk of fire, leakage and contamination in accordance with the Applicable Laws and Good Industry Practice. The foregoing shall not prejudice the obligations of the Supplier under this Agreement.

6.4 Custody

i. Delivery to the Facility

Operator shall take custody of ATF delivered to the Facility when it enters the Facility on passing the inlet flange of the Facility and shall hold such ATF as bailee for the Supplier with freedom to make available for withdrawal the Deliverable Quantities of product.

ii. Withdrawals by Into-Plane Agents

Custody of ATF shall be released by Operator to the Into-Plane Agent as it passes through the relevant hydrant pit valve connection, or up to the nozzle of the loading hose installed at the outlet flange at the loading bay (as the case may be).

6.5 Operational Matters

i. Quality Control, Assurance and Operating Manual:

The Supplier acknowledges and accepts the provisions of the DGCA approved Quality Control, Assurance and Operating Manual. The Operator shall promptly notify the Supplier of any revision, supplement or up-date to the Quality Control, Assurance and Operating Manual.

ii. In-tank transactions:

Subject to Section 6.6, the Supplier shall make arrangements to purchase or borrow Other Suppliers' ATF within the Facility and may sell or transfer ATF stored by the Supplier within the Facility to Other Suppliers provided Operator is given reasonable notice of such transaction. It shall be the responsibility of the Supplier concerned to comply with all Applicable Law, including the compliance with the legal requirements relating to customs bonding that may be applicable to an in-tank transaction.

iii. Inspections:

The Supplier may upon notice of 48 (forty eight) hours to Operator inspect the Facility in respect of safety and product quality control between 8.00 a.m. and 5.00 p.m. on Business Days and at such other times as may be agreed by the Parties provided that any such inspection is carried out in a manner which does not interfere with the operation of the Facility or the delivery or withdrawal of ATF by or on behalf of or for the account of Other Suppliers. If it is found that Operator has deviated from Quality Control, Assurance and Operating Manual and or the Aviation Operation Manual, Operator shall take immediate steps to remedy the same within reasonable time. The Operator shall comply with reasonable

- recommendations or suggestions of the Supplier which help in improving the infrastructure of the Facility. However, the Operator shall be at liberty to refuse to implement any unreasonable suggestions and or recommendations of the Supplier after giving proper justification to the Supplier for such refusal. In case of disagreement between the Operator and the Supplier, the decision of MAFFFL shall be final and binding on the concerned parties.
- iv. Compliance with Joint Check List & Joint Guidelines:  
The obligations arising under the Agreement relating to procedures, standards and requirements as set forth in the Quality Control, Assurance and Operating Manual and Aviation Operation Manual shall be in addition to the procedures, standards and requirements set forth in the Joint Check List and Joint Guidelines, wherever applicable.

#### 6.6 ATF Quantities

- i. The quantity of ATF stored in the Facility by each Supplier, at any point in time, shall be subject to a maximum level as determined by Operator or MAFFFL, based on the estimated monthly volumes of the Supplier. Provided that, MIAL may issue instructions with regard to levels of Airport uplift which shall override the determination made by MAFFFL. The maximum quantity of ATF that may be stored in the Facility by each Supplier, at any point in time shall be determined on a pro-rata basis based on the volume of business of the Supplier and total usable tankage at the Facility.
- ii. The Supplier shall not be permitted to withdraw ATF through the Facility in excess of ATF standing to its credit. However, the Supplier may at its cost procure ATF in the Facility in accordance with Section 6.5(ii).
- iii. The Maximum Quantity in respect of each calendar month shall be determined by Operator in accordance with this Section 6.6 (i), prior to the commencement of such month. The Operator shall, under instructions from MAFFFL notify the Maximum Quantity requirements to the Supplier not later than ten (10) days prior to the commencement of every calendar month.
- iv. Operator may adjust the Maximum Quantity, as approved by MAFFFL, at any time during a Year by notice to the Supplier:
- a. If the number of suppliers is revised either by the addition of Other Supplier(s) or by the termination and or suspension of Other Supplier; or
- b. following the notification by the Supplier or any Other Supplier that the aggregate withdrawals of ATF from the Facility by such party during such Year are anticipated to increase or decrease; or
- c. At any other time if Operator reasonably considers that such an adjustment is necessary.
- v. If the storage capacity at the Facility is reduced for any reason, Operator shall apportion the capacity available equitably among the Supplier and Other Suppliers. It is agreed that the Operator shall bear no responsibility and shall not be liable on any account as a result of the reduction in the storage capacity at the Facility.
- vi. The Supplier shall promptly provide to the Operator all details of the withdrawals of ATF for its account which it reasonably expects in any month in writing.

#### 6.7 Operating Gains and Operating Losses

- i. Cumulative Operating Losses under normal operating conditions shall not exceed +/- 0.02% on an annualized basis. The Operating Gains and Operating Losses shall be computed on basis of

the opening stock at the beginning of every calendar month and actual receipt during such month. The calculation of Operating Gain and Operating Loss shall be done at natural temperature. The Operating Loss targets shall be reviewed by ORC at the end of first year of operation of the Facility and thereafter on an annual basis and revised, if required. Till the revision in the Operating Loss targets, the prevailing targets shall continue.

- ii. Cumulative Operating Gains or Operating Losses shall be distributed amongst the Supplier and all Other Suppliers on the last day of each Year in the proportion which their respective withdrawal of ATF during such Year bears to the aggregate withdrawals of ATF from the Facility during such Year. However, the Operator shall calculate the stock loss or gain on monthly basis and communicate the same to the Supplier and MAFFFL. In the event the variation goes beyond the monthly maximum limit as prescribed by MAFFFL, then the Operator shall promptly explain the said variation to Supplier, all Other Suppliers and MAFFFL.
- iii. Any Operating Losses that exceed the maximum limit set shall be investigated by the ORC. Such Operating Losses that exceed the maximum limit, on an annualized basis, shall be appropriately assigned to Operator, Supplier, Other Suppliers or Into-Plane Agent who is found in default or where no such fault can be attributed it shall be assigned to Operator, at product cost inclusive applicable Taxes. For the purpose of this Section 6.7, if the point of loss is ascertainable, the cost of the product will be the cost prevailing at the time when the loss was caused. However, if the point of loss is not ascertainable, the cost of the product will be the average cost of ATF for the Year when the loss was caused.

#### 6.8 Disposal of ATF

- i. Prolonged Storage
  - a. If Operator considers that the period of storage of any particular quantity of ATF within the Facility in excess of its Minimum Inventory by the Supplier is impairing the operation of the Facility or prejudicing the use of the Facility by Other Suppliers, then the Operator may by notice require the Supplier to reduce the quantity of ATF up to Minimum Inventory within five (5) days after receipt of such notice failing which Operator may dispose off all or any part of such ATF in the Facility at such prevailing market price reasonably available to Operator and account to the Supplier for the proceeds of such sale net off any expenses of Operator relating thereto.
  - b. Without prejudice to Section 6.8 (i)(a), in case of storage of ATF for more than 360 Hrs (on FIFO Basis) the Supplier shall be liable to pay MAFFFL storage holding charges @ of INR 500 per KL / day.
  - c. Without prejudice to Section 6.8 (i)(a), in case of prolonged storage of ATF for more than 720 Hrs on FIFO basis, the Supplier shall be liable to promptly evacuate the product at its own cost failing which MAFFFL shall have the right to dispose off the product at the risk and cost of the such Supplier to create ullage in storage tanks. The proceeds of such sales shall be accounted to the Supplier after adjustments of all dues, expenses and charges payable to Operator or MAFFFL and MIAL, including handling charges by Operator.
- ii. Right to Sell Product

If the Supplier fails to pay the Fuel Infrastructure Charges to MAFFFL or fails to make any payment due under the Agreement or pay any charges due to MIAL even upon issue of Notice of Suspension under Section 9.2, MAFFFL shall have the right to advise Operator to dispose

off all or any part of the ATF standing to the credit of the Supplier in the Facility, at such price reasonably available to Operator and account to the Supplier for the proceeds of such sale, after adjustment of money due to Operator or MAFFFL or MIAL and of all expenses incurred including handling and other charges by Operator as a result of such breach by Supplier.

iii. Defueled Product

Neither the Operator nor MAFFFL shall be obliged to provide any tankage for the storage of defueled product. If any tankage for the storage of defueled product is made available, Supplier shall be liable to pay to MAFFFL and MAFFFL shall be entitled to levy storage charges at the rate of INR 500/- per KL per day. The Operator shall be entitled to handling or testing and other charges at actual. The Supplier shall ensure that the defueled product is evacuated from the tank within 7 (seven) days from the date of storage. Handling and testing charges shall be extra and shall be payable by the Supplier to the Operator. In case the defueled product is not evacuated within the said period of 7 (seven) days, the Operator may dispose of the defueled product at such prevailing market price reasonably available to Operator and account to the Supplier for the proceeds of such sale net off any expenses of Operator relating thereto. In case the defueled product is suspected, Supplier shall pay the Operator tank cleaning charges if cleaning is under taken and other QC tests charges, as incurred with related costs by the Operator. In case the storage of defueled product results in downgradation of the product already in tank, Supplier shall bear the cost of such downgradation and shall replace the volume, thus downgraded, even if the downgraded product is of Other Supplier.

## **7 Withdrawal of ATF**

### **7.1 Into-Plane Agent Agreements**

- i. The Supplier shall enter into an Into-Plane Agreement with an ITP Agent for the proposed supply of ATF and the Aircraft fueling or defueling services.
- ii. **Withdrawal by the Into-Plane Agent**  
Any withdrawal of ATF from the Facility for delivery to an Aircraft Operator shall be made by an Into-Plane Agent who shall withdraw only up to the Deliverable Quantities of ATF standing to the credit of the Supplier, from the Facility. Any quantity withdrawn by ITP Agent shall be deemed to be withdrawn by the Supplier.
- iii. **Point of Withdrawal.** The Into-Plane Agent may withdraw ATF for delivery into Aircraft at the Airport from either:
  - a. any hydrant pit valve connection with the Hydrant System part of the Facility; or
  - b. any loading bay in the storage part of the Facility and all such withdrawals shall be effected through an Into-Plane Vehicle and strictly in accordance with the relevant Quality Control, Assurance and Operating Manual.
- iv. **Measurement**  
The volume of any ATF withdrawn pursuant to Section 7.1(iii) shall be determined by reference to the meter located on the Into-Plane Vehicle effecting the relevant withdrawal or, if the Into-Plane Vehicle is a refueller, by reference to the meter at the loading bay (or, in

either case, by such other method as may be agreed between Operator and the relevant Into-Plane Agent from time to time).

v. Calibration

Prior to the commencement of operation of a particular Into-Plane Vehicle any meters on that Into-Plane Vehicle shall be calibrated and sealed by the Department of Legal Metrology, appointed under the Legal Metrology Act 2009 or any other applicable legislation under the supervision of Operator. Any such meter shall be re-calibrated and resealed by the Department of Legal Metrology under the Legal Metrology Act 2009 or any other applicable legislation under the supervision of Operator at intervals as prescribed by law and not more than 12 (twelve) months from the date of its previous calibration. However, Operator shall at any other time, when it reasonably considers that such meter is inaccurate, require that such meter(s) be recalibrated. The Operator shall verify the meter fitted on loading platform every quarter, and if required, shall submit the readings or report(s) to MAFFFL and or Supplier, upon demand.

vi. Delivery Certificates

- a. The Into-Plane Agent shall complete and sign a Delivery Certificate in respect of each withdrawal of ATF from the Facility on account of the Supplier by the Into-Plane Agent which shall be counter-signed by the relevant Aircraft Operator. The original Delivery Certificate shall be delivered to the Supplier, a copy shall be provided to each Operator and Aircraft Operator and a further copy shall be retained by the Into-Plane Agent. Notwithstanding the foregoing, a Delivery Certificate may be in an electronic format agreed by the Parties and the Into-Plane Agent which interfaces with Operator's computerized records.
- b. Except in the case of manifest error, the volume of ATF withdrawn as measured and entered on the relevant Delivery Certificate shall be conclusive and binding on the Parties and the relevant Into-Plane Agent.

vii. Record of Withdrawals

Without prejudice to Section 7.1(vi)(a), the Into-Plane Agent(s) authorized to render services at the Airport shall, on a daily basis, report to the Operator the details of all withdrawals of ATF made by them for the account of the Supplier. Such report shall include the volume of ATF withdrawn and the hydrant pit from which such withdrawal was made or that loading bay from where such withdrawal was made, together with such other details of such withdrawals, the details of ATF available in the refuellers, and such details of any other operations causing meter movements or involving defueled product as Operator may reasonably request. For the purposes of this Section 7.1(vii), reports shall be in an electronic format which interfaces with the Operator's computerized records. If for any reason a particular report cannot be provided in electronic format the information shall initially be provided in writing and shall be confirmed in electronic formats soon as possible thereafter. Till the time electronic formats and systems of MAFFFL are developed, the information shall initially be provided in writing and shall be confirmed in electronic formats soon as possible thereafter.

Based on the daily records of withdrawals, the Operator shall upon intimation or direction of MAFFFL, direct the Supplier when it is required to make replenishments of inventory if the Supplier has not already made an application to deliver.

viii. Sampling

For the purpose of verifying the quality of any ATF withdrawn from the Facility each Into-Plane Agent shall have the right at all reasonable times to take samples of ATF in accordance with the Quality Control, Assurance and Operating Manual. Such samples shall be taken in the presence of a duly authorized representative of Operator and if desired by the Aircraft Operator, authorized representative of Aircraft Operator. The Operator shall forthwith remove any water or sediments revealed during sampling.

The Operator shall check the samples in accordance with the Aviation Operating Manual and guidelines issued by DGCA on a daily basis and maintain records thereof, which shall be produced for inspection as and when requested by MAFFFL.

ix. Complaints

Complaints of defect in quality of any ATF withdrawn shall only be admissible if made in writing to the Operator within 14 (fourteen) days after withdrawal.

## **8 Liabilities and Indemnities**

8.1 Liabilities in respect of claims arising, in connection with or on account of fueling (including but not limited to quality of ATF, supply of ATF to the Facility and withdrawal of ATF from the Facility, use of any 'Facility Capital Assets' and 'ITP Assets' for fueling), irrespective of whether or not such loss is occasioned by any act of failure of the Supplier, Operator, MAFFFL, MIAL, AAI, Into-Plane Agent or any other agent, contractor, employee or licensee of any such persons, in whatsoever capacity, shall be borne by the Supplier to the extent such loss is covered under the Aircraft Refueling Liability Insurance. Provided however, the Supplier shall be liable even for the deductibles under the Aircraft Refueling Liability Insurance. For the avoidance of doubt, MAFFFL, MIAL, AAI, Into-Plane Agent, and their affiliates (including any shareholders, subsidiaries or eventual parent companies thereof as well as any directors, employees of such entities) shall have no liability whatsoever in respect of claims arising, in connection with or out of fueling (including but not limited to quality of ATF, supply of ATF to the Facility and withdrawal of ATF from the Facility, use of any 'Facility Capital Assets' and 'ITP Assets' for fueling), except to the extent and manner expressly agreed under this Agreement or elsewhere.

8.2 As set forth in Section 6.2(v)(a) and (c), the Supplier shall be liable to the Operator for any loss or damage resulting from;

- i. the delivery of any product which is not in keeping with the Specification.
- ii the tanker carrying product at the Facility.

8.3 The Supplier shall enter into an 'Indemnity Agreement' as set forth in Section 4.2 (iii).

8.4 Insurance

- i. The Supplier shall, at its cost, secure Aircraft Refueling Liability Insurance as provided for in the Indemnity Agreement. The Supplier affirms that except as stated expressly in the Agreement, the Operator, MAFFFL, Into-Plane Agent, MIAL and AAI are not required to secure any separate insurance to cover such risks as covered under the Aircraft Refueling Liability Insurance and that the Supplier shall extend the benefit of such insurance to Operator, MAFFFL, Into-Plane Agent, MIAL and AAI. The Supplier shall ensure that Operator, MAFFFL, MIAL, Into-Plane Agent and AAI are co-insured under the Aircraft Refueling Liability Policy.
- ii. All insurance policies in respect of the insurance obtained by the Supplier under the Agreement shall include, to the extent permitted in law, waiver of any and all rights of subrogation or recovery of the insurers thereunder against, Operator, MAFFFL, Into-Plane Agent, MIAL and AAI and their respective assigns, successors employees, officers, insurers and underwriters, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policies of insurance.
- iii. Operator shall, without prejudice to the terms of the Agreement or the Contract, insure the product in the Facility against risks of fire, leakage and contamination, limited to the declared value of the product. Notwithstanding the aforesaid any and all loss, liability or damages, including loss, liability or damages or third party claims shall be borne by the Operator to the extent not covered under the Aircraft Refueling Liability Insurance.

## **9 Suspension**

- 9.1 Operator may, upon approval from MIAL and /or MAFFFL or upon request from MAFFFL and / or MIAL suspend the Supplier's rights by notice to that effect to the Supplier (and the Supplier to take prompt remedial action appropriate in the circumstances to end such suspension), upon occurrence of one or more of the following events;
- i. where the Supplier is in breach of any of its obligations under the Indemnity Agreement; or
  - ii. where the Supplier fails to maintain any insurance cover in respect of liability undertaken under the Agreement and the Indemnity Agreement; or
  - iii. where the Supplier is required to revise the extent of insurance coverage provided under the Agreement and the Supplier fails to effect such revision to the insurance cover; or
  - iv. where Operator or MAFFFL reasonably determines that the laboratory testing facilities as referred to in Section 4.2 (vii) are unable, or are no longer able to confirm consistently and promptly that product to be delivered by the Supplier to the Facility will conform to the Specifications; or
  - v. where Operator reasonably determines that the facilities and procedures used by the Supplier for loading the product into a 'Dedicated Supply Pipeline' and or a 'Dedicated Supply Vehicle' do not, or no longer, ensure that such product conforms to the Specifications; or
  - vi. the Supplier fails to pay any amounts due under any invoice under the Agreement as and when it falls due; or
  - vii. the Supplier fails to ensure that the Dedicated Supply Vehicles and or Dedicated Supply Pipelines supply the stated quantity and quality of ATF claimed; or

- viii. the Supplier is or becomes unable to pay its debts as they fall due or otherwise is or becomes insolvent for the purposes of any 'Applicable Law'; compounds with or negotiates for any composition with or has a receiver, trustee or manager appointed over the whole or any part of its assets or rights, commits any act of bankruptcy or insolvency or is adjudicated bankrupt or insolvent; passes any resolution for or otherwise enters into any liquidation, winding up or administration (other than a voluntary winding up for the purposes of amalgamation or reconstruction on terms previously notified to Operator provided that it does not in any manner affect the performance of obligations undertaken under the Agreement); or takes or suffers any action analogous to any of the foregoing under any Applicable Law; or
- ix. the Supplier is in material breach of the Agreement, including Section 6.6; or if any representation, warranty or undertaking by the Supplier, in Agreement is or has become incorrect in any material aspect; or
- x. the Supplier fails to replenish the Performance Security in accordance with Section 10.2(ii).

9.2 Notice of Suspension. Operator shall not exercise its right to suspend the Supplier's rights under the Agreement unless and until each of the following conditions is satisfied:

- i. Operator informs MAFFFL of its intention to suspend the Supplier in writing and MAFFFL fails to convey its response to such proposed action of Operator within a period of 48 (forty eight) hours (counting only Business Days i.e. excluding Saturday, Sunday and public holidays) of receipt of such notice in writing. It is clarified that if MAFFFL fails to convey its response within a period of 48 (forty eight) hours as aforesaid, MAFFFL shall be deemed to have unconditionally consented to such suspension. Provided that, Operator shall not be held to be in breach of the Agreement due to the non-suspension of the Supplier where the proposed suspension is refused by MAFFFL, and
- ii. Operator serves on the Supplier, a prior notice specifying the cause of the proposed suspension and requiring the Supplier to remedy it (if capable of being remedied) within 14 (fourteen) days or longer period as approved by MAFFFL, from the date of receipt of notice; and
- iii. If the Supplier fails to remedy the cause of the proposed suspension (if capable of being remedied in the assessment of the Operator) within 14 (fourteen) days from the date of receipt of notice from Operator to do so (or within such shorter period as may be appropriate if the safe or proper operation of the Facility would otherwise be or likely to be prejudiced in the opinion of Operator).

9.3 Withdrawal of Suspension. Operator shall by notice to the Supplier promptly withdraw such notice of suspension if the cause of the proposed suspension has been remedied to the reasonable satisfaction of Operator.

9.4 Suspension of Operator's Obligations

The suspension of Supplier's rights set forth in the Agreement shall result in the suspension of all obligations of Operator under the Agreement from the date of suspension of the Supplier's rights, including its obligation to deliver Deliverable Quantities of ATF. However, such suspension shall not prejudice the right of Operator to exercise all rights under Agreement, including its rights with respect to disposal of ATF.

**9.5 Subsistence of Supplier's Obligations**

The suspension of the rights of the Supplier will not absolve the Supplier of its obligations under the Agreement.

**9.6 Notification**

Operator shall promptly notify MAFFFL, and the Into-Plane Agents of any such suspension or the withdrawal of any such suspension. MAFFFL may, at its discretion also intimate such suspension to any Aircraft Operator, if necessary.

**10 Covenants**

**10.1 Step-in Rights of AAI**

Operator and Supplier acknowledge and agree to the step in rights of AAI under the State Support Agreement dated April 26, 2006 between GOI and MIAL ('SSA') in the event of an emergency (as communicated by MAFFFL, MIAL, GOI or AAI), wherein AAI may (i) temporarily assume control of the whole or part of the Airport in place of MIAL, or (ii) require MIAL to manage the whole or part of the Airport in accordance with the directions of GOI or AAI; during the course and effect of such emergency. During the period AAI assumes control of the Airport, AAI will operate and manage the Airport and shall be deemed to be MIAL under the 'License Agreement'.

**10.2 Performance Security**

- i. The Supplier shall furnish performance security, within 3 (three) days from the execution of the Agreement or such extended time period as may be agreed by MAFFFL, and keep deposited throughout the duration with MAFFFL, an unconditional Bank Guarantee, in favour of MAFFFL for an amount equivalent to the product of Fuel Infrastructure Fee and, two times the sales for the average of last six months expiring as on February 2015, where applicable or where the Supplier is new, the average monthly sales of the projected volumes towards due compliance by the Supplier with the terms and conditions of the Agreement ('Performance Security'). Supplier acknowledges that MAFFFL may in its discretion require enhancement of performance security amount, from time to time, based on Throughput of the Supplier for last six months, in which case the Supplier shall promptly and no later than 15 (fifteen) days of written intimation by MAFFFL enhance the performance security. Such enhanced performance security amount shall be referred to as the 'Performance Security'. The Bank Guarantee shall be returned to the Supplier within a period of 180 (one hundred eighty) days, upon expiration or earlier termination of the Agreement after deducting such sums as may be due and payable by the Supplier to MAFFFL and or Operator and or MIAL prior to such expiry of termination.
- ii. The Supplier shall have a one-time option of maintaining "Minimum Inventory" at the Facility instead of furnishing Bank Guarantee in accordance with Section 10.2(i) and shall furnish the Undertaking. In case the Supplier elects to maintain Minimum Inventory at the Facility, it undertakes that the Minimum Inventory shall be maintained at all times. The Minimum Inventory shall be duly paid and clear of any encumbrances. In case the Supplier fails to make any payment under the Agreement by the due date for payment, then MAFFFL shall be entitled to;

- a. require the Operator to refuse delivery of ATF on account of the Supplier from the Minimum Inventory.
  - b. dispose off the ATF through its selling agency as used oil of unknown grade, without issue of any notice to the Supplier towards recovery of such dues along with applicable interest. MAFFFL shall be entitled to adjust its cost of disposal of such ATF against sale proceeds. The Supplier shall be responsible for any tax implications with respect to disposal of the ATF. The Supplier acknowledges that this right of MAFFFL is important to ensure smooth and efficient functioning of the Facility and agrees that it shall not dispute any such decision of MAFFFL to dispose off the Minimum Inventory or the manner and cost of such disposal.
- iii. The Supplier agrees that in the event it defaults on payment more than twice in a year, notwithstanding whether supplies to Aircraft have been suspended or not by Operator, the Supplier shall provide to MAFFFL an interest free cash security deposit equivalent to the amount of the Performance Security in lieu of the Bank Guarantee.
- iv. MAFFFL shall be entitled, without any limitation or interference, to invoke the Performance Security or any part thereof in accordance with the Agreement and Supplier agrees that the decision of MAFFFL in respect of any such forfeiture, invocation or adjustment to be final and binding on Supplier to the extent it is in accordance with the Agreement. Supplier shall replenish the Performance Security to its original amount within 7 (seven) from the date of notice by MAFFFL of invocation as aforesaid. Any invocation of the Performance Security shall not operate to relieve the Supplier from its obligations hereunder or condone any breach (other than any payment obligation to the extent satisfied by invocation) thereof by the Supplier.
- 10.3 As against MAFFFL, Operator alone shall be responsible for ensuring that the Supplier is in compliance with all Applicable Laws with respect to use of the Facility and in compliance with terms of the Agreement.
- 10.4 The Supplier is aware of the obligation of the Operator to operate the Facility on the principle of Open Access. In the event the Supplier is also the Operator, it shall ensure that the personnel involved in the day-to-day performance under the Agreement function independent of each other in discharging obligations as 'Supplier' and 'Operator'. The relevant personnel should be structured as separate teams and;
- i. Information flow across the teams should be limited and only be on a need-to-know basis and pursuant to the Agreement, and
  - ii. Control and supervision in respect of each of the team shall be separate, impartial, independent and without any undue influence.
- 10.5 Neither Supplier nor Operator shall have any claim against MAFFFL with respect to any activities performed or to be performed in terms of the Agreement.
- 10.6 Interface

Operator Representatives and Supplier Representatives shall co-ordinate and interface with MAFFFL Representatives during the performance of this Tripartite Agreement (Supplier).

Except as expressly stated in this Tripartite Agreement (Supplier), MAFFFL's Representative shall have no authority to relieve the Operator and or the Supplier of any of its duties, obligations, liabilities or responsibilities under this Tripartite Agreement (Supplier).

#### 10.7 JCC

The Operator and MAFFFL shall cause the constitution of the Joint Coordination Committee ('JCC') on or before the commissioning of the Integrated Facility. The JCC shall hold its first meeting within 60 days of the commissioning of the Integrated Facility. The constitution, role and responsibility, and decision making of the JCC will be on the terms as set out in Exhibit 4 hereto. The Supplier shall in addition ensure, by their contracts, that the Air Carrier and Into Plane Agent with whom they have contracted, participate in the JCC as its constituent members and that such Air Carriers and Into Plane Agents shall ensure due compliance with all the decisions of the JCC.

#### 10.8 ORC

The ORC shall review the performance and other operational matters required for smooth and efficient operations of the Facility. The ORC shall meet once in a month to discuss various operational matters including but not limited to operating loss and or gain, as the case may be, for the previous month; Health, Safety, Security, Environment ('HSSE') matters; customer complaints and or observations; and audit findings if any.

The ORC shall constitute the following:

- i. One representative of MAFFFL, who shall be the Chairman.
- ii. One representative of Operator.
- iii. One representative of each Into Plane Agent.
- iv. One representative of each Supplier.

The ORC shall fix the notional charges payable to the operator for Tank Truck Decantation for the first year. The ORC shall at the end of the first year of operation review the performance and other operational matters required for smooth and efficient operations of the Facility and thereafter on an annual basis, set the charges payable to the operator for tank truck decantation and the maximum extent of permissible Operating Losses at the Facility,

Role and Responsibility of ORC:

- i) To review Health, Safety, Security, Environment ('HSSE') matters; customer complaints and or observations; and audit findings if any.
- ii) To determine charges payable to the Operator for tank truck decantation. Such charges shall be ratio of the sum of cost of manpower engaged by Operator for tank truck decantation, the energy bill for operating the pumps to the total volume of ATF received by tank truck in a year etc.
- iii) A review of the Operating Losses and Operating Gains at the Facility during the preceding year;
- iv) A review of the Operating Losses and Operating Gains at similar facilities in India, including other similar facilities operated by the Suppliers.
- v) Set the maximum extent of permissible Operating Loss target for the year.

Decision and its Binding Nature:

- i) All decisions of ORC shall be made after due consideration of the issue by all the representatives. The quorum for all such meetings shall not be complete unless a minimum of two third of representative are present at such meeting.
- ii) All the decisions of ORC shall be made by votes and shall be determined by a majority of the votes cast on the subject. Provided however, Chairman shall retain the ultimate authority to veto any such decision of the ORC, for reasons to be recorded in writing.
- iii) The decision of ORC shall be final and binding on Operator and Supplier(s).

#### 10.9 Office space

If required by the Supplier, use of defined office space shall be allowed by MAFFFL under separate arrangement, subject to availability, at the rate of INR 6944.86 (Six Thousand Nine Hundred Forty Four and Eighty Six Paise only) per square meter per annum with effect from 01<sup>st</sup> April 2021, with an escalation clause of 7.5% (seven decimal five) per annum. The Supplier understands that MAFFFL does not guarantee any minimum space and that necessary furniture, fittings etc. shall be arranged by the Supplier.

### 11 Payments

#### 11.1 Fuel Infrastructure Charges

- i. Supplier shall be liable to pay and MAFFFL shall be entitled to levy and collect from the Supplier, the Fuel Infrastructure Charges, together with all Taxes payable in connection with the Fuel Infrastructure Charges.

#### 11.2 Other Charges

- i. The Supplier shall be liable to pay to MAFFFL prolonged storage charges as set forth in Section 6.8.
- ii. The Supplier shall be liable to pay to MAFFFL, charges @ of INR 500 /KL per day for storing defueled product. Such defueled product shall be removed within 7 (seven) days of its storage. If charges any towards handling or testing are incurred by the Operator, the same shall be paid by Supplier directly to Operator.

#### 11.3 Reimbursements. The Supplier shall be responsible for and reimburse the following costs to the Operator:

- i. The costs of testing and or re-certifying any product to be delivered to the Facility in accordance with the Quality Control, Assurance and Operating Manual or as reasonably required by Operator.
- ii. Any costs associated with testing, re-certifying, handling, export, removal or other remedial measures taken in relation to any of the Supplier's product which is not compliant with the Specifications.
- iii. Any costs associated with the removal of any product (whether or not delivered by the Supplier) which has been contaminated by any product delivered to the Facility by the Supplier which is not ATF.
- iv. Any costs associated with any reasonable enquiries (including audit inspection) of the source and handling of the ATF, immediate storage and transportation, inspection of the Supplier's laboratory testing or other facilities or procedures by Operator which is required (in the

reasonable opinion of Operator) to ensure that any product loaded into a Dedicated Supply Pipeline or a Dedicated Supply Vehicle is ATF.

- v. Any costs suffered by Operator as a consequence of the Supplier disrupting the supply schedule.

#### 11.4 No Deductions

Any payment to be made by Supplier under the Agreement shall be made without set off or counterclaim and without any deduction or withholding of any kind whatsoever, except in the case of income tax deductible at source on payments, in accordance with Applicable Laws.

#### 11.5 Remittances

- i. Re-imbursements shall be paid to such account(s) and or bank(s), as MAFFFL or Operator (as may be appropriate) may notify to the Supplier and through Real Time Gross Settlement ('RTGS') or such other means as MAFFFL or Operator (as may be appropriate) may specify from time to time. The Fuel Infrastructure Charges and Other Charges shall be paid to such account(s) and or bank(s), as MAFFFL may notify to the Supplier and through RTGS or such other means as MAFFFL may specify from time to time.
- ii. MAFFFL shall be entitled to raise invoices (for all payments or expected accrual of monies payable by the Supplier) for any given month in advance, based on estimated Throughput, by the 5th (except in case of the first month, the invoice may be raised by MAFFFL within 5 (five) days of the 'effective date') of such month. The Supplier shall make the payments based on such invoices on or before the 15th (fifteenth) of such month or within 7 (seven) days of receipt of such invoice, whichever date occurs earlier. Adjustments to the Fuel Infrastructure Charges, Other Charges and all other payments, shall be made based on actual determination, and shall be reflected in the invoices raised in the immediately following month.
- iii. Parties acknowledge that in case of any change in the final tariff as per the AERA final order, the Fuel Infrastructure Fee will be revised accordingly and any under recovery or over recovery shall be adjusted in subsequent invoices.
- iv. Unless otherwise expressly provided, all payments shall be made by the Supplier within 7 (seven ) days of the invoice being raised or before 15<sup>th</sup> (fifteenth) of the month whichever date occurs earlier.
- v. The obligation of the Supplier to make the payments in terms of this Section is notwithstanding subsisting dispute(s), if any, in this regard.

#### 11.6 Delay Interest

Without prejudice to any other rights or remedies to which MAFFFL and or Operator may be entitled, the Supplier shall be liable to the payment of interest on any delayed payments at the Delay Interest Rate, for the period of such delay in remitting the monies due. All accrued interest shall be compounded to the outstanding amount on a monthly basis.

#### 11.7 Taxes

Each Party shall bear its own Tax as may be applicable. The Supplier shall reimburse and or indemnify MAFFFL and or Operator (as the case may be) against any Taxes payable by the Supplier under the Agreement. It is clarified that the obligation imposed herein shall not extend to the

payment of property tax and or income tax that would be payable by Operator and or MAFFFL, as may be appropriate.

**11.8 Lien**

Operator and MAFFFL shall be entitled to a lien on quantities of ATF in the Facility, to the extent of any money due from the Supplier pursuant to the Agreement.

**11.9** In the event the due date with respect to any payment, including Fuel Infrastructure Charges and storage charges, to be made by the Supplier under the Agreement falls on a day other than a Business Day, the Supplier shall be liable to make such payments on the Business Day falling immediately after such due date.

**12 Termination**

**12.1 Termination by Operator.** The Agreement may be terminated forthwith;

- i. on notice of at least 30 days in writing by Operator if the cause of the suspension by Operator of the Supplier's rights pursuant to Section 9.1, has not been remedied to the reasonable satisfaction of the Operator within a maximum 90 (ninety) days from the date of suspension, or is in the opinion of Operator, incapable of being remedied.
- ii. If Supplier is in breach of Applicable Laws and the same is not remedied within a maximum 30 (thirty) days from the date of receipt of notice from Operator.

**12.2 Termination by MAFFFL**

Without prejudice to any other remedy that MAFFFL may have against the Supplier, the Agreement may, at MAFFFL's sole discretion, be terminated in the event the Supplier defaults in any of its obligations towards MAFFFL and the same is not remedied within 30 (thirty) days from the date of receipt of notice from MAFFFL.

**12.3 Termination by Supplier**

Agreement may be terminated by the Supplier, after payment of all monies to Operator, MAFFFL, MIAL or ITP Operator, as the case may be, by the issuance of a notice of clear 30 (thirty) days by the Supplier to Operator.

**12.4 Automatic Termination**

Notwithstanding any other the term of the Agreement, the validity and term of the Agreement shall be subject to the continued subsistence of Operator's right to operate the Facility.

**12.5 Transfer of ATF on Termination**

Upon termination of the Agreement otherwise than under Section 12.4, Operator shall notify the Supplier of any quantity of ATF then standing to the credit of the Supplier (after adjusting Operating Losses or Operating Gains) within the Facility and the Supplier shall transfer such ATF to the credit of one or more Other Suppliers within 10 (ten) days after receipt of such notice, failing which Operator may sell such ATF to such Other Supplier(s) at prevailing market price reasonably available to Operator and shall account to the Supplier for the proceeds of sale, net of any expenses of Operator relating thereto and any amounts otherwise due to Operator hereunder.

**12.6 Termination in case of Force Majeure**

The Agreement may be terminated in case of occurrence of event of Force Majeure in accordance with Section 14.2.

**12.7 Custody of ATF on Operator Termination**

Upon termination of the Tripartite Agreement (Supplier) pursuant to Section 12.4, Operator or such alternative operator as MAFFFL may appoint, shall stand vested with all rights and obligations under the Agreement. The custody of any quantity of ATF then standing to the credit of the Supplier within the Facility shall be transferred automatically to the alternative operator of the Facility or, if there is no such alternative operator at that time, to MAFFFL, till the time the alternative operator is appointed, shall be held as bailee for the Supplier. Such termination shall not absolve the Supplier of its continuing obligation to supply ATF to the Facility.

**12.8 Effect of Termination**

Except as provided expressly in the Agreement and in the Indemnity Agreement nothing contained in the Agreement shall restrict the right of the Operator or the Supplier against the other or the rights of MAFFFL against the Operator and the Supplier, in respect of claims for breach of contract, negligence or otherwise howsoever arising prior to the date of termination under the Agreement.

**13 Representations and Warranties**

**13.1 The Supplier hereby represents, warrants and undertakes to each of the remaining Parties:**

- i. that it has power and all necessary corporate authority has been obtained and action taken, and all authorizations, approvals, consents and licenses required under Applicable Law have been obtained, for the Supplier to enter into the Agreement and to perform its obligations under the Agreement and under Fuel Supply Contract and under any Into-Plane Agent Agreements with Into-Plane Agents for the withdrawal of ATF from the Facility for delivery to Aircraft Operator during the subsistence of the Agreement.
- ii. it has not engaged and will not engage in any anti-competitive practice, including without limitation enter into any agreement or understanding with other Suppliers or Into-Plane Agents relating to the terms and conditions of supply of ATF at the Airport which is or is likely to have a material adverse effect on the level of prices of ATF and or into-plane fueling services charged to Users of ATF at the Airport; and
- iii. it has not entered and will not enter into any restrictive practice and or agreement with any Into-Plane Agent which has entered into any restrictive practice, including without limitation any exclusivity agreement or other agreement or undertaking with any Other Supplier, operator or another into-plane agent which will or is liable materially to distort or reduce competition in the market place for into-plane fueling services at the Airport or have a material adverse effect on the price and availability of such services.
- iv. It has the authority to enter into and perform in terms of the Agreement.
- v. It shall comply with order of any regulatory authority including the Competition Commission of India and shall comply with the Competition Act 2002 and rules, regulations, orders or guidelines made or issued thereunder or by the Competition Commission of India from time to time with respect to usage of the Integrated Facility.

13.2 Operator represents and warrants to each of the Parties that:

- i. Operator has all the valid licenses and statutory approvals as per Applicable Law.
- ii. Operator shall comply with all statutory compliances at all point of time and shall maintain records as per Applicable Law.
- iii. Operator has and shall comply with all relevant standards, processes, procedures and notifications of OISD relating to safety and operational procedures and shall allow authorized representatives of OISD for audit of Facilities and ensure compliance of recommendation(s) following any such audit.
- iv. Operator shall adhere to the standards of Joint Guidelines and allow authorized representatives of Joint inspection Group, Aircraft Operator, DGCA for audit of Facility.
- v. Operator shall have valid insurances as per the provisions of the Agreement.
- vi. it has the authority to enter into and perform in terms of the Agreement.

13.3 MAFFFL represents and warrants to each of the Parties that:

- i. it is the owner of the Facility.
- ii. it has the authority to enter into the Agreement.

**14 Other Provisions**

14.1 Governing Law Jurisdiction and Dispute Resolution

- i. The Agreement shall, in all respects, be governed by the laws of India without reference to its conflict-of-law provisions and subject to the provision related to notice under the Agreement, and the courts of Mumbai shall have exclusive jurisdiction in relation to all disputes arising from or relating to the Agreement.
- ii. If the Parties are unable to resolve any dispute or difference by discussion in relation to the Agreement within 45 (forty five) days of the dispute or difference first being raised, either Party may refer such dispute to arbitration by a panel of three arbitrators, one appointed by each Party within 15 (fifteen) days of the notice of arbitration and the third arbitrator, being jointly appointed by the two arbitrators so appointed. The arbitration shall be conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996 or any statutory modification or re-enactment thereof for the time being in force. The place and venue of arbitration shall be Mumbai and all arbitral proceedings shall be conducted in English. Arbitral awards may be enforced by a court of competent jurisdiction.

14.2 Force Majeure

- i. No Party shall be liable to the other for any delay or failure in the performance, in whole or in part, by it of any obligation under the Agreement to the extent affected, hindered, delayed or prevented by an event of Force Majeure, provided that the Party that is affected by the Force Majeure shall provide notice thereof (including without limitation, the date, nature and expected duration of such event of Force Majeure) to the other Parties as soon as reasonably practicable, but in any event not more than forty eight (48) hours (unless the ability to issue such notification is affected by such event of Force Majeure) following the commencement of any event of Force Majeure.

- ii. The affected Party shall: (i) use its reasonable endeavours to prevent and to mitigate the adverse effects of the Force Majeure event affecting it; (ii) remedy the situation and or seek reasonable alternative means to resume its obligations under the Agreement, to the extent not affected by the event of Force Majeure; (iii) continue to perform such of its obligations hereunder, which are not affected by the event of Force Majeure and which are capable of being performed. The affected Party shall provide to the other Parties sufficient proof and such other reasonable details as requested by the other Parties regarding the nature of the Force Majeure event. Neither Party shall be entitled to make any claim on the other for any fees, costs, expenses, losses or damages incurred or suffered as a result of an event of Force Majeure.
- iii. If an event of Force Majeure continues for more than 180 (one hundred and eighty) days continuously and the obligations hereunder cannot be performed as a result thereof, either Party may terminate this Agreement with 60 (sixty) days' notice in writing to the other Party.

#### 14.3 Notices

- i. Any notice or other communication shall be given under this Agreement shall be in writing and in English and may be delivered in person, by registered mail, courier, email or sent by fax to the relevant Party as follows:

If to MAFFFL:  
Attention:  
(Name)  
Chief Executive Officer

Address: Mumbai Aviation Fuel Farm Facility Private Limited  
, Opp. ITC Maratha, Sahar Police Station Road, Chhatrapati Shivaji Maharaj Maharaj International Airport, Sahar, Andheri (East), Mumbai - 400 099

Email: \_\_\_\_\_

If to Operator:  
Attention: \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Designation)

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Email: \_\_\_\_\_

If to Supplier:  
Attention:  
\_\_\_\_\_  
(Name)  
\_\_\_\_\_

(Designation)

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Email: \_\_\_\_\_

or at such other address as it may notify to the other Party from time to time.

- ii. Any notice or document shall be deemed to be duly issued (i) if delivered in person, at the time of and upon delivery; or (ii) if sent by fax, upon dispatch and the receipt of a transmission report confirming; or (iii) if sent by fully prepaid and properly addressed registered mail or courier, on acknowledgement of receipt by the receiving party; or (iv) if sent by email, receipt shall be deemed to have occurred at the time when email record enters the designated computer of the recipient. In proving service of a notice or document it shall be sufficient to prove that delivery was made or that the fax was properly addressed and sent.
- iii. In the event that the notice is received on a day which is not a Business-Day, it shall be deemed to have been delivered on the next Business Day.

#### 14.4 Confidentiality

- i. Each Party ('Recipient') shall keep confidential the Confidential Information of the other Parties ('Discloser') and shall use such information solely for the purposes of performance of this Agreement and for no other purpose. Recipient shall use the highest degree of care that it uses to maintain the confidentiality of its own confidential information, but in no event less than a reasonable degree of care. Recipient shall not disclose the Confidential Information to any person, other than to (a) its employees, officers, personnel and professional advisors, who have a need to know in connection with the performance of this Agreement; and (b) to any other Party only with the prior written consent of Discloser; provided in each case that it shall be a breach under this Section by the Recipient, in the event any act or omission by any such party results in the Confidential Information not being treated in accordance with this Section.
- ii. For the purposes of this Section 'Confidential Information' means any and all technical, financial, operational, business or other information or data that is disclosed orally, in writing, in machine readable form, electronically, by visual presentation, or by permitting access to such information or otherwise, by or on behalf of the Discloser to the Recipient and that is marked or indicated to be confidential, or that would reasonably be expected to be treated as confidential. Confidential Information of MAFFFL shall include without limitation all agreements and documents relating to the Airport disclosed to the Operator and or the Supplier, this Agreement, and information relating to any dealings and transactions of MIAL or MAFFFL.
- iii. The obligation to maintain confidentiality shall not apply to: (a) information which is available in the public domain, without breach by the Recipient; (b) information that is known by the

Recipient at the time of receiving such information; (c) information hereafter furnished to the Recipient by a third party, without breach of confidentiality. If Recipient is required to disclose any Confidential Information pursuant any Applicable Law or an order of any judicial or statutory authority, Recipient shall give Discloser reasonable prior notice of the circumstances of such requirement prior to disclosing such information and shall co-operate with the Discloser to minimize the extent of disclosure pursuant to such requirement, including in any effort by the Discloser to contest or obtain a protective order against such requirement.

- iv. Recipient shall, promptly upon the request by Discloser return or destroy all Confidential Information including without limitation, all originals, copies, extracts and summaries and certify to Discloser that it has returned or destroyed such information.
- v. Recipient agrees that the use or disclosure of the Confidential Information in breach of this Section will cause irreparable harm or injury to MIAL and or MAFFFL, which is incapable of recompense by way of damages. Accordingly, Recipient agrees that Discloser is entitled to seek injunctive or other appropriate relief to restrain any breach or threatened breach of this Section.
- vi. The Operator and or the Supplier shall not make any public announcement or disclosure in respect of the subject matter of this Agreement or any of the transactions contemplated herein without the prior' written approval of MAFFFL (save as may be required by law or regulatory authority in which event the scope of the announcement will be limited to the matters required to be disclosed and the Operator and or the Supplier, will consult with MAFFFL on the terms and timing of such announcement).
- vii. Notwithstanding anything to the contrary, MAFFFL or Supplier shall be entitled to disclose from time to time any information to any of the Relevant Authorities as may be required under Applicable Law.
- viii. The provisions of this Section shall survive the termination or expiry of this Agreement for a period of 3 (three) years from the date of such termination or expiry.

#### 14.5 Trademark

Each of the Parties shall not do any act whereby the rights in their respective trademarks or any of them may be jeopardized. The Parties shall not, at any time claim or have any right in any of the trademarks of the other Parties and shall promptly convey to the other Party(ies), any information obtained or received by such Party of any infringement of any trade mark of the other Party(ies) or of the use by any person, firm or company of any trademarks which may be confusingly similar to any of the trademarks of the Parties. The Parties shall not use any trademarks of the other Party(ies) except as may be specifically allowed in writing by such Party at its sole discretion.

- 14.6 Independent Parties: The arrangement recorded in the Agreement is not, and shall not be deemed a joint venture, partnership or agency between the Parties. Nothing in the Agreement shall be deemed to constitute either Party as a partner, agent or legal representative of the other. Each of

the Parties is an independent party acting for its own account in performing the Services and maintaining complete control of its employees, subcontractors and representatives.

- 14.7 Amendments and Waiver: No amendment or waiver of any provision of the Agreement nor consent to any departure by any of the Parties of the terms thereof, shall in any event be effective unless 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. Any delay in exercising a right under the Agreement shall not operate as a waiver thereof.
- 14.8 Entire Agreement: This Agreement constitutes the entire agreement and understanding between the Parties as at the date hereof, in relation to the subject matter hereof and supersedes and cancels all prior agreements (whether oral or in writing), offers, proposals, letters, understandings and other documents in whatever form concerning the same.
- 14.9 Severability: The illegality, invalidity or unenforceability of any provision of the Agreement under the law of any jurisdiction shall not affect its legality, validity or enforceability under the law of any other jurisdiction nor the legality, validity or enforceability of any other provision. The Parties shall in good faith negotiate to replace any provision that is held to be illegal, invalid or unenforceable, with an alternate valid and enforceable provision that gives effect to the intent between the Parties.
- 14.10 Change in Law: MAFFFL and or the Operator shall not be liable for any increase in costs or reduction in net after Tax return or other financial burden, loss, liability or damage on the Supplier arising as a result of Change in Law. The Supplier acknowledges and agrees that it shall not be entitled to any compensation from MAFFFL and or the Operator or relief from the provisions of this Agreement in the event of any Change in Law or the operation or enforcement of current Applicable Laws. 'Change in Law' for the purposes of this Section means the enactment, adoption, promulgation, modification or repeal (including any change in interpretation or application by the relevant authorities), of any Applicable Law after the execution hereof and shall include any imposition of any material condition on the issuance, renewal or continuation of any Approvals or any failure by any Relevant Authorities to issue or renew any Approval.
- 14.11 Announcements: The Operator and or the Supplier shall not make any announcements, or release any photographs, or release information concerning the Agreement, or the subject matter thereof, or any discussions or the existence of legal relations or prospective legal relations between the Parties, to any member of the public, press, business entity, or any official body, without the prior written approval of MAFFFL (including without limitation in respect of the terms, timing or contents of any such announcement or release).
- 14.12 Stamp duties and registration: All stamp duties payable, registration charges, administrative expenses or any other similar expenses in connection with the Agreement and the execution thereof or the transactions contemplated there under shall be borne solely by the Supplier. The Supplier shall bear its own costs and expenses, including without limitation all legal expenses, in connection with this Agreement, its preparation, negotiation and or perfection. MAFFFL and the Operator shall bear their own costs and expenses, including without limitation all legal expenses, in connection with this Agreement, its preparation, negotiation and or perfection. The Supplier shall indemnify

and defend MAFFFL and or the Operator from all liabilities arising from any claim or demand by a statutory authority in relation to stamp duty, registration fees (as applicable).

- 14.13 No Implied Rights or Obligations: No rule of law which might otherwise imply a grant of any right, easement or quasi-easement to service provider shall apply in relation to the Agreement. MAFFFL shall not be bound by any representations or promises (whether written or oral express or implied by statute, common law, custom or otherwise) with respect to the Airport and its appurtenances, or in respect of the Integrated Facility.
- 14.14 Time of Essence: Time is of essence for the performance by each of the Parties of their respective obligations hereunder.
- 14.15 Survival: The provisions of Section 14.1 (Governing Law, Jurisdiction & Dispute Resolution), Section 14.4 (Confidentiality), and other provisions of this Agreement that expressly or by necessary implication survive the expiry or termination, shall continue to be in force following the expiry or termination of the Agreement.
- 14.16 Counterparts: The Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall be taken together to constitute one and the same instrument. Supplier shall retain the original fully stamped and registered Agreement and the other Parties may retain the counterparts.

*[Execution page follows]*

IN WITNESS WHEREOF THE PARTIES THROUGH THEIR AUTHORIZED REPRESENTATIVES HAVE SET THEIR HANDS ON THE DAY, MONTH AND YEAR FIRST ABOVE WRITTEN AT.

|                                                                                                                                                                                          |                                                                                  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| <p><b>(MAFFFL)</b><br/><b>Mumbai Aviation Fuel Farm Facility Private Limited</b></p> <p>Signature<br/>(Authorised Signatory)<br/>Name:<br/>[●insert designation]<br/>Date: [●insert]</p> | <p><i>Witness:</i></p> <p>Signature:<br/>Name:<br/>Particulars:</p> <p>Date:</p> |
| <p><b>(Operator)</b><br/><b>Bharat Petroleum Corporation Limited</b></p> <p>Signature<br/>(Authorised Signatory)<br/>Name: [●insert]<br/>[●insert designation]<br/>Date: [●insert]</p>   | <p><i>Witness:</i></p> <p>Signature:<br/>Name:<br/>Particulars:</p> <p>Date:</p> |
| <p><b>(Supplier)</b></p> <p>Signature<br/>(Authorised Signatory)<br/>Name: [●insert]<br/>[●insert designation]<br/>Date: [●insert]</p>                                                   | <p><i>Witness:</i></p> <p>Signature:<br/>Name:<br/>Particulars:</p> <p>Date:</p> |

## **Exhibit 1**

### Format of Indemnity Agreement

[to be transcribed on stamp paper]

#### **INDEMNITY AGREEMENT**

This Indemnity Agreement ('Agreement') is executed at Mumbai on this the [●insert] day of [●insert], 2021, by and between:

- A. Persons named and described in **Schedule 1** attached hereto acting through authorized signatory, also stated in Schedule 1 (hereinafter referred to as 'Indemnifying Parties', which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include their respective successors and assigns), of the First Part, and
- B. Persons named and described in **Schedule 2** attached hereto acting through authorized signatory, also stated in Schedule 2 (hereinafter referred to as 'Indemnified Parties', which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include their respective successors and assigns), of the Second Part.

#### **Recitals**

- 1. Mumbai Aviation Fuel Farm Facility Private Limited, a company registered and functioning under the laws of the Republic of India, having its registered office at Opp. ITC Maratha, Sahar Police Station Road, Chhatrapati Shivaji Maharaj International Airport, Sahar, Andheri (East), Mumbai - 400 099, Maharashtra, Republic of India, as 'Owner', Bharat Petroleum Corporation Limited, a company registered and functioning under the laws of the Republic of India, having its registered office at Bharat Bhawan, 4 & 6, Currimbhoy Road, Ballard Estate, Mumbai – 400 001, Maharashtra, Republic of India, as 'Operator', and each of the Indemnifying Parties, each of whom as 'Supplier', have entered into respective Tripartite Agreement (Supplier) (hereinafter referred to as 'Relevant Supplier Agreement') with respect to use of the Facility (as defined in the Relevant Supplier Agreement) by the Supplier for delivery of ATF stored in the Facility in a co-mingled manner to its customers and for services to be rendered by the Operator to the Supplier in terms thereof.
- 2. In terms of Section 8.3 of the Relevant Supplier Agreement, each of the Indemnifying Parties are required to execute this Agreement. As and when a party under relevant supplier agreement gains access to the Facility, it shall be required to execute this Agreement.

In consideration of the Indemnifying Parties having access to the Facility, each of the Indemnifying Parties (as listed in Schedule 1 from time to time) jointly and severally hereby agree and undertake as below:

1. That each of the Indemnifying Parties shall, jointly and severally, fully indemnify, protect, save and keep harmless each of the Indemnified Parties and its past, present and future, successors, assigns, agents, directors, servants, officers, directors, shareholders and affiliates against any past, present or future, liability, loss, damage, claim, obligations, demands, suits, penalties, judgments, or causes of action and all legal proceedings, whether civil or criminal, penalties, fines and other sanctions, and any costs and expenses incurred therewith including, without limitation, legal fees and expenses of whatever kind and nature (whether or not also indemnified against by any other person under any other document), whether contingent or otherwise;
  - a. arising or accruing out of any act of commission or omission of any person at any point in time, in relation to any matter pertaining or touching the Relevant Supplier Agreement or otherwise the storage and removal of the ATF from the Facility or arising out of fueling and or defueling (as defined in the Relevant Supplier Agreement) or otherwise from any activity incidental or ancillary to Aircraft fueling or defueling at the Airport (as defined in the Relevant Supplier Agreement), including the management and or the operation of the Facility. Each of the Indemnifying Parties agree to indemnify, jointly and severally, each of the Indemnified Parties within 30(thirty) days of written notice being issued by the relevant Indemnified Party, assuming that for whatever reason, the relevant Indemnifying Party failed to take charge of the matter or liability in the first instance;
  - b. from liabilities in respect of claims arising, in connection with or out of fueling and or defueling (including but not limited to quality of ATF, supply of ATF to the Facility and withdrawal of ATF from the Facility, use of any Facility Capital Assets (as defined in the Relevant Supplier Agreement) and ITP Assets (as defined in the Relevant Supplier Agreement) for fueling or defueling), irrespective of whether or not such loss is occasioned by any act of failure of any of the Supplier, Operator, MAFFFL, Mumbai International Airport Limited ('MIAL'), Into-Plane Agent (as defined under the Relevant Supplier Agreement) or any other agent, contractor, employee or licensee of any such persons, in whatsoever capacity;
  - c. from all damage, loss or liabilities, including third party claims, arising from the discharge of the responsibilities of Operator, Into-Plane Agent or MAFFFL under the Relevant Supplier Agreement and any liability for any damages, awards, penalties, costs and expenses incurred by Operator, Into-Plane Agent or MAFFFL, except as set forth in Sections 6.2(v)(c) and (d) of the Relevant Supplier Agreement.

Each of the Indemnifying Parties agree to indemnify, jointly and severally, each of the Indemnified Parties within 30 (thirty) days of written notice being issued by the relevant Indemnified Party, assuming that for whatever reason, the relevant Indemnifying Party failed to take charge of the matter or liability in the first instance.

It is expressly understood that the Indemnifying Parties will indemnify MAFFFL for losses or claims claimed by MIAL, AAI, Into-Plane Agents (i.e., IndianOil Skytanking Limited and Bharat Star Services Private Limited) from MAFFFL, in respect of matters with which the Indemnifying Parties have furnished indemnity in terms of the Relevant Supplier Agreement and this Agreement.

2. That each of the Indemnifying Parties shall, at their respective cost, secure adequate insurance to cover all such liabilities as detailed in the Relevant Supplier Agreement and against all risks arising from handling, input and storage of ATF into the Facility. Each of the Indemnifying Parties affirm that except as stated expressly in the Relevant Supplier Agreement, the Operator, MAFFFL, Into-Plane Agent, MIAL and Airports Authority of India ('AAI') are not required to secure any separate insurance to cover such risks and that the respective Indemnifying Party shall extend the benefit of such indemnity to Operator, MAFFFL, Into-Plane Agent, MIAL and AAI. Each of the Indemnifying Parties shall ensure that the Operator, MAFFFL, MIAL and AAI are co-insured under the Aircraft Refueling Liability Policy (as defined in the Relevant Supplier Agreement) and such other policies which such Indemnifying Party effects pursuant to Section 8.4(i) of the Relevant Supplier Agreement.

Such Aircraft Refueling Liability policy obtained by the Indemnifying Party shall include, to the extent permitted in law, waiver of any and all rights of subrogation or recovery of the insurers thereunder against, Operator, MAFFFL, Into-Plane Agent, MIAL and AAI and their respective assigns, successors employees, officers, insurers and underwriters, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policy.

3. Without prejudice to the generality of the aforesaid, each of the Indemnifying Parties acknowledge;
  - a. that the cost and expenses touching the Custom Bond License or excise, shall be settled directly with the relevant authorities by the respective Indemnifying Parties under internal arrangement inter-se the Indemnifying Parties, and
  - b. that the Indemnifying Parties shall, jointly and severally, be responsible for any liability arising by virtue of the Custom authority being a beneficiary of the insurance cover of the ATF dead stock.
4. This Agreement is an independent agreement (even independent of any rights or obligations of the parties under the Relevant Supplier Agreement or inter-se arrangement between the Indemnifying Parties) and shall be construed as such.
5. The Agreement shall, in all respects, be governed by the laws of India without reference to its conflict-of-law provisions and subject to the provision related to notice under the Agreement, and the courts of Mumbai shall have exclusive jurisdiction in relation to all disputes arising from or relating to the Agreement.
6. If the Parties are unable to resolve any dispute or difference by discussion in relation to the Agreement within 45 (forty five) days of the dispute or difference first being raised, either Party may refer such dispute to arbitration by a panel of three arbitrators, one appointed by each Party within 15 (fifteen) days of the notice of arbitration and the third arbitrator, being jointly appointed by the two arbitrators so appointed. The arbitration shall be conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996 or any statutory modification or re-enactment thereof for the time being in force. The place and venue of arbitration shall be Mumbai

and all arbitral proceedings shall be conducted in English. Arbitral awards may be enforced by a court of competent jurisdiction.

7. This Agreement shall come into effect with respect to each of the Indemnifying Party on the date of the first delivery of ATF to the Facility.

This Agreement may be amended only by an instrument in writing duly signed by each person who is a Party on the date of such amendment.

Duly signed, executed and delivered.

For Indemnifying party issued on the date stated in Schedule 1  
(signatures as appearing in Schedule 1)

Accepted by each of the Indemnified Parties  
For Indemnified party issued on the date stated in Schedule 2  
(signatures as appearing in Schedule 1)

### Schedule 1

[Note: The list below will be updated and substituted upon modification(s) in the supplier list]

[Note: It is envisaged that the signature page will be different for each Supplier]

| <b>S no.</b> | <b>Name of Indemnifying Party (Name of Supplier)</b> | <b>Address of Indemnifying Party</b>                                                                    | <b>Name of Authorised Person of Indemnifying Party</b> | <b>Signed, executed and delivered on</b> | <b>Date of Relevant Supplier Agreement</b> |
|--------------|------------------------------------------------------|---------------------------------------------------------------------------------------------------------|--------------------------------------------------------|------------------------------------------|--------------------------------------------|
| 1.           | Indian Oil Corporation Limited                       | Indian Oil Bhavan, G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai – 400051, Maharashtra                |                                                        |                                          |                                            |
| 2.           | Bharat Petroleum Corporation Limited                 | Bharat Bhawan, 4 & 6, Currimbhoy Road, Ballard Estate, Mumbai – 400 001, Maharashtra, Republic of India |                                                        |                                          |                                            |
| 3.           | Hindustan Petroleum Corporation Limited              | Petroleum House, 17 Jamshedji Tata Road, Church Road, Mumbai – 400020, Maharashtra                      |                                                        |                                          |                                            |
| 4.           | [●insert]                                            | [●insert]                                                                                               |                                                        |                                          |                                            |
| 5.           | [●insert]                                            | [●insert]                                                                                               |                                                        |                                          |                                            |
| 6.           | [●insert]                                            | [●insert]                                                                                               |                                                        |                                          |                                            |

Schedule 2

| S no. | Name of Indemnified Party (Name of MAFFFL/ BPCL)   | Address of Indemnified Party                                                                                                                                                                                                                                                                  | Name of Authorised Person of Indemnified Party | Signed, executed and delivered on | Date of Relevant Supplier Agreement |
|-------|----------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|-----------------------------------|-------------------------------------|
| 1.    | Mumbai Aviation Fuel Farm Facility Private Limited | Opp. ITC Maratha, Sahar Police Station Road, Chhatrapati Shivaji Maharaj International Airport, Sahar, Andheri (East), Mumbai - 400 099, Maharashtra, Republic of India                                                                                                                       |                                                |                                   |                                     |
| 2.    | Bharat Petroleum Corporation Limited               | Bharat Bhawan, 4 & 6, Currimbhoy Road, Ballard Estate, Mumbai – 400 001, Maharashtra, Republic of India                                                                                                                                                                                       |                                                |                                   |                                     |
| 3.    | Names of ITP Agents                                | IndianOil Skytanking Limited<br>Fuel Farm Facility, Bangalore International Airport, Devanhalli, Bangalore 560 300, Karnataka, Republic of India<br><br>Bharat Star Services Pvt Limited<br>1 <sup>st</sup> floor, Plot – A5&6<br>Sector 1, NOIDA- 201301<br>Uttar Pradesh, Republic of India |                                                |                                   |                                     |
| 4     | Mumbai International Airport Limited               | 1 <sup>st</sup> floor, Terminal 1B, Chhatrapati Shivaji International Airport, Santacruz (East), Mumbai - 400 099                                                                                                                                                                             |                                                |                                   |                                     |
| 5     | Airports Authority of India                        | Rajiv Gandhi Bhawan New Delhi                                                                                                                                                                                                                                                                 |                                                |                                   |                                     |

## Exhibit 2

### Format of Bank Guarantee

*[to be inscribed on stamp paper of appropriate value]*

To,

Mumbai Aviation Fuel Farm Facility Private Limited  
Opp. ITC Maratha, Sahar Police Station Road,  
Chhatrapati Shivaji Maharaj International Airport,  
Sahar, Andheri (East), Mumbai - 400 099, Maharashtra, India

**Issuing Bank** : [●insert]

**Applicant** : [●insert name of Supplier], [●insert CIN of Supplier]

**Beneficiary** : Mumbai Aviation Fuel Farm Facility Private Limited

Dear Sirs,

|                      |   |                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|----------------------|---|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Guarantee No. & Date | : | [●insert]                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Guarantee Amount     | : | [●insert]                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Valid up to          | : | shall be valid until 180 days from [●insert date which is the fifth anniversary of the Date of Signature]                                                                                                                                                                                                                                                                                                                                 |
| Ref.                 | : | Tripartite Agreement (Supplier) between Mumbai Aviation Fuel Farm Facility Private Limited, as 'Owner', Bharat Petroleum Corporation Limited, as 'Operator', and [●insert name of Supplier], as 'Supplier', dated [●insert] entered into pursuant to Tender No. MAFFFL- 007/P for Operation and Maintenance Services of Aviation Fuel Farm Facility at Chhatrapati Shivaji Maharaj International Airport, Santacruz, Mumbai ('Agreement') |

### BACKGROUND

- A. Mumbai Aviation Fuel Farm Facility Private Limited, a company registered and functioning under the laws of the Republic of India, having its registered office at Opp. ITC Maratha, Sahar Police Station Road, Chhatrapati Shivaji Maharaj International Airport, Sahar, Andheri (East),

Mumbai - 400 099, Maharashtra, Republic of India, as 'Owner', [●insert name of Fuel Farm Operator], a company registered and functioning under the laws of the Republic of India, having its registered office at [●insert address], as 'Operator', and [●insert name of Supplier], a company registered and functioning under the laws of the Republic of India, having its registered office at [●insert address], as 'Supplier', have entered into the Tripartite Agreement (Supplier) dated [●insert] with respect to use of the Facility (as defined in the Agreement) by the Supplier for delivery of ATF to its customers and for services to be rendered by the Operator to the Supplier in terms thereof.

- B. As per the terms and conditions of the Agreement, the Supplier is required to furnish a Performance Bank Guarantee as security for due and punctual performance of obligations of the Supplier under the Agreement and or against any breach and or any non-compliance by the Supplier of any of its obligations, representation, warranties and covenants contained in the Agreement during and throughout the validity and term of the Agreement.
- C. Thus, the present Performance Bank Guarantee.

Upon the request of the Supplier and for adequate consideration received by us from the Supplier (the sufficiency whereof shall not be called in question by us), we, [●insert name of the bank], having its registered or head office at [●insert] and amongst other places a branch office at [●insert] (hereinafter referred to as the 'Bank', which expression shall, unless repugnant to the context or meaning thereof includes all its successors, administrators and assignees) have agreed to give this Performance Bank Guarantee and hereby affirm that the Bank is the guarantor and irrevocably and unconditionally agrees and undertakes as follows:

1. We, the Bank, hereby irrevocably and unconditionally undertake and guarantee (as primary obligor and not merely as surety) to pay you on behalf of the Supplier, without any demur, cavil, dispute or protest, and upon first written demand signed by MAFFFL's authorized representative, upto the Guarantee Amount, as being due by reasons of or occasioned by, arising out of or resulting out of, directly or indirectly, the breach and or any non-compliance by the Supplier of any of its obligations, representations, warranties and covenants contained in the Agreement. Any such demand made on the Bank shall be conclusive as to the Guarantee Amount due and payable to MAFFFL by the Bank under this Performance Bank Guarantee.
2. You will have full liberty without reference to the Bank and without effecting this Performance Bank Guarantee, to postpone for any time or from time to time the exercise of any of the powers and rights conferred on you under the Agreement and to enforce or to forbear from endorsing any powers of rights or by reason of time being given to the Supplier which under law relating to sureties would but for provision have the effect of releasing us.
3. Notwithstanding anything to the contrary, MAFFFL's decision as to whether the Supplier has made any such default under the Agreement and the Guarantee Amount to which MAFFFL is entitled by reason thereof, will be binding on the Bank and we, the Bank, shall not be entitled to ask MAFFFL to establish any claim or demand made by MAFFFL under this Performance Bank Guarantee and or be concerned with any dispute, if any between MAFFFL and the Supplier and or

the Operator and the Supplier and or MAFFFL and the Operator and or refer to the Supplier and or rely upon any communication of MAFFFL, but will pay forthwith any amounts claimed by MAFFFL, from time to time, upto the Guarantee Amount to MAFFFL upon the first written demand by MAFFFL without any demur, cavil, dispute or protest.

4. Your right to recover the Guarantee Amount from the Bank in manner aforesaid will not be affected or suspended by reason of the fact that any dispute or disputes have been raised by the Supplier and or Operator and or that any dispute or disputes are pending before any officer, tribunal or court and our liability under this Performance Bank Guarantee being absolute, unequivocal, unconditional and irrevocable.
5. The Performance Bank Guarantee herein contained shall not be determined or affected by the liquidation or winding up dissolution or change of constitution or insolvency of the Supplier and shall in all respects and for all purposes, remain valid and be binding and operative against the Bank.
6. This Performance Bank Guarantee shall not be discharged by any change in the constitution of the Bank or any change in the constitution of MAFFFL or any change in the constitution of the Supplier.
7. We, the Bank, further undertake that notwithstanding anything contained in this Performance Bank Guarantee, the Bank shall not, at any point in time, set-off any portion of the Guarantee Amount against any other money or monies owed to the Bank by the Supplier or any of the affiliates of the Supplier or MAFFFL or any of the affiliates of MAFFFL.
8. We, the Bank, further agree that this Performance Bank Guarantee shall come into force from the date hereof and shall be a continuing guarantee and in the first instance, remain in full force and effect (i) during the period that is taken for the performance by the Supplier, to MAFFFL's sole satisfaction, of its obligations under the Agreement and till MAFFFL discharges this Performance Bank Guarantee in writing; or (ii) until 180 days from [●insert date which is the fifth anniversary of the Date of Signature], whichever date occurs earlier('Expiry Date').
9. We, the Bank, hereby irrevocably agree that in the event MAFFFL and the Supplier mutually agree in writing to any extension of time to enable the Supplier to complete its obligations under the Agreement beyond the Expiry Date, the Bank shall, upon receipt of a written intimation from MAFFFL, suitably extend the terms of this Performance Bank Guarantee, without any further instruction or authorization from the Supplier.
10. Bank's liability under this Performance Bank Guarantee is restricted to the Guarantee Amount and this Performance Bank Guarantee shall remain in force until the Expiry Date unless a suit or action to enforce a claim under this Performance Bank Guarantee is filed against the Bank on or before the Expiry Date.
11. We the Bank, agree that MAFFFL shall be entitled to invoke this Performance Bank Guarantee at any time and from time to time such that MAFFFL may make multiple claims or demands under

this Performance Bank Guarantee provided that the maximum liability of the Bank under this Performance Bank Guarantee in respect of all such claims or demands shall not exceed the Guarantee Amount.

12. We, the Bank, hereby undertake not to revoke this Performance Bank Guarantee during its currency, except with the prior written consent of the authorized authority in writing by MAFFFL.
13. This Performance Bank Guarantee is to be returned to the Bank within 30 (thirty) days upon expiration or earlier termination of Agreement after deducting such sums as may be due and payable by the Supplier to the Operator prior to such expiry of termination. If the Performance Bank Guarantee is not returned to us within the aforementioned date, it shall be automatically cancelled.
14. We, the Bank, have the power to issue this Performance Bank Guarantee in your favour under Memorandum and Articles of Association and the undersigned has full power to do under the Power of Attorney dated [●insert] granted to him by the Bank.
15. This Performance Bank Guarantee shall be subject to the laws of the Republic of India and the jurisdiction of the courts of Mumbai, Republic of India.

IN WITNESS WHEREOF THE BANK HERETO HAS SIGNED THIS PERFORMANCE BANK GUARANTEE ON THIS [●INSERT] DAY OF [●INSERT], AT [●INSERT] IN THE PRESENCE OF THE FOLLOWING WITNESS

For \_\_\_\_\_ Bank

**Authorised Signatory**

**Authorised Signatory**

Witness:

1.

2.

Exhibit 3

*[To be franked suitably]*

**Undertaking**

To,  
Mumbai Aviation Fuel Farm Facility Private Limited  
Opp. ITC Maratha, Sahar Police Station Road,  
Chhatrapati Shivaji Maharaj International Airport,  
Sahar, Andheri (East), Mumbai - 400 099,  
Maharashtra, India.

**Place of execution:**

**Date of execution:**

**This Undertaking is issued by [insert name of supplier] further to the Relevant Tripartite Agreement (Supplier). The Supplier hereby undertakes and agrees as below:**

1. Supplier hereby undertakes to maintain minimum volume equivalent to two days sales determined on the basis of total sale volumes of the preceding month of ATF ('minimum inventory') and the Facility instead of furnishing Bang guarantee in accordance with Section 10.2 (i) of the Relevant Supplier Agreement.
2. Supplier undertakes that the Minimum Inventory shall be maintained at all times.
3. Supplier undertakes that the Minimum Inventory shall be duly paid and clear of any encumbrances.
4. Supplier undertakes that incase the Supplier fails to make any payment under the Agreement by the due date for payment, then MAFFFL shall be entitled to;
  - a. require the Operator to refuse delivery of ATF on account of the Supplier from the Minimum Inventory
  - b. dispose off the ATF through its selling agency as used oil of unknown grade, without issue of any notice to the Supplier towards recovery of such dues along with applicable interest. MAFFFL shall be entitled to adjust its cost of disposal of such ATF against sale proceeds. The Supplier shall be responsible for any tax implication with respect to disposal of the ATF. The Supplier acknowledges that the right of MAFFFL is important to ensure smooth and efficient functioning of the Facility and agrees that it shall not dispute any such decision of MAFFFL to dispose off the Minimum Inventory or the manner and cost of such disposal.

Signature of MAFFFL

Name:

Designation:

Date:

1. Witness:

Name:

Address :

Signature of Supplier

Name:

Designation:

Date:

2. Witness:

Name:

Address:

Exhibit 4

CONSTITUTION, ROLE & RESPONSIBILITY OF THE JOINT CO-ORDINATION COMMITTEE (JCC)

1. Constitution of the JCC:
- 1.1 The Joint Co-ordination Committee shall constitute the following:
  - i) One representative of MAFFFL;
  - ii) One representative of MIAL;
  - iii) One representative of Operator;
  - iv) One representative from amongst Into Plane Agents;
  - v) One representative from amongst the public sector Suppliers;
  - vi) One representative from amongst the private sector Suppliers;
  - vii) One representative from amongst the domestic Air Carriers;
  - viii) One representative from amongst the International Air Carriers;
- 1.2 The representatives of the Suppliers, Into Plane Agents, domestic Air Carriers and International Air Carriers, shall be elected from amongst their respective groups. Provided however, that a Supplier, Into Plane Agent, domestic Air Carrier or International Air Carrier whose representatives have held office in any given year, shall not be eligible to offer their candidature for the year following the year in which they held office, unless there are no other members in such group.
- 1.3 The representatives so elected shall hold office for a period of one calendar year. If any office falls vacant for any reason including demise, superannuation or health condition, the respective Supplier, Into Plane Agent, Air Carrier, MAFFFL, Operator or MIAL may appoint any other person to be their representative for the remainder of the tenure.
- 1.4 The nominee of MAFFFL shall be the Chairman of the JCC.
- 1.5 The representatives shall, from amongst them, select a coordinator, who shall be responsible for the convening of meetings, preparation of agenda, recording minutes and communicating the decisions of the JCC.
- 1.6 The JCC shall meet once every financial quarter or at such regular intervals as the members may decide.
2. Role & Responsibility of JCC:
- 2.1 The JCC shall perform the following role and responsibility for the purpose of ensuring the effective and efficient performance of the functioning of the Facility and the ITP Services at the Airport:
  - i) Reviewing compliance with the Operating and Quality Control Manuals, Joint Checklist and Joint Guidelines;
  - ii) Reviewing the parameters pertaining to the efficiency of the supply and discharge of fuel from the Facility;

- iii) Reviewing the parameters pertaining to the efficiency of the fueling of the Aircraft;
  - iv) Reviewing the safety parameters adopted by the Aircrafts, Supplier, Into Plane Agents, Operator and MIAL at the Facility in the process of Aircraft Fueling, Aircraft Defueling and or Aircraft Refueling;
  - v) Review operation of the Open Access system, with particular reference to ensuring that the Suppliers and Air Carriers are treated fairly and equitably,
  - vi) Recommend changes, if required, for the prequalification of Suppliers;
  - vii) Recommend changes if required to insurance or indemnity parameter to ensure that the participants are sufficiently protected against all attendant risks arising from the operations relating to product liability, environmental liability or Aircraft Fueling, Aircraft Defueling and or Aircraft Refueling.
  - viii) Recommend best practices to be adopted by the Operator, Into Plane Agent, Supplier, Air Carrier or MIAL, to ensure compliance, improve the efficiency and ensuring safety in operations.
- 2.2 The JCC shall put in place adequate monitoring mechanisms and shall ensure that the proposed integrated fuel farm facility operates in complete consonance with the principles of competition law and fairness.
3. Decision & its Binding Nature:
- 3.1 All decisions of the JCC, shall be made after due consideration of the issue by all the representatives. The quorum for all such meetings shall not be complete unless a minimum of Six representatives are present at such meeting.
- 3.2 All decisions of the JCC shall be made by votes and shall be determined by a majority of the votes cast on the subject. Provided however, Chairman shall retain the ultimate authority to veto any such decision of the JCC, for reasons to be recorded in writing.
- 3.3 The Operator, Supplier, Into Plane Agents and Air Carriers shall be bound by such recommendations of the JCC, both in its letter and spirit.
- 3.4 Any recommendation by JCC involving any expenditure by the Operator or the Into Plane Agent to meet the requirement of suppliers shall be effected at the cost and expense of the Suppliers. The Suppliers shall bear all such costs in proportion to their entitlement for the use of Facility.
4. Assistance & Co-operation:
- 4.1 MIAL, MAFFFL, the Operator, the Suppliers, Into Plane Agents and the Air Carriers shall render all required assistance for ensuring the proper functioning of the JCC.
- 4.2 MAFFFL shall make available meeting rooms and secretarial assistance for the purpose of convening the meetings of the JCC.