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BIAL submissions in response to Stakeholder's comments on CP No. 05/2018-19

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1 Disclaimer

This document has been prepared by Bangalore International Airport Limited ('BIAL') in response to the comments made by stakeholders on the Airports Economic Regulatory Authority of India's ('AERA' or 'the Authority') Consultation Paper No. 05/ 2018-19 on Determination of tariffs for Aeronautical Services in respect of Kempegowda International Airport Bengaluru ('KIAB' or 'KIA' or 'the Airport'), for the Second Control Period (01.04.2016 to 31.03.2021) dated 17.05.2018 ('Consultation Paper' or 'CP').

The purpose of this document is to solely provide a response to the comments provided by the stakeholders on BIAL's submissions and the Authority's proposals in the CP and should not be referred to and relied upon by any person against BIAL.

The responses set out below shall not be construed by any entity as an acceptance by BIAL of the various assumptions undertaken by the Authority in the CP or the views of stakeholders that have commented on the CP. The response is without prejudice to BIAL's rights, submissions, and contentions available to it before various forums, including in proceedings already pending before the relevant authorities, including before the Hon'ble Telecom Disputes Settlement and Appellate Tribunal ('TDSAT').

BIAL craves leave to submit additional responses, at a later point in time, should the need to do so arise

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Submissions in response to Government of Karnataka's comments on CP No. 05/2018-19

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2 Government of Karnataka ('GoK')

2.1 Regarding capital expenditure

2.1.1 GoK has written to the Authority and has stated the following points in response to CP:

"... AERA has taken certain stands on the tariff and capital expenditure which might have an adverse impact on the timely completion of the expansion projects of BIAL. The capital expenditure considered by AERA for the determination of aeronautical tariff excludes certain projects on an approximate value of Rs.1212cr. These exclusions are in respect of the GST impact on project cost, capital expenditure for the Eastern Tunnel and other important ancillary projects such as 220 KV substation, existing terminal improvements etc. "

2.1.2 BIAL concurs with the above submission of GoK as the Authority's approach on the tariff and capital expenditure in the tariff determination does not generate adequate cash flows required to ensure timely completion of expansion projects required to meet forecast demand. Further, GoK has recommended the following measures that need to be considered by the Authority while finalizing the tariff.

2.2 Point1: *"AERA may kindly ensure that appropriate measures are taken during the tariff determination process so as to take care of the expansion and growth requirements of BIAL."*

2.2.1 The GoK has concurred with BIAL's stand that the proposed capital expenditure is of paramount importance to the Airport and to meet forecast demand, leading to significant GDP contribution to, and consequent development of the State of Karnataka. The GoK is aware of the adverse impact that any further delay in delivery of these expansion projects poses to BIAL. BIAL concurs with the GoK and requests the Authority to consider BIAL's submission in the CP for additional capex requirement of Rs. 1212 crore to ensure adequate capacity creation to meet forecast demand.

2.3 Point 2: *"AERA may consider the cash flow requirements of BIAL towards capital expenditure and necessary Revenue augmentation, while determining the tariffs."*

2.3.1 In its response to the CP, BIAL has made a detailed submission on the cash deficit amounting to Rs. 1,489 crore, which it will incur based on the Authority's proposals in the CP. This will adversely impact the financial closure, and funding of the capital projects and may also result in default of financial covenants. Hence, in concurrence with GoK's letter, BIAL requests the Authority to consider cash flow requirement and necessary revenue augmentation to ensure capacity creation to meet the projected demand.

2.4 Point 3: *"The Revenue augmentation can be done in terms of continuing existing tariffs for the balance period the 2nd Control period the excess revenues collected can be trued up in the next control period and will smoothen the higher tariffs that are expected in the 3rd control period due to higher capitalization, thereby mitigating tariff spikes and shocks."*

2.4.1 BIAL agrees with GoK's view on revenue augmentation, by being allowed to continue to charge existing tariffs for the rest of the Second Control Period. Any over recoveries made by BIAL can be trued up during tariff determination for the Third Control Period. In its response to the CP, BIAL has submitted that revenue equalization between Second and Third Control Period will help in alleviating the impact of tariff shocks between regulatory periods, along with overcoming infrastructure bottlenecks at the airport through planned investments. Further, based on the true-up mechanism available with the Authority, any surplus revenue collections of the Second Control Period will be trued up with time value of money during tariff determination for the Third Control Period.

2.5 Point 4: *"The Government of Karnataka has on its part assisted BIAL in providing interest free loan & land at a concessional rate. It may be now difficult for further equity infusion and therefore the expansion projects have to be completed through external borrowings and augmented revenue."*

2.5.1 BIAL acknowledges that the GoK has supported BIAL in the development of the Airport. In support of BIAL's current capital expansion and funding requirements, the repayment of interest free loan has been deferred for a further period of 10 years (vide Government Order no. IDD -111DIA 2017 dated 29.06.2018).

2.5.2 We would further like to submit that, based on the computation by Authority, BIAL would require an equity infusion of approximately Rs. 413 crore for future expansion & operational requirements during the Second Control Period. In this regard, the GoK has expressed its inability to infuse any fresh equity capital into the company, which is to be noted.

2.5.3 In the absence of equity infusion, the cash flow shortfall cannot be through additional debt funding as the Authority has already considered a high gearing of 74% in the CP. Thus, the shortfall must be met out of revenue augmentation, which can be through continuation of existing tariffs. BIAL would also like to mention that the Authority has considered revenue augmentation measures to tide over cash flow shortages in the case of Delhi International Airport Limited ('DIAL') while determining tariffs for DIAL's Second Control Period.

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Submissions in response to International Air Transport Association's comments on CP No. 05/2018-19

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3 International Air Transport Association ('IATA')

3.1 Proposal No. 1: Regulatory Till and Principles of Determination of Tariff

30% Shared Revenue Till ('SRT') for Second Control Period - **IATA has stated that 30% SRT for the *Second* Control period is unjustified.**

3.1.1 BIAL would like to submit that with the National Civil Aviation Policy 2016 ('NCAP') spelling out the movement towards a 30% SRT, the idea is to create a uniform operating environment for existing and prospective airport operators by ensuring regulatory certainty. For attracting higher investments to meet IATA's own projected traffic demand at Indian airports, removing regulatory uncertainties and bringing down differential/unilateral regulatory treatment is vital. Therefore, the regulatory philosophy needs to be guided by the NCAP, which aims at boosting air connectivity and investment in the aviation sector.

3.1.2 Further, as per the Authority's Order No. 14/2016-17 dated 23.01.2017 pertaining to adoption of regulatory till, the Authority has clarified that the differential treatment of regulatory till across different airports has "caused some regulatory uncertainty which is not warranted at a time when greater emphasis is being placed on private investments for airport development." Further, taking into consideration the high growth trends being witnessed by the Indian civil aviation sector, the Authority has clearly outlined that adoption of a Hybrid Till was critical to attract/encourage investments for capacity expansion and modernization across Indian airports. In light of the above reasons, the Authority ordered for the adoption of a Hybrid Till wherein 30% of the non-aeronautical revenues will be used to cross-subsidize aeronautical charges.

3.1.3 In lieu of above, the 30% SRT for Second Control Period is justified.

Shift from Single till to Hybrid till for First Control Period - **IATA has expressed its disagreement on shifting from Single till to a Hybrid till for the First Control Period.**

3.1.4 BIAL wishes to submit that BIAL's Concession Agreement ('CA') has articles which indicate the adoption of Dual Till for tariff determination and hence, Single Till methodology cannot be adopted. The Concession Agreements of DIAL and Mumbai International Airport Limited ('MIAL'), which were awarded subsequent to BIAL had incorporated 30% SRT.

3.1.5 The Ministry of Civil Aviation ('The Ministry') has issued a policy direction (via letter dated 11.06.2015) in the case of Hyderabad International Airport Limited ('HIAL') under section 42(2) directing the Authority to consider 30% SRT. Given that both BIAL and HIAL airports have similar Concession Agreements and are structured similarly in terms of land lease agreement, viability gap funding, etc. BIAL has submitted in its response to the CP that BIAL should be allowed 30% SRT for First Control Period and Pre-Control Period in view of treatment provided for a similarly placed airport like HIAL.

Cargo, Ground Handling and Fuel Farm ('CGF') as aeronautical revenue - IATA has stated that CGF should be treated as aeronautical revenue.

3.1.6 BIAL would like to reiterate its submission made in response to the CP that Schedule 6 of the CA contains a list of "Regulated Charges" and clause 10.3 of the CA states that BIAL shall be free to determine without any restrictions "Other Charges" for services not listed in Schedule 6 of the CA. In lieu of the above, CGF along with Information Communication Technology ('ICT') and Common Infrastructure Charges ('CIC') activities and their corresponding revenues needs to be kept outside the tariff mechanism / purview and not to be considered as part of aeronautical revenues.

3.1.7 Further, the sanctity of Concession Agreements has also been upheld in the recent judgement of the TDSAT dated 23.04.2018 in the case of DIAL's tariff determination for the First Control Period (hereinafter referred to as 'TDSAT Order').

Lease rental as aeronautical revenue - IATA has stated that revenue from lease rental to be treated as aeronautical revenue

3.1.8 BIAL contests IATA's submission to consider rentals from leasing space to aeronautical service providers as aeronautical revenues. BIAL would like to reiterate its submission made in response to CP citing the Terms and Conditions for Determination of Tariff for Airport Operators Guidelines, 2011 ('Airport Guidelines'), where the lease rentals from commercial offices are categorized under non-aeronautical revenue.

3.1.9 Further, para 4.23 of ICAO's Airport Economics Manual (Doc 9562), provides a list of "Revenues from non-aeronautical activities" outlining the list of non-aeronautical activities includes rentals payable by aircraft operators for airport-owned premises and facilities. This includes rentals payable by aircraft operators for airport-owned premises and facilities. They have submitted that lease rentals by virtue of their nature are non-aeronautical and accordingly, there is no reason for considering them as aeronautical revenues. Accordingly, they need to be considered as non-aeronautical revenues.

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3.2 Proposal No. 2: Regarding Pre-Control Period

3.2.1 In the context of consideration of shortfall/over recovery for the Pre-Control Period, BIAL notes that IATA has not provided any justification to support its submission of why Single Till has to be considered for true up purpose.

3.2.2 BIAL differs with IATA's submission and reiterates its request the need to consider the true up for Pre-Control Period at 30% SRT as adopted for similarly placed airports such as HIAL. Articles 10.2 and 10.3 of the CA indicate the adoption of Dual Till for tariff determination by mentioning the term "Airport Charges" which are to be regulated and "Other Charges" which BIAL would be free to fix. Despite the fact that CA proposed a Dual Till, the Authority has applied a shared till methodology for BIAL.

3.2.3 Further, the Concession Agreements of DIAL and MIAL, which were awarded subsequent to BIAL had incorporated 30% SRT. The Ministry has issued a policy direction in the case of HIAL under section 42(2) directing the Authority to consider 30% SRT. Thus, the Authority should also true-up Pre-Control Period under 30% SRT for BIAL to have consistency with similarly placed airports.

3.3 Proposal No. 3: Regarding Truing Up of First Control Period Aggregate Revenue Requirement ('ARR')

Truing up for First Control Period under Single Till basis as against 40% SRT considered by Authority

3.3.1 BIAL notes IATA's disagreement with the Authority's treatment of adopting 40% SRT for true up of First Control Period and Pre-Control Period considering the needs of expansion of KIAB. BIAL however, does not agree with the reasoning provided by IATA that the Authority's decision on the regulatory till should not rely solely on the capital expenditure requirements of the airport as it would relieve shareholders from the responsibility of infusing adequate capital to finance airport projects.

3.3.2 BIAL would like to highlight that in Order No. 14/2016-17 dated 23.01.2017 pertaining to adoption of regulatory till, the Authority, in reference to its decision of adopting 40% SRT in the case of BIAL for the First Control Period, has acknowledged that ensuring the availability of adequate funds with the airport is one of its critical functions. Further, the Authority has accepted that adopting Single Till for tariff determination would constrain the airport's ability to generate adequate funds in a timely manner thereby restricting their ability to undertake capacity expansion and modernization works. In absence of such an approach, the users will be affected by way of congestion and poor service levels. Further, the Authority has carried out a detailed discussion in terms of adopting Hybrid Till in the place of Single Till for tariff determination vide Order 14 /2016-17. For the sake of brevity, we have not reproduced the entire contents of the aforementioned Order and the same can be referred to, for inferring that Single Till is not a viable proposition if investments in airport infrastructure need to be enhanced, and the Authority needs to consider Hybrid Till to facilitate investments.

3.3.3 BIAL notes IATA's submission stating that adoption of a 40% SRT for true up would constitute prefunding which would result in addition of capex which further gets included in the RAB leading to undue remuneration for the airport operator. We further refer to the Authority's Order No. 14 / 2016-17 wherein clear details were provided by Authority for its approach for adopting of hybrid till and hence the above approach suggested in IATA's submission for applying Single Till is unwarranted.

3.3.4 Finally, BIAL does not support IATA's suggestion of reducing from the RAB the differential between the true up calculated based on Single Till and true up calculated using 40% SRT in order to safeguard users from paying twice for the same assets. BIAL submits that it is not correct to say that users will be paying twice and that users would have to pay only once for the aeronautical assets as per the Regulatory building block approach of the Authority for tariff determination. BIAL would like to reiterate its position on truing up for First Control Period and Pre-Control Period, as submitted in BIAL's response to the CP.

3.4 Proposal No. 4: Regarding Traffic Projections

3.4.1 IATA mentions that it is advisable to get the traffic forecasts validated by an independent entity with the required capability on a regular basis especially given the high rates of growth, including capacity assessments to identify the demand triggers, pace and scale of investment as part of a broader master plan and phasing strategy.

3.4.2 In the CP the Authority has acknowledged the growth in traffic, capacity constrains at KIAB and initiatives taken by BIAL to facilitate greater passenger throughput. The Authority has proposed a higher traffic growth than proposed by BIAL. Also BIAL has proposed true up of traffic based on actuals in the Third Control Period. In lieu of this, BIAL submits that the concern raised by IATA in their letter has been addressed by the Authority in the CP.

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3.5 Proposal No. 5: Regarding Capital Expenditure

*Stakeholder consultation on investment plans of **BIAL***

3.5.1 IATA has stated that merely updating stakeholders on BIAL's high level investment plans is an ineffective and unreasonable approach to consultation. No project business cases have been shared with the airline community including information regarding costs or return on investments. Further, IATA has stated that it is perplexed at the Authority's lack of willingness to enforce its own Consultation Protocol to support meaningful consultation at Bangalore, and other regulated airports in India, that is in interest of consumers and users.

3.5.2 BIAL wishes to submit that the Airport Guidelines lay down the Consultation Protocol and also mention the composition of stakeholders so as to adequately represent interest of airport users.

3.5.3 BIAL has conducted the AUCC process in line with the Airport Guidelines set by the Authority. All the project details, cost and relevant Information have been captured in the Project Information File that has been submitted to stakeholders to have a meaningful discussion. Further, the queries of the stakeholders have also been addressed and submitted as part of the Multi Year Tariff Proposal ('MYTP') submission to the Authority. BIAL has shared all the above relevant details to IATA, as an integral stakeholder of the AUCC process

3.5.4 Further, in addition to above requirement, BIAL proactively has undertaken two intensive workshops with IATA on T2 Phase 1 as a pre-discussion to consultation process and shared all relevant details with IATA. Subsequent to the workshops conducted by BIAL for IATA there have been no further queries from IATA and IATA chose not to participate in the AUCC meeting held for the New South Parallel Runway ('NSPR') and associated projects as well as for Terminal T2, Phase 1. IATA bringing up questions on those capex decisions is not in the spirit of the aviation industry growth in India. It is suggested that IATA take AUCCs with due seriousness and provide quality inputs in the forum (AUCC) as enabled by the regulator and the operator.

3.5.5 IATA has mentioned that without information on costs and benefits of projects, stakeholder consultations are ineffective and leave the airline community extremely frustrated regarding their ability to provide informed feedback to the airports. IATA has specifically requested a response to letter sent to the Managing Director of BIAL in December 2017 requesting a consultation.

3.5.6 We received an e-mail from the Airline Operators Committee dated 01.11.2017, wherein general inputs were provided such as consideration for separate access for premium passengers, requirement of consideration of individual growth of airlines while arriving at overall passenger growth, media reports on re-opening of Hindustan Airport (HAL Airport) etc. were mentioned. BIAL in its response to the e-mail, acknowledged the receipt of the e-mail and all considered their inputs, to the extent they were relevant for the T2 project.

To ensure balanced capacity over time

3.5.7 IATA has commented that development should not be pre-determined by dates but by demand. Further, IATA has also recommended balanced capacity over time which is common industry best practice. And, they have observed that BIAL's intent in terms of future expansion appears to be contrary to the industry best practises.

3.5.8 However, IATA in the subsequent paragraph acknowledges that BIAL's assessment of a phased approach to terminal development based on demand triggers is an accepted approach.

3.5.9 BIAL submits that expansions projects require time for planning and implementation, hence investment plans need to be forward looking and designed to cater to a traffic which would be achieved in future. Therefore, while BIAL considers appropriate demand triggers to initiate investment planning, it also needs to pre-determine projects completion dates to ensure adequate capacity on a future date. Further, BIAL internally assesses the growth requirements and engages with multiple stakeholders to assess the capacity requirements before undertaking the expansion plans. An incremental increase in capacity or a modular approach as proposed by BIAL will lead to optimisation of cost, and hence all future plans of development considers a modular approach to capacity investment as a pre requisite.

To consider Sustaining Capex / Special Repairs on basis of actual performance

3.5.10 IATA has requested the Authority to scrutinize sustaining capex / special repairs costs incurred by KIAB in FY 2016-17 and FY 2017-18 of approx. Rs. 200 crore per annum and suggested that BIAL consults stakeholders for amounts exceeding Rs. 50 crore.

3.5.11 KIAB is witnessing exponential traffic growth, and it is expected that the traffic will continue to grow significantly over the next decade. Thus maximising the utilisation of the existing airside, terminal and landside capacities through various measures until the proposed Terminal T2, Phase 1 becomes operational. Further, KIAB is also investing in replenishment / refurbishment / upgradation of existing assets and requests the Authority to note that the initial phase of development has completed ten years of operation and requires additional investment for sustenance.

3.5.12 The sustaining capex/special repairs/minor projects were considered to cater to this growth and hence past expenses cannot be considered as the basis for estimating sustaining capex expenses in the coming years. Also, BIAL has carried out detailed "bottom-up" projections while arriving at the cost estimates and these have been submitted to Authority, which is part of Annexure 4 of the CP. BIAL has always followed the AUCC Consultation Process and conducted the AUCC meetings wherever mandated.

Regarding sharing a business case for the terminal development project

3.5.13 IATA has requested for a business case of the terminal project to be shared and reviewed in consultation with airport users.

3.5.14 The Authority has provided Consultation Protocols (AUCC) for capital expenditure projects which comprehensively covers the business case and this has been complied with by BIAL for terminal project.

3.5.15 Further, IATA has requested an AUCC consultation process regarding terminal design concepts, passenger flows, capacity and demand analysis and a review of capital costs.

3.5.16 BIAL's stakeholder consultation for the T2 project considered all the above requirements stated by IATA. Further, in addition to above requirement, BIAL proactively has undertaken two intensive workshops with IATA as explained above.

Regarding stakeholder consultations for Eastern Tunnel Works

3.5.17 IATA has requested for options, costs and benefits to be shared via a business case demonstrating a return on investment for users for the Eastern Tunnel Connectivity project and has also questioned its requirement of the project citing the example of London's Heathrow airport ('LHR').

3.5.18 BIAL submits that it has already shared details on the Eastern Tunnel Connectivity project in June 2018, where the document contained a need identification (business justification), options development, assessment of alternatives, project cost and risk assessment and mitigation measures. The Phase 2 work cost estimate is being provided as a tentative cost. BIAL will approach the AUCC separately for Stage 3 for the Phase 2 work.

3.5.19 IATA has quoted example of connectivity of LHR, which has a single access tunnel and expected BIAL to explore the management of airport with not more than one access. The IATA's approach of singling out one airport example of LHR and expecting BIAL to justify its own requirement of having multiple access of connectivity to airport is unfair and not practical. Different airports have different traffic and connectivity requirements, which have to be critically evaluated by each individual airport and expecting BIAL to justify the need for a tunnel (or any other infrastructure requirements) vis-a-vis LHR is impractical.

3.5.20 However, with specific reference to LHR, we would like to bring to IATA's notice that LHR has a significant transfer passenger percentage (~50% of total traffic), unlike KIAB which is primarily an origin-destination (O-D) airport. The tunnel at LHR only serves terminals 2 (T2) and 3 (T3). British Airways, which is the largest carrier at LHR is located almost entirely in T5 with separate landside access not relying on the tunnel serving the Central Terminal Area. Further, Terminal T4 catering to Skyteam traffic has separate access and not dependent on tunnel. Additionally, a large %age of public travelling to LHR, use public transport (around 40% currently) which is not the case at KIAB.

3.5.21 While IATA has participated in the AUCC consultation for the above project, it has not raised any observation with reference to LHR (or any other airport), nor has IATA raised any queries on the requirement of the project.

3.5.22 BIAL has always been transparent and has engaged pro-actively with the airline community (including IATA), the Ministry, GoK, and various other stakeholders and has a balanced approach towards capacity development to meet forecast demand at reasonable cost.

Regarding mapping / benchmarking of BIAL's project costs

3.5.23 IATA has agreed with the Authority's proposal to map project costs in BIAL's business plans with normative benchmarks and to review these costs by a study conducted through an independent consultant. It has also recommended capping BIAL's project cost at Rs. 10,471 crore that was determined by the Authority.

3.5.24 The Authority appointed independent consultant ('RITES') for analysis of capital expenditure on expansion for Bangalore airport for the Second Control Period. While BIAL has considered the report of RITES in terms of overall capital expenditure approval process, BIAL reserves its right to challenge the RITES report. BIAL has made a detailed submission in its response to CP explaining that market discovery of price is a complex process, and it may not be possible to determine efficient costs prior to the actual competitive bidding process. Also, the actual project cost is dependent upon a range of factors such as the cost of raw materials etc. which are beyond the control of an airport operator. The submissions also provide reasons why the Authority must not cap the project cost of BIAL at 10% above the Authority's estimates and explains the measures BIAL is taking to execute its projects efficiently and at an optimum cost.

3.6 Proposal No. 6: Regarding Allocation of Assets (Aeronautical and Non-Aeronautical)

3.6.1 IATA has commented that even 85% of the terminal being allotted to aeronautical (as has been done by the Authority) is on the higher side and there needs to be a review on the methodology for allocating common assets at airports.

3.6.2 BIAL has completed the detailed design of the upcoming T2 Terminal and complete details in terms of various facilities including aero and non-aeronautical facilities are being provided to the Authority. BIAL requests the Authority to refer to BIAL's response on the appropriate asset allocation ratio to be applied to its terminal T2, in BIAL's response to the CP. Based on the above submission, BIAL requests the Authority to apply an asset allocation ratio of 88%:12% between aeronautical and non-aeronautical assets for Terminal 2.

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3.7 Proposal No. 7: Regarding Depreciation

3.7.1 IATA would like the Authority's confirmation that the asset allocation adjustments (as mentioned by the Authority in Proposal 6 of the CP) have been considered while determining aeronautical depreciation. IATA has further requested the Authority to elaborate on the need for a "one time" adjustment of Rs.186.12 crore in FY 2018-19.

3.7.2 The Authority has issued an Order No. 35/2017-18 in the matter of determination of Useful life of Airport Assets. Based on this Order BIAL has carried out a one-time adjustment and provided the details to the Authority. Also, all necessary details regarding the allocation of assets and corresponding depreciation amounts were provided as part of the MYTP submission to the Authority. BIAL is of the view that these details are appropriately considered by the Authority and suitably included for tariff determination as per the details provided in the CP.

3.8 Proposal No. 8: Regarding RAB for the Second Control Period

3.8.1 IATA believes the aeronautical RAB of BIAL to be overestimated and requests the Authority to review its cost allocation methodology.

3.8.2 Vide its responses to the CP, BIAL has responded on the asset allocation for Opening RAB, Terminal T2 and the Authority's proposal to carry out a technical study for the allocation of T2 once the same is operationalized. Accordingly, BIAL disagrees with IATA's comment that BIAL's aeronautical RAB is overestimated on account of its allocation ratio.

3.9 Proposal No. 9: Regarding Operating Expenditure

3.9.1 IATA agrees with the Authority's proposal that items such as Corporate Social Responsibility ('CSR') cost should not be part of operating expenditure. It has further commented that the expected benefits of certain other costs including consultancy costs need to be made transparent.

3.9.2 BIAL has already provided a detailed justification on why CSR costs should be included as part of its operating expenses, and a justification for consultancy costs has also been provided in BIAL's responses to the CP.

3.9.3 IATA has also commented that the allocation of personnel cost appears to be on the higher side (90% aeronautical) for an airport like BIAL.

3.9.4 BIAL would submit that personnel cost allocation ratio has been estimated by considering bifurcation of expenses and department wise allocation of costs as part of a "bottom-up" approach, and the same has been certified by its statutory auditor.

3.10 Proposal No. 10: Regarding Non-Aeronautical Revenues ('NAR')

3.10.1 IATA has requested the Authority to consider adding an inflationary adjustment to the percentage increases in NAR, since it is driven by both passenger growth as well as inflation.

3.10.2 BIAL disagrees with IATA's suggestion on increasing NAR by inflation and passenger growth in light of certain constraints due to which BIAL's NAR may not be able to reach the levels provided by the Authority. A detailed response provided in BIAL's response to the CP highlights these constraints, which include a possible reduction in areas given out on terminal concessions due to exponential traffic growth, a probable reduction in passenger dwell time in security hold areas impacting NAR etc.

3.11 Proposal No. 11: Regarding Cost of Equity, Cost of Debt and Fair Rate of Return ('FROR')

3.11.1 BIAL has made a submission of Cost of Equity at 21.48% in accordance with CAPM methodology and the same approaches used by the Authority for the First Control Period vide Order No. 08/2014-15. While the Authority has considered Cost of Equity at 16% for CP, BIAL is open to an independent comprehensive study pertaining to all the elements of cost of capital (including cost of equity, gearing, asset beta, etc.) as this is in line with the TDSAT Order directing the Authority to improve their estimation of Cost of Capital through a scientific and objective exercise.

3.11.2 We also concur with IATA's view that based on the findings of such a study, the Authority shall accordingly true up during tariff determination for the Third Control Period. However, as has been pointed in BIAL's response to the CP in the absence of details on the terms and scope of such study, BIAL reserves its right to respond to such a study at a later date.

3.11.3 Finally, in the context of truing up the cost of debt, BIAL wishes to submit that BIAL has proposed a rate of 11.5% p.a. against which the Authority has considered a rate of 10.25% p.a. in view of the guidelines issued by the Reserve Bank of India for setting lending rate of loans under the marginal cost of funds based lending rate instead of the base rate from April 2016. IATA's view of implementing a cap on the true-up owing to interest rates being uncertain and prone to market-based fluctuations, are completely outside BIAL's control. In such a scenario, proposing to cap the true up of cost of capital may lead to the airport suffering undue losses. In a regulated environment, the proposed cap on true up is neither justified nor fair.

3.12 Proposal No. 13: Regarding Working Capital Interest

3.12.1 BIAL observes that while IATA has commended on the Authority's proposal to revise the working capital interest from the 12% p.a. submitted by BIAL to 9.5% p.a. starting from FY 2018-19, it has not provided any justification for the same.

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3.12.2 BIAL does not support IATA's submission and would like to reinforce its submissions made in its response to the CP. In its response, BIAL has highlighted that while typically, interest rates on short term financing (working capital) is higher than on long-term financing, the Authority's proposed interest rate for the former is even lower than that allowed in case of the latter.

3.13 Proposal No. 15: Regarding Quality of Service ('QoS')

3.13.1 BIAL notes the submissions made by IATA highlighting the lack of transparent and objective measurement of QoS at the KIAB. It recommends the need for setting the levels of service jointly by both the airport operator and the airport users, apart from pointing towards the need to move away from qualitative, perception-based measures as provided in the CA to quantitative, objective measures to estimate QoS at the airport.

3.13.2 ASQ Surveys are the Airport Council International's ('ACI') comprehensive initiative to improve the quality of service experienced by passengers with participation of over 321 airports in more than 50 countries. These surveys seek to measure passengers' overall satisfaction with an airport by ranking its performance against other airports in terms of various aspects of an airport's services. The survey is circulated to departing passengers and asks them to complete it based on their experience at the airport.

3.13.3 The CA mandates the maintenance of a minimum rating of 3.5 on a scale of 5. BIAL has been consistently scoring over 4.5, ensuring the quality standards/ service levels are maintained. Further, the Authority considered that BIAL shall ensure that service quality at KIAB conforms to the performance standards as indicated in the CA over the Second Control Period. Lastly, KIAB has been ranked second in the list of 2017 ASQ Award winners for "Best Airport by Size: 15-25 Million Passengers" with Denpasar, Haikou and Sanya Airports tied in first place. Also, Section 13(1) (d) envisages a limited role of monitoring of performance standards that have already been set. The CA has set/prescribed quality standards which BIAL is adhering to. In that light, IATA's comments travel beyond the jurisdiction of the authority.

3.14 Proposal No. 16: Regarding Aggregated Revenue Requirement

3.14.1 IATA has proposed that the removal of any unjustified (and discriminatory) tariff differentials like those existing on landing charges between domestic and international flights. Further, IATA has proposed that any reductions in charges are also applied to the fuel throughput charge ('FTC') (as previously mentioned, such charge is not cost related and should be eliminated or at least brought down).

3.14.2 In the context of the rate card, BIAL does not agree with IATA's view that the tariff differential on landing charges between domestic and international flights is unjustified. The differentiation in rates is a worldwide phenomenon and almost all airports in world particularly the European and Australian airports have a differential pricing amongst domestic and international passengers because of the differentiation in service and time spent at airport. The charges are non-discriminatory as they are applied universally across all carriers (foreign registered and Indian registered) operating on the same route and in line with ICAO principles (Doc 9082).

3.14.3 Further, BIAL also notes IATA's proposal to bring down FTC in case of reduction in charges. BIAL would like to submit that the Authority has determined the FTC for IndianOil Skytanking Private Ltd at the rate of Rs. 1,067/KL as airport operator fee as was determined in First Control period, and as has been retained for Second Control Period. There has been no increase in FTC to BIAL.

Submissions in response to Airline Operators Committee's comments on CP No. 05/2018-19

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4 Airline Operators Committee, Bangalore ('AOC')

4.1 Regarding the criticality of capacity expansion at KIAB and the proposition of revenue equalization

4.1.1 AOC, which represents the interests of all airlines operating at KIAB, is a key partner of BIAL and engages closely with us to ensure that the present and future needs of airlines are taken into consideration during operational planning and project execution.

4.1.2 BIAL notes comments made by AOC on KIAB already operating beyond its existing capacity (20 MPPA) to handle traffic of ~27 MPPA in FY 2017-18, leading to a worrisome situation where holding times are increasing.

4.1.3 We concur with the plea of AOC to support BIAL's expansion plans on the airside as well as terminal side to ensure that capacity constraints at KIAB do not adversely affect the high growth of air traffic.

4.1.4 BIAL has maintained a collaborative and consultative approach towards stakeholders and involves the airlines to understand their requirements and capture their growth propositions to ensure a balanced development in the airport.

4.1.5 Further, AOC has requested the Authority regarding maintaining tariffs constant across control periods without the need to levy an inflated figure in the Third Control Period. BIAL reiterates its submissions made in its reply to the CP, wherein BIAL had stated the reasons and its requests for continuation of existing tariffs that will lead to balanced tariff, thereby addressing the issue of tariff shocks between regulatory periods. Further, based on the true-up mechanism available with the Authority, any surplus revenue collections of the Second Control Period will be trued up with time value of money during tariff determination for the Third Control Period.

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Submissions in response to Business Aircraft Operators Association's comments on CP No. 05/2018-19

5 Business Aircraft Operators Association ('BAOA')

5.1 Regarding the treatment of CGF services and standardizing FTC

5.1.1 BAOA has supported the Authority's proposal of considering CGF Services as aeronautical in nature. Further, regarding FTC, BAOA mentioned that airport operators do not provide any facility to oil companies other than allowing them access into the airport. BAOA commented that airport operators exercise their "monopoly position" and oil companies have no alternative but to bear the high FTC. BAOA has requested the Authority to standardise FTC between Rs. 100 to 150 per KL throughout India, rather than allowing variable charges (Kolkata Rs. 1478.94 per KL, Bengaluru Rs. 1067.00 per KL, Delhi Rs. 688.00 per KL and Pune Rs. 112.1 per KL)

5.1.2 BIAL disagrees with BAOA's approach and the Authority's treatment of CGF activities and has submitted its rationale through a detailed response in this regard in BIAL's response to the CP.

5.1.3 The Clause 10.2.1 of the CA states that the Regulated Charges shall be in accordance with the ICAO Policies. In this regard, ICAO Document No. 9562 has stated that aviation fuel and oil concession including throughput charges are revenues from non-aeronautical sources. Also, BAOA has stated that historically FTC has formed part of non-aeronautical revenues. A mere increase in charges does not change the nature of services and need for change in regulation.

5.1.4 The FTC being levied by BIAL is a reasonable charge which has remained unchanged in the last 10 years and based on the commercial terms to gain access to airport and potential growth in business and revenue.

5.1.5 We support BAOA's contention that oil companies should be advised, through Ministry of Petroleum & Natural Gas, not to treat FTC as a pass-through charge and BIAL submits that the same should be borne by the Oil Companies given the profitability and growth potential in the business.

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Submissions in response to GMR Hyderabad International Airport Limited's comments on CP No. 05/2018-19

6 GMR Hyderabad International Airport Limited ('HIAL')

6.1 Regarding the Pre-Control Period eligibility of KIAB

6.1.1 HIAL has submitted its comments against the Authority's treatment of Pre-Control Period losses. HIAL has stated that BIAL, prior to the appointment of Independent Regulatory Authority ('IRA') would have sought the approval of the Ministry for applicable airport charges based on final audited project cost. However, since the Ministry has relinquished its rights and obligations regarding tariff determination, handing them over to the Authority, it is now the responsibility of the Authority to act on behalf of the Ministry and determine tariffs accordingly.

6.1.2 BIAL agrees with HIAL's submission that the Authority is now responsible for taking over the Ministry's rights and obligations with regards to tariff determination. BIAL's own submissions on the treatment of Pre-Control Period shortfall has been documented in BIAL's response to the CP, wherein BIAL has referred to the judgments of the Hon'ble TDSAT in case of DIAL tariff determination for First Control Period and the historical precedents where the Authority has exercised its powers to determine tariffs for a period prior to the notification of the Authority's powers, to suggest that the Authority should consider the Pre-Control Period of BIAL in its entirety.

6.2 Regarding the treatment of non-airport activities (land development) as non-aeronautical

6.2.1 HIAL has submitted that airport projects in India are generally unable to generate a fair rate of return on investment only through their airport operations. Hence, excess land for real estate development is provided to airport operators to recoup a part of the shortfall. Based on the aforementioned explanation, HIAL has submitted that by subjecting property development to 30% SRT and reducing the potential revenues from property development, the Authority is not honoring the terms of the CA and consequently the AERA Act, which allows airport operators to use excess land to recover a fair rate of return on the aggregate project.

6.2.2 BIAL concurs with the views of HIAL that excess land for real estate was provided along with the airport concession to make the project financially attractive to the private sector, such that it elicits a better response from the market in the tender process. Hence, a subsequent decision by the Authority to subject property development to 30% SRT in violation of the CA is unjustified and would result in reducing investor confidence in PPP airport transactions in future. A more comprehensive response from BIAL on the treatment of property development has been provided in BIAL's responses to the CP.

6.3 Regarding the treatment of CGF as aeronautical activities

6.3.1 In reference to the treatment of CGF services, HIAL has referred to the AERA Act which states that the Authority needs to consider a concession offered by the central government in any agreement or MOU or otherwise while determining tariffs. HIAL has also quoted the AERA Act which in section 13(1)(a) states that,

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"different tariff structures may be determined for different airports having regard to all or any of the considerations specified at sub-clauses (i) to (vii)"

6.3.2 The aforementioned quote from AERA Act exemplifies the intent of the statute that different tariff structures can be followed by the Authority based on the context of the airport, which includes but is not confined to the provisions of the Concession Agreement.

6.3.3 Further, HIAL has also cited definitions from ICAO's Economic Manual (Document 9562) which indicates that ground handling and aviation fuel revenues are non-aeronautical in nature.

6.3.4 BIAL concurs with the views of HIAL that CGF should be treated as non-aeronautical activities. In this regard, BIAL would like to reiterate its submissions as documented in BIAL's response to the CP. As part of its response to the CP, BIAL has cited provisions of its CA, judicial pronouncements of the Hon'ble TDSAT Order.

6.4 Treatment of notional income from non-aeronautical security deposits

6.4.1 HIAL has stated that the Authority should not consider any notional return on non-aeronautical deposits stating that as per the Authority's guidelines, the Authority has to reduce 30% of the airport's NAR from the ARR it computes for the airport. Thus, provisions of these guidelines do not envisage any notional revenue over and above the airports actual NAR. Hence, this artificial revenue considered by the Authority is beyond its jurisdiction.

6.4.2 BIAL concurs with HIAL's views that the Airport Guidelines do not envisage any notional revenues over and above the actual NAR of the airport. BIAL's detailed submission on the treatment of notional revenues has been presented to the Authority in BIAL's response to the CP.

6.5 Considering interest income as a non-aeronautical revenue and subjecting it to 30% SRT

6.5.1 HIAL has explained the nature and source of interest income and requested the Authority not to subject it to 30% SRT. HIAL has explained that this income relates to interim surplus until they are paid out as dividends. HIAL further explained that these temporary surpluses might also be retained in the business to meet future capital requirements, depriving the shareholders of dividends. Hence, taking away 30% of the investment return is unduly penalizing the company on prudent cash flow management.

6.5.2 BIAL concurs with the explanation and submissions provided by HIAL on the nature of interest income and the fact that they should not be treated as a non-aeronautical revenues. BIAL's detailed submissions in this regard have been provided in BIAL's response to the CP wherein BIAL has explained based on the source of income and historical precedents of the Authority's treatments why interest income should be kept outside the purview of 30% SRT.

6.6 Regarding revenues earned from concessionaires providing aeronautical services

6.6.1 HIAL has explained with references from the CA of BIAL and the ICAO Document No. 9082 that providing space is not an aeronautical service as far as the airport operator is concerned, and hence, all rentals should be considered as non-aero irrespective of the service as it is a commercial consideration.

6.6.2 BIAL agrees with HIAL's comment on why leasing space to aeronautical service providers should not be aeronautical revenue for an airport operator. BIAL would like to refer to its submissions made in its response to the CP wherein BIAL based on references from (i) Form F3 of the Airport Guidelines, (ii) the Authority's own statement in para 2.4.1 of the CP and (iii) para 4.23 of ICAO's Airport Economics Manual establishes that there appears to be no reason for considering such rentals as aeronautical revenues.

6.7 Regarding treatment of CSR expenses

6.7.1 HIAL has commented that CSR as stipulated by the central government is in the nature of tax, which reduces the overall profitability of the company. Hence, CSR needs to be treated akin to tax computation under the regulatory mechanism of the Authority. Accordingly, HIAL has requested the Authority to ensure that returns to shareholders after making such statutory deductions is protected.

6.7.2 BIAL agrees with the comment of HIAL regarding the treatment CSR expenses. BIAL notes that the comments of HIAL are in line with its own justification on why CSR costs should be included as part of operating expenses documented in BIAL's responses to the CP. BIAL has referred to FAQs answered by the Ministry of Corporate Affairs to establish that CSR is not an appropriation of profit but an item on the lines of tax. Further, BIAL has also drawn from ICAO's Document No. 9968 on Environment Management System (EMS) Practices to explain that the Authority's approach of considering CSR expenses as not related to airport activities is not in line with ICAO principles.

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Submissions in response to Cochin International Airport Limited comments on CP No. 05/2018-19

7 Cochin International Airport Limited ('CIAL')

7.1 Point 1. Authority's Treatment of Income from Real Estate Development

Needs to be studied.

7.1.1 In the context of treatment of income from real estate development, CIAL has submitted that the financial risks pertaining to non-airport projects should only rest with the airport operator as per Clause 5.2.1 (b)(v) of the Airport Guidelines. CIAL is of the view that by proposing to consider income from property development as non-aeronautical revenue, the Authority is going against its own Airport Guidelines, wherein Clause 5.2.1 (b)(i) allows for exclusion of those assets from the Regulated Asset Base ('RAB') that substantially provide amenities/ facilities/ services not related to or not normally provided at an airport.

BIAL would like to submit that the comments made by CIAL based on the Airport Guidelines are relevant and justify and augment BIAL's submission to keep property development outside the till framework. The same has been detailed out in Annexure 1 for necessary consideration by Authority.

7.2 Point 2. Treatment of lease rentals from aeronautical service providers as aeronautical revenues

Income from Aeronautical Services can't be treated as NAR.

7.2.1 Arguing against the Authority's treatment of considering lease rentals from aeronautical service providers as aeronautical revenues, CIAL has highlighted the need to consider the principle nature of service rendered, which is letting out of commercial space, a non-aeronautical activity that has led to the generation of the lease rentals. Further, CIAL has also submitted that as per ICAO's Airport Economics Manual (Doc 9562), lease rentals earned by the airport operator by letting out such space to aircraft operators (for check-in counters, sales counters and administrative offices) should be treated as a non-aeronautical revenue.

7.2.2 We concur with CIAL's submission that such lease rentals from aeronautical service providers should be considered as non-aeronautical revenue.

7.3 Point 3.Treatment of interest income

7.3.1 With respect to the Authority's proposal to consider interest income as non-aeronautical income, CIAL is of the view that such income is generated out of the investment of company's surplus funds, which may not be specifically attributable to any aeronautical or non-aeronautical services provided at KIAB.

7.3.2 BIAL concurs with CIAL's comments on interest income. Further, BIAL would like to mention that it has deployed free cash flows available in its business, which has reduced the requirement for working capital. This has led to savings on interest expense, which would have otherwise been incurred on working capital loans. Hence, the Authority is requested to exclude interest income from tariff determination.

7.4 Point 4.Treatment of CSR Costs

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7.4.1 BIAL would like to highlight that CIAL has opposed the Authority's proposal of disallowing costs pertaining to CSR as part of the Operating and Maintenance expenditures of KIAB for determination of aeronautical tariff. CIAL is of the view that CSR is a statutory requirement under the Companies Act, 2013. Also, CIAL has submitted that spending for CSR is not an appropriation of profits and is instead in the same line of tax, which reduces the net profit of airports.

7.4.2 BIAL wishes to reiterate its submissions made in its reply to the CP, wherein BIAL has stated the reasons for considering CSR as a mandated cost as per Companies Act 2013 and accordingly, allowing for recovery of the same.

7.5 Point 5.Considering Notional Revenues from Security Deposits

7.5.1 BIAL notes CIAL's submissions arguing against the Authority's proposal to consider notional revenue on the security deposits collected from non-aeronautical service providers. CIAL has submitted that such deposits would not contribute to reduction in rentals/charges owing to them being refundable either during the expiry or termination of the contract.

7.5.2 Further, CIAL has cited the TDSAT Order allowing the airport operator to earn a return on deposits used for funding aeronautical assets, which has also been highlighted by BIAL in section 10.2.2 (Page 38 to 40) of its response to the CP vide letter dated 05.07.2018.

7.5.3 BIAL supports CIAL's submission in this regard and accordingly, the Authority is requested to not consider a notional revenue on security deposit and instead allow a return on the proceeds of security deposits, as these proceeds from deposits have been invested in airport projects by BIAL.

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Submissions in response to Association of Private Airport Operators comments on CP No. 05/2018-19

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8 Association of Private Airport Operators ('APAO')

8.1 Regarding treatment of CGF, ICT and CIC

8.1.1 BIAL notes APAO's request to the Authority to consider CGF as well as ICT and CIC as non-aeronautical revenues based on the provisions of the CA that delineate "Regulated Charges" limited to services defined in Schedule 6 vis-à-vis "Other Charges" for services like CGF, ICT,CIC among others which are not covered by Schedule 6. APAO also highlighted that the AERA Act mandates the Authority to consider the concessions offered to airport operators through various project agreements during tariff determination. APAO finally commented that regulatory treatments that are inconsistent with the concessions allowed to airport investors in various project agreements may hurt investor confidence.

8.1.2 We agree to the submission put forth by APAO for considering the AERA Act, BIAL's CA and TDSAT Order to enunciate that CGF, ICT and CIC revenues be considered as non-aeronautical revenues as it is in line with our submissions made in the response to the CP.

8.2 Regarding Pre-Control Period Entitlement

8.2.1 In the matter of Pre-Control Period entitlement, BIAL notes APAO's request to the Authority to consider the pre-Airport Opening Date and Pre-Control Period shortfall for determination of tariffs for the Second Control Period. APAO has substantiated its request citing the TDSAT Order, which upheld that the Authority can determine tariffs even for a period prior to the notification of its powers in the absence of any express or implied embargo prohibiting it from doing so.

8.2.2 BIAL agrees with the stated position and submission put forth by APAO, which is in line with its submissions made in response to the CP. Additionally, BIAL has also highlighted that during the tariff determination for the First Control Period the Authority had chosen not to consider either prior period losses/gains while computing the tariffs, while in the current CP, the Authority has proposed to consider only performance of the airport from September 2009.

8.2.3 In view of the TDSAT Order, the Authority is requested to take cognizance of the prior period in its entirety, alternatively not to consider the over–recovery proposed in the CP until such time that the Hon'ble TDSAT decides on this issue in the case of tariff determination for BIAL.

8.3 Regarding consideration of Regulatory Till for true up

8.3.1 BIAL notes and concurs with APAO's submission requesting the Authority to adopt a 30% SRT for true of the Pre-Control and First Control Period based on a conjoint reading of Articles 10.2 and 10.3 of the CA, which clearly separate "Regulatory Charges" from "Other Charges" without providing for any cross subsidisation of the former from the latter.

8.3.2 APAO has also highlighted the inconsistent regulatory treatment of the Authority of taking into consideration the provisions of the Concession Agreements only in the case of DIAL and MIAL, while overlooking the provisions of BIAL's CA which provides for a Dual Till. Further, APAO has cited the Ministry's directive under section 42(2) of the AERA Act issued in the case of HIAL directing the Authority to adopt 30% SRT. Given the similarity of legal framework and structure of the two airports (BIAL and HIAL), the Ministry's directive should also be applicable in the case of BIAL.

8.3.3 The submissions put forth by APAO are in line with the detailed submissions made by BIAL in its response to the CP. We would therefore like to submit that in the interest of ensuring consistency in regulatory treatments across similarly placed airports like HIAL, the Authority is requested to revise its proposal and adopt a 30% SRT for true of the Pre-Control and First Control Period in the case of BIAL as well.

8.4 Regarding cap on true up of project expansion cost

8.4.1 BIAL notes APAO's submissions requesting the Authority to do away with its proposal to cap the true up of project costs as these costs are computed prior to the implementation of the project and are merely an estimate of expenditure

8.4.2 BIAL supports APAO's submission that the actual costs incurred by the airport operator during project implementation may vary from these estimates owing to uncertainties on account of factors such as fuel prices, costs of raw materials, inflationary pressures among others. Therefore, it is difficult to ensure accurate estimation of project costs during the project planning stage, as has also been submitted by BIAL in its response to the CP. However, BIAL will be able to justify the actual cost incurred with best efforts put in place and transparent and competitive practises being followed.

8.5 Regarding consideration of Notional Interest on Security Deposit

8.5.1 BIAL concurs with APAO's submission to not consider notional interest on security deposit as non-aeronautical revenues as these deposits are not compensation against rent. BIAL agrees with APAO's views that such deposits are typically included in commercial lease agreements as a measure to protect the lessor against property damage and/or to ensure timely receipt of rents and therefore, BIAL is not collecting them in lieu of rental revenue.

8.5.2 Further, as has been highlighted in its response to the CP, BIAL would like to submit that these security deposits have reduced its requirement for working capital thereby leading to saving on interest costs, which would otherwise have to be borne by the airport users. BIAL has also cited the TDSAT Order, which has allowed the airport operator a return on deposits used for funding aeronautical assets.

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8.6 Regarding treatment of Property Development

8.6.1 BIAL concurs with APAO's contention that the Authority's proposal to consider revenue from real estate as non-aeronautical revenues goes against the concessions provided by the CA, wherein as per Article 10.3 BIAL is free to determine "Other Charges" for services that are not defined in Schedule 6. In light of property development relating to hotel, commercial complexes, SEZ among others being defined under Schedule 3 as non-airport activities, the Authority should leave out such activities outside its regulatory purview.

8.6.2 We further endorse APAO's comment that given the high level of investment commitment and high risks involved in the KIAB project, the government allowed for grant of land for commercial purposes targeted at additional revenue generation. Therefore, the Authority's treatment goes against the assured commitments in the CA and other project related agreements, which would have an impact on the feasibility of non-airport activities.

In this context, BIAL would like to reiterate its submissions detailed in its response to the CP, wherein citing the relevant provisions of the CA and Land Lease Deed ('LLD') and highlighting inconsistencies of regulatory treatment across other PPP airports, BIAL has submitted why property development should not be brought under the Authority's jurisdiction.

8.7 Regarding treatment of lease rentals from aeronautical service providers

8.7.1 BIAL notes APAO's submission against the Authority's treatment of considering lease rentals from aeronautical service providers as aeronautical revenues arguing that these are accruing to BIAL because of letting out of commercial space, which is a non-aeronautical activity. In addition, APAO has submitted that as per Airport Guidelines, commercial office areas are to be treated as "Revenue Generating Areas" similar to retail, advertisement, ticketing, duty free shops, etc. Further, APAO has also highlighted that ICAO's Airport Economics Manual (Doc 9562) provides for considering lease rentals earned by letting out such space to aircraft operators (for check-in counters, sales counters and administrative offices) as a non-aeronautical revenue.

8.7.2 BIAL concurs with APAO's position and submissions, which are in line with its own submissions made in its response to the CP

8.8 Regarding treatment of BIAL's equity investment in the hotel for the purpose of FRoR determination

8.8.1 BIAL takes note of APAO's request to the Authority to consider the capital structure of the airport entity as a whole rather than ring fencing BIAL's investment in BAHL from equity while computing FRoR. APAO has highlighted the inconsistent regulatory treatment in this regard by citing that while on the one hand the Authority has considered revenues from BAHL as non-aeronautical, on the other hand it has considered the hotel operations as a non-airport activity by excluding capital investment in BAHL from computation of FRoR.

8.8.2 BIAL concurs with APAO's position and reiterates its submissions made in its response to the CP. Further, the same has been detailed out in Annexure 1 for necessary consideration by Authority.

8.9 Regarding reduction in Opening RAB

8.9.1 In the context of the Authority proposing a reduction of Rs 69.45 crore in the initial project cost based on the EIL report, BIAL supports APAO's contention that there is an unfair consideration of only those costs differentials wherein the actual costs incurred by BIAL exceed EIL's estimates. APAO has pointed that these differentials have not been set off against those differentials wherein BIAL's incurred costs were lower than EIL's estimates.

8.9.2 Further, APAO has referred to the Authority's own statement in the Tribunal in the matter of tariff determination of DIAL for tariff determination for the First Control Period, wherein it has stated that costs need to be taken as incurred costs and should not be re-examined on the efficiency yardstick, which has also been upheld by the Tribunal. BIAL concurs with APAO's submission that by reducing the initial RAB of BIAL, the Authority is going against its own stated position and the direction given in the TDSAT Order, which has also been highlighted in its response to the CP.

8.10 Regarding treatment of CSR Costs

8.10.1 BIAL concurs with APAO's proposal of allowing costs pertaining to CSR as part of the Operating and Maintenance expenditures of KIAB for determination of aeronautical tariff. APAO has opined that CSR is a statutory requirement under the Companies Act, 2013, and is an "above the line" item and not an appropriation of profit.

8.10.2 BIAL wishes to reiterate its submissions made in in its reply to the CP, wherein it has stated the reasons for considering CSR as a mandated cost as per Companies Act 2013 and accordingly, be allowed for reimbursement.

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Submissions in response to Air India SATS Airport Services Pvt. Ltd's comments on CP No. 05/2018-19

9 Air India SATS Airport Services Pvt. Ltd ('AISATS')

9.1 Regarding the criticality of capacity expansion at KIAB

9.1.1 BIAL notes that AISATS acknowledged the high growth of traffic at KIAB in the past few years, and has highlighted the need for undertaking "capacity creation" at the airport. Further, AISATS has submitted that the substantial investments incurred by it in light of the promising traffic growth will only yield results if KIAB is able to "maintain the growth story and attract new domestic and foreign carriers to start operations at the airport".

9.1.2 We agree with AISATS that the growth of service providers is related to the growth of the airport operator and any expansion plan of BIAL will lead to enhanced operations for AISATS.

9.1.3 We note that AISATS has requested the Authority to kindly consider the cash flows / capital expenditure requirements of KIAB for the timely expansion of the airport's capacities. We concur with the plea of AISATS and reiterate our submissions made in our reply to the CP, wherein we have stated the reasons and requests for additional cash flow support highlighting the importance of timely expansion and capex requirement to be undertaken in the Second Control Period.

Submissions in response to Bharat Petroleum Corporation Limited's comments on CP No. 05/2018-19

10 Bharat Petroleum Corporation Limited ('BPCL')

10.1 Regarding treatment of revenues from CGF and rentals from leasing space

10.1.1 BPCL has supported the Authority's proposal of considering revenues from CGF as aeronautical.

10.1.2 The premise of the Authority to consider CGF as Aeronautical revenue based on definition under section 2(a) of the AERA Act is in disregard to the mandate of Section 13(1) (vi) to give effect to CA, which allows for CGF being treated as Other than the Regulated Charges. Accordingly, CGF services would be required to be treated as non-aeronautical in the case of BIAL.

10.1.3 In addition, BIAL also does not support BPCL's endorsement of the Authority's proposal to consider rentals of leasing space to aeronautical service providers as aeronautical revenues as letting out of space is non-aeronautical in nature and needs to be treated accordingly. BIAL has substantiated its point based on the Authority's Airport Guidelines & ICAO's Airport Economics Manual in the detailed submission as response to CP.

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Submissions in response to Indian Oil Corporation Limited comments on CP No. 05/2018-19

11 Indian Oil Corporation Limited ('IOCL')

11.1 Regarding FTC

11.1.1 While IOCL has no comments to offer on the CP, it has however requested the Authority that the revision of FTC may only be released on prospective basis.

11.1.2 BIAL submits that it has considered the existing FTC for the Second Control Period as well for the purpose of tariff determination.

Submissions in response to IndianOil Skytanking Private Limited's comments on CP No. 05/2018-19

12 IndianOil Skytanking Private Ltd ('IOSL')

12.1 Regarding cash flow and future expansion

12.1.1 IOSL has submitted its future expansion plans of investing Rs. 219.53 crore and stated how investment in airport infrastructure by BIAL is critical for the growth of the entire value chain in the region and the service provider's investments are directly dependent on the expansion by BIAL and resultant growth in air traffic. Further, IOSL supports BIAL's request for cash flows and continuity of existing tariff to meet expansion plans

12.1.2 BIAL concurs with IOSL's submission that the investments in airport infrastructure by BIAL are critical for service providers as they are an integral part of KIAB's growth and development.

12.1.3 BIAL agrees with IOSL's view requesting the Authority to continue existing tariffs for the rest of the Second Control Period as a cash flow support to ensure timely completion of the expansion projects. Further, based on the true-up mechanism available with the Authority, any surplus revenue collections of the Second Control Period will be trued up with time value of money during tariff determination for the Third Control Period. BIAL submits that the fast growth has accelerated the need for major investment spends faster than would otherwise be required. By extending the existing tariff there is re-profiling of the same costs over time to create a more sustainable pricing profile, which enables BIAL to better finance the necessary investment by reducing the risk of cash flow impediments, thereby benefitting passengers and the wider economy.

Submissions in response to Celebi Airport Services India Pvt Ltd's comments on CP No. 05/2018-19

13 Celebi Airport Services India Pvt Ltd ('Celebi')

13.1 Tariff determination to support financial viability of airport and enable future capacity expansion

13.1.1 BIAL concurs with Celebi's submission and reiterates its own submissions made in its response to the CP, wherein it had stated the reasons seeking additional cash flow support in light of the pressing need for timely expansion and capex requirement to cater to the growing traffic.

13.1.2 The expansion and investments plans of the concessionaire are inter linked with the plans of the Airport's expansion and any delays in future expansion will impact the concessionaire. Thus, it is important to ensure implementation of these plans in a timely manner for overall development of the airport community.

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Submissions in response to Menzies Aviation Bobba (Bangalore) Private Limited's comments on CP No. 05/2018-19

14 Menzies Aviation Bobba (Bangalore) Private Limited ('Menzies')

14.1 Tariff determination to support financial viability of airport and enable future capacity expansion

14.1.1 Menzies has requested the Authority in its submission to approve the investments proposed by BIAL, and further provide cash flow support to meet the capacity expansion plans within the regulatory framework.

14.1.2 Authority has considered Rs. 9,344 crore of capex amount and has not considered certain capital expenses of approximately Rs.1,212 crore for the determination of aeronautical tariffs. This includes the 220kV substation, GST impact, Eastern Tunnel capex and other Minor Projects. BIAL concurs with Menzies and reiterate its submissions made in response to the CP that these investments are critical for undertaking capacity expansion at KIAB to cater to the swelling traffic.

Submissions in response to Bangalore Political Action Committee's comments on CP No. 05/2018-19

15 Bangalore Political Action Committee ('B.PAC')

At the outset BIAL submits that B.PAC is not a 'stakeholder' as per definition of 'stakeholder' provided in Section 2(o) of the Airports Economic Regulatory Authority of India Act, 2008 ('AERA Act') read with the AERA's Guidelines on Stakeholder Consultation dated December 14, 2009 (as amended on March 24, 2011). However, without prejudice, BIAL submits as under:

BIAL notes that B.PAC had initially submitted its observations and comments on the CP to the Authority vide letter dated 18.06.2018 and subsequently through a more comprehensive submission via letter dated 04.07.2018. When BIAL became aware about BPAC taking up their concerns with AERA, BIAL had pro-actively got engaged with BPAC to explain and make them understand airport operations, the regulatory process, tariff determination process, capex decision making process, etc. BIAL took this initiative as we believe in the importance of being transparent and also as we realize that the regulated tariff determination process could be complex for some to comprehend.

The below responses of BIAL pertain to the letter dated 04.07.2018.

15.1 Adjustment of excess User Development Fee ('UDF') collected by BIAL

15.1.1 B.PAC has commented that KIAB has been operating with unchanged tariffs even after the completion of the First Control Period, contrary to the Authority decision in Order No. 08/2014-15 of truing up traffic based on actual growth during the First Control Period (2011-2016). B.PAC has raised a complaint saying "This has led to a huge accumulation of additional revenue through UDF" and that it is counterintuitive on part of the Authority to allow KIAB to make such super profits while passengers bear the brunt of higher UDF charges.

15.1.2 BIAL would like to submit that the airport is entitled to collect various aeronautical charges consisting of landing, parking, housing and UDF charges. The Authority determines the Aggregate Revenue Requirement (ARR) for the given control period and provides flexibility to the airport to determine the revenue to be collected in terms of various charges as explained above. At the end of the control period, the Authority arrives at the eligible revenue and the actual revenue collected (including UDF). Any surplus / deficit of revenues will therefore, be trued up while determining tariffs for the subsequent control period.

Truing up.
We can't maintain the same tariff levels

15.1.3 In lieu of above explanation, BIAL states that the return on investment will be provided by the Authority as provided in its regulatory approach and any excess income / revenue, over and above the eligible returns, will be trued up in the next Control Period.

15.2 Regarding BIAL's contract with related parties

Is this our concern?

15.2.1 B.PAC has requested the Authority to share in public domain all BIAL's contracts with related parties since its inception and also to conduct an independent verification on whether these contracts are at arms-length.

15.2.2 BIAL submits that being a PPP project and to ensure transparency all its annual reports are provided in public domain. The annual report provides the detailed information about the performance of the company including the details about related party transactions.

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15.2.3 **Further, BIAL submits that it is managed by a Board consisting of representation from Government of India ('GoI') and GoK and other private promoters. The Board is headed by the Chief Secretary of Karnataka and BIAL's financial performance is audited by a professional and reputed audit firm.**

15.2.4 **Finally, BIAL would like to highlight that all of its commercial contracts were made available to the Authority for necessary review and consideration while determining tariff. BIAL submits that the commercial contracts cannot be provided in the public domain so as to protect the confidentiality and interest of the organization from competition and the same is in line with AERA's Guidelines 2011 on tariff determination.**

15.3 Regarding collection of UDF through the Second Control Period

15.3.1 **B.PAC has given the following four reasons before requesting the Authority to "disallow" a UDF to KIAB:**

1. *The UDF charged in the first two years of the Second Control Period has led to significant profit margin for KIAB.*
2. *The actual air traffic at KIAB has exceeded projections and resulted in the airport making substantive profits.*
3. *Traffic projections for the Second Control Period should be based on a fresh recent survey and not based on a study conducted in 2010.*
4. *"Non aero/non airport" activities have not commenced, leading to a significant lock up of precious land value in a prime location.*

Land utilisation:

In the interest of BIAL to monetise land value.

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15.3.2 BIAL submits that any under/over recovery will be considered by the Authority for true up in the CP. Regarding the financial performance for the first two financial years of the Second Control period, the Authority will consider true up as part of the ATP submission. BIAL would like to point that the Authority will take cognizance of the actual traffic while truing up and arriving at the final tariffs.

15.3.3 BIAL also submits that the Authority has not relied upon a 2010 study to project traffic at KIAB. Rather, the Authority has made its own assessment of traffic, which is higher than the projections submitted by BIAL.

15.3.4 BIAL submits that as per Schedule 3 Part B of its CA, commercial property development including hotels has clearly been defined as a non-airport activity. Further, the CA, LLD and other project agreements provides that Non Airport Activities of BIAL would continue beyond the concession period. The Clause 4.1 of the LLD clearly permits BIAL to undertake both airport and non-airport activities without seeking prior permission. The LLD does not envisage any form of cross-subsidization of airport activities and doing so will go against its principle objectives. Accordingly, the risk and rewards of the real estate business is to be left to BIAL. The treatment of real estate as per the CA and other project agreements is detailed in BIAL's response to the CP and accordingly, it should be kept outside the regulatory purview. Consideration of B.PAC's assertions would require the authority to travel outside its jurisdiction. Section 13(1)(a) confers jurisdiction on the authority to determine aeronautical tariffs and to perform this function in respect of major airports. Non Airport activities are by definition not activities that are covered under the AERA Act or within the jurisdiction of the authority, and therefore BIAL requests authority to not accept submissions of B.Pac's with regard to non-airport activities.

15.3.5 Without prejudice, BIAL submits that commercial exploitation of land has to be evaluated on the basis of investments, return and market conditions and BIAL submits that this aspect is fully outside the regulatory purview and that B.PAC cannot raise issues that are beyond the tariff determination exercise and beyond the jurisdiction of the Authority. Further, the same has been detailed out in Annexure 1 for necessary consideration by Authority

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15.4 Regarding Pre-Control Period

15.4.1 B.PAC has suggested that any Pre-Control Period shortfall for the purpose of determination of aeronautical tariffs for the current control period should not be considered based on the Authority's decision of First Control Period, wherein it was not allowed.

15.4.2 BIAL submits that the Authority had decided to not consider either losses or gains generated during Pre-Control period for tariff determination of first control period. However, in the current CP, the Authority is proposing to consider performance from September 2009 instead of considering the entire Pre-Control Period.

15.4.3 BIAL would like to highlight that in paras 66 and 67 of the TDSAT Order, the Tribunal has held that the Authority has full jurisdiction over the Pre-Control Period. Relevant extracts from the TDSAT Order have not been reproduced for the sake of brevity and can be referred to our detailed submissions made in response to the CP.

15.4.4 Accordingly, BIAL would like to submit that the Authority should relook into its approach and consider the Pre-Control Period losses in its entirety. Alternatively, Authority should not consider the partial performance of Pre-Control Period and to consider performance from First Control Period onwards till the matter gets resolved in the Hon'ble TDSAT.

15.4.5 B.PAC has highlighted that BIAL has been collecting UDF even prior to the year when the Authority was formed and therefore requested the Authority to disallow BIAL from recovering the Pre-Control Period losses.

15.4.6 BIAL submits that at the time of opening of the airport, the Ministry allowed BIAL to collect ad-hoc tariff (ref: AV 200015/003/2003-AAI dated 03.04.2008) through the determination of International UDF. Further, Domestic UDF was determined by the Ministry in January 2009 (ref letter: AV.20036/07/2008-AD) i.e. seven months after the airport commenced operations, which led to a shortfall in recovery.

15.4.7 The Ministry's letter also states that the tariffs were interim in nature and would be finalized at a later date as per the Guidelines of the Ministry and the CA. The CA provides for tariff determination either by the Ministry or by the Independent Regulatory Authority ('IRA') as the case may be. Neither the Ministry nor the Authority (IRA) completed the tariff determination exercise. The Authority has determined tariffs effective from September 2009 in the CP without considering Pre-Control Period losses, which is detrimental to BIAL. Hence, BIAL requests the Authority to consider the Pre-Control Period losses as detailed in its response to the CP.

15.5 Regarding Traffic Projections

15.5.1 BIAL notes B.PAC's comment on the Authority mandating a passenger survey conducted for each control period with projections for each of the five years by a credible third party. This is to be published before the beginning of each control period. B.PAC has further requested the Authority to penalize BIAL for any significant variation between the projected traffic volumes vis-à-vis the actual passenger traffic.

15.5.2 In response, BIAL would like to submit that the Traffic Study submitted by BIAL dated February 2013 provides annual forecasts of passenger traffic, air cargo tonnage, and aircraft movements for a 20-year time horizon between 2009-10 and 2029-30, which covered the duration of the Second Control Period.

15.5.3 BIAL would like to highlight that the unprecedented growth in traffic in the last few years was because of a combination of several factors including strong economic growth, reduced ATF prices, introduction of new airlines, competitive airfares, among others. Further, BIAL had submitted as part of tariff proposal for the true up of traffic impact, which has been considered by the Authority in the CP.

15.5.4 On B.PAC's comment of BIAL having foreseen the traffic growth trends and designed operations accordingly, BIAL would like to submit that investments for airport capacity expansion and modernization based on traffic forecast is not a one-off exercise. Especially, in a rapidly evolving aviation market like India, it is very less likely to predict traffic volumes with accuracy. Therefore, it makes more sense to undertake this exercise at regular intervals so that capital investments can be planned in response to the demand trends. In fact, BIAL would like to highlight that it has been proactive in modifying its capex plans based on any demand changes it envisages. A case in point is the revision in BIAL's airport expansion plan, wherein it has undertaken an upward revision of capacity addition from 20 MPPA for Terminal 2 Phase 1 to 25 MPPA. This will result in KIAB's total capacity going up to 45 MPPA in FY 2021 when T2 becomes operational.

15.5.5 B.PAC has urged the Authority to bring in transparency in the calculation of UDF by placing the formula to calculate UDF in the public domain. It has further suggested that the passenger traffic for the First Control Period be trued up. Also, it has recommended that BIAL should release the actual passenger numbers for the two financial years of the Second Control Period, which should be used to extrapolate the projections for the remaining years of the Second Control Period.

15.5.6 BIAL would like to submit that the Authority computes the ARR allowable to an airport operator based on the regulatory approach. The UDF and other aeronautical charges like Landing, Parking and Housing charges are resulting out of the ARR.

15.5.7 Also, BIAL would like to point that it had proposed true up of traffic impact both for the First and Second Control Period, which the Authority has taken into consideration in the CP. The Authority has already taken cognizance of the traffic growth while arriving at the estimates in the CP.

15.5.8 B.PAC has suggested to immediately initiate a study for projecting traffic for the balance years of the Second Control Period and accordingly, make suitable adjustments in the tariff for the remaining period, once the results are available

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15.5.9 In its MTYTP, BIAL has submitted traffic estimates after considering various traffic driving factors. The Authority has revised the traffic estimates after reviewing BIAL's MYTP submission. In addition, BIAL has requested for true up of traffic in its MYTP and the Authority has also proposed to true up any under/over recoveries on account of traffic during the tariff determination of the Third Control Period.

15.6 Regarding capital expenditure

15.6.1 B.PAC has stated that a significant portion of land parcel is lying unutilized and BIAL has not taken any steps to monetize the land despite having the potential to do so. This has led to severe loss of revenue to the exchequer and is placing huge burden on the passengers via higher UDF and PSF for meeting the development needs of KIAB.

15.6.2 The land was provided to BIAL so as to cater to KIAB's requirements for the entire concession period of 30 years. The airport Master Plan considers the entire demand potential for 30 years and provides for a phased development of the airport so as to meet the future demand. Accordingly, the utilization of land will not happen completely during the initial phase and will spread across different phases of the concession period.

15.6.3 Further, BIAL has made detailed submission as part of the response to the CP wherein it has reiterated that the land utilization towards real estate and the corresponding income and losses are outside the purview of regulation by the Authority. Further, it is reiterated that the CA does not provide for cross subsidization of any income from Non-Airport activities and hence, does not impact the aeronautical charges like UDF/PSF.

15.6.4 B.PAC has urged the Authority to direct BIAL to draw up a Master Plan indicating phase wise development of aeronautical and non-aeronautical facilities along with timelines and costs for the entire land parcel of 4,008 acres and share the same with citizens. The same should be made available on their website and the information should be disseminated widely via English and vernacular dailies inviting citizen comments. BIAL should further hold a public consultation with citizens.

15.6.5 BIAL submits that regular Master Plan updates are being carried out as prescribed by the Government and CA. The same is being shared with various stakeholders like the Ministry, Directorate General of Civil Aviation, Airports Authority of India ('AAI'), GoK, and other government agencies. Therefore, BIAL would like to emphasise that it is compliant with all the requirements in relation to the Master Plan.

15.6.6 B.PAC has requested the Authority to direct BIAL to furnish a further breakup of the estimated cost of the proposed Eastern Tunnel and suggested that the same be validated for design and cost by an independent organization like RITES.

15.6.7 In response, BIAL would like to submit that it has conducted the AUCC for need identification, options development and detailed design for Phase 1 on 22.06.2018. The Phase 2 work cost estimate is being provided as a tentative cost. BIAL will approach the AUCC separately for Stage 3 for the Phase 2 work.

Do they have adequate funds for funding their projects. Priority should be to fund their projects.

20/7/18

15.6.8 B.PAC has requested the Authority to direct BIAL to keep aside the positive cash flow generated from higher UDF collections in a separate fund and utilize the same for its additional projects such as cost of metro connectivity and Eastern tunnel connectivity.

15.6.9 BIAL submits that regarding collection and utilization to refer the submission made in para 15.1.2. Further, as part of MYTP submission and tariff determination process all the future expansion projects including Eastern tunnel connectivity project will be considered appropriately in the tariff proposal for consideration of the Authority.

15.6.10 Since metro connectivity is not part of the current tariff determination exercise for the Second Control Period, BIAL chooses not to respond on the funding and charges that need to be collected for the same.

15.7 Regarding non-aeronautical revenue

15.7.1 B.PAC has requested the Authority to instruct BIAL to "submit the Aeronautical revenue in a similar manner which has components of UDF and PSF among others".

15.7.2 BIAL would like to submit that the Authority computes the ARR allowable to an airport operator based on the regulatory approach. The UDF and other aeronautical charges like Landing, parking & Housing charges are resulting out of the ARR.

15.7.3 B.PAC has requested that the Authority should strictly audit, monitor and report BIAL's utilization of funds received through UDF and other Aeronautical charges for the First and the ongoing control period. Further, the Authority should direct BIAL to publish the annual utilization report of the UDF.

15.7.4 BIAL submits that the Airport Guidelines has provision for Annual Compliance Statement ('ACS') to be submitted by the Airport Operator along with copies of annual audited accounts and any other information as requested by the Authority. Based on the ACS, the Authority may review and true up the tariff.

15.7.5 BIAL further submits that UDF is part of the basket of charges that it is entitled to collect as part of its ARR. Further, the true up process as explained in para 15.1.2 takes into account the surplus / deficit of revenue while determining tariff. There is no specific requirement in terms of collection and utilization of UDF on standalone basis.

15.7.6 B.PAC has requested the Authority to continue considering CGF revenues as aeronautical revenues.

15.7.7 BIAL disagrees with B.PAC's comment on the Authority's treatment of CGF activities and has submitted its rationale through a detailed response in this regard in its response to the CP, wherein it has highlighted provisions of its CA, which allows for CGF being treated as non-aeronautical in the case of BIAL.

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15.7.8 As per Article 10.3 of the Concession Agreement read with Schedule 6, only charges pertaining to Landing, Parking, Housing, PSF and UDF are to be regulated. Hence, BIAL is free to determine charges to be imposed in respect of other services such as CGF provided at the Airport or on the site. Therefore, considering CGF services as aeronautical charges would indirectly amount to treating them as Regulated Charges; and would defeat the intent of the CA. The TDSAT Order directs the Authority to honour the rights/concessions under various project agreements.

15.7.9 B.PAC has requested that the Authority should direct BIAL to find other suitable investors who have specialized skills to profitably manage the Hotel, which has been making losses since its inception and is estimated to continue to do so all through the Second Control Period. BIAL needs to develop the unutilized land, which would also bring in investments for the state while increasing the occupancy of the hotel and benefitting the hotel establishment. BIAL once again submits that the issue of commercial utilisation of land is not within the purview of this regulatory exercise. Likewise, BIAL submits that profitability or otherwise of the hotel, which is a non-airport activity is also beyond the regulatory ambit. B.Pac's request to the authority to exercise the jurisdiction in respect of these two issues may kindly be refused as the same are beyond the jurisdiction of the authority.

15.7.10 BIAL would like to point that Hotel is part of non-airport activity, as per Schedule 3 Part B of the CA. The Authority has been constituted as per the AERA Act to regulate aeronautical services and, therefore BIAL submits that real estate activities are outside the purview of regulation.

15.7.11 Without prejudice, BIAL submits that commercial exploitation of unutilized land has to be evaluated on the basis of investments, return and market condition.

Non-airport activities at airport project sites are at a nascent stage. They have large potential. Though a non-airport activity, hotel business is dependent on the airport. No harm considering 30% of the revenues for subsidising aeronautical tariff.
Sd/-
30/7/18

15.8 Redressal of grievances and quality of service at KIAB

15.8.1 BIAL notes B.PAC's request to the Authority to appoint an independent Consumer Ombudsman, which will help in enhancing transparency in operations and improving the quality of service provided at KIAB, besides providing a platform for consumer grievances redressal.

Air sewa?

15.8.2 BIAL submits that the AERA Act does not have provisions for appointment of Independent Consumer Ombudsman. Further, the monitoring of performance and customer satisfaction is undertaken by BIAL as provided by the CA and the same is being shared with the Authority.

15.8.3 Further, BIAL observes B.PAC's suggestion to the Authority for directing BIAL to nominate an eminent citizen of Bengaluru as an independent member to the Board.

15.8.4 BIAL submits that the Appointment of Directors is governed by the Companies Act 2013 and the same has been duly complied with by BIAL.

15.8.5 Further to the above response, BIAL would like to submit the following responses to the comments made by B.PAC in its letter dated 18.06.2018.

15.8.6 Proposal 1: B.PAC stated that BIAL has not made available the accounts for FY 2017-18 on their website and requested the Authority to direct BIAL to make the same available.

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15.8.7 The annual report containing the audited financials of BIAL will be uploaded on the company's website along with the notice calling for Annual General meeting of the company. This is expected during the last week of August / early September this year.

15.8.8 Proposal 2 to 6: BIAL reiterates its submissions made in response to the CP wherein these proposals/comments have been addressed.

15.8.9 Proposal 7: BIAL notes that B.PAC sought details from BIAL on the difference of Rs. 1,770 crore between BIAL's proposed capital expenditure (Rs. 10,038 crore) and the estimates provided by RITES in its evaluation report (Rs. 8,268 crore).

15.8.10 BIAL would like to submit that these details regarding the costs allowed, disallowed and the rationale for doing so has been provided in the RITES report annexed with the CP.

15.8.11 Proposal 8: – In response, BIAL reiterates its submissions made in response to the CP.

Submissions in response to Consumer Care Society's comments on CP No. 05/2018-19

16 Consumer Care Society ('CCS')

As we understand from the submissions made by CCS in response to the CP, it is a society registered under Karnataka Societies Regn. Act. 1960 and hence, does not fall within the definition of 'stakeholder' as defined in Section 2(o) of the AERA Act read with the AERA's Guidelines on Stakeholder Consultation dated December 14, 2009 (as amended on 24.03.2011). However, without prejudice, BIAL submits as under:

16.1 General Point 1: Requirement of comparable data

16.1.1 CCS has stated that they would be able to better appreciate the submissions of BIAL and the comprehensive analysis made by the Authority had comparable data and industry benchmarks been provided on other national and international airports. It further stated that the Authority has confined itself to analysing the submissions made by BIAL.

16.1.2 BIAL submits that the Authority is the expert body appointed by an act of Parliament for tariff determination and necessary compliance. The Authority, being the expert body, has arrived at the regulatory philosophy and tariff guidelines after taking into account the specific requirements of the Indian Aviation industry. BIAL submitted its tariff proposal in line with the regulatory guidelines established by the Authority and also in consideration of the provisions of its CA and other project agreements as applicable.

16.2 General Point 2: Requirement of a detailed survey to forecast traffic

16.2.1 CCS has suggested that a detailed market survey is required to forecast the "actual footfalls, user's and customers" as these are critical inputs for determination of tariffs. CCS further highlighted that actual footfalls have exceeded earlier projections without any corresponding reduction in tariffs.

16.2.2 BIAL submits that it has undertaken traffic survey by a renowned expert agency and the same was submitted to the Authority as part of its MYTP. Further, the true up process as prescribed by the Authority and as requested by BIAL will address the excess / shortfall of revenues while determining tariffs for the next control period.

16.3 General Point 3: Capital mix used to fund future expansion should be more debt based

16.3.1 Infrastructure lending by banks are based on RBI guidelines, loan structuring, credit rating, profitability of the Company among others. Also, banks would require for BIAL to maintain certain minimum financial covenants including (i) interest coverage ratio, (ii) debt service coverage ratio and (iii) fixed asset coverage ratio. And, the Authority has already considered a high gearing of 74% for future expansion projects while the possible debt funding by banks will be in the range of 70%.

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16.4 General Point 4: Reconsidering operational expenditure on CSR

16.4.1 **CCS has requested the Authority to "reconsider" the operational expenditure for CSR as the same is high.**

16.4.2 **BIAL submits that CCS has not provided any justification or context for stating that the CSR is "high" and this is computed as per the provision of the Companies Act 2013. BIAL has also requested the Authority to consider CSR as an operational expenditure as it is an 'above the line' item and the same needs to be considered for tariff determination.**

16.5 General Point 5: Reasonableness in determining charges other than LPH, PSF, UDF etc.

16.5.1 **CCS has made a request to BIAL to exercise reasonableness in determining tariffs on those other charges, which it is free to determine, in the interest of passengers.**

16.5.2 **BIAL would like to assure CCS that it considers passenger interest to be of paramount importance while pricing the facilities and services that its offers, which do not come under the explicit purview of economic regulation.**

16.6 General Point 6: Reconsidering revenues from lounge and flight catering services in the light of the fact that property development activities will now fall within the ambit of non-aeronautical

16.6.1 **BIAL is unclear on CCS's submission to "reconsider" lounge and flight catering services as property development activities will now fall within the ambit of non-aeronautical activities. There is incoherence between the linkage of property development and lounge and flight catering.**

16.7 Proposal 1 –Tariff based on 30% hybrid till – but considering property development activities as non-aeronautical – Would be beneficial if this can be considered as a set off and the same reflected in reduced tariffs such as lounge services and utility services activity

16.7.1 **BIAL is unclear on CCS's submission as there is incoherence between the linkage of property development and lounge and utility.**

16.8 Proposal 1 -Regarding the true-up of traffic projection for next control period

16.8.1 **BIAL has proposed for true up of traffic for second control period as part of its MYTP submission and Authority has also proposed the same in the CP.**

16.9 Proposal 1: Regarding reconsideration of allocation ratio for fixed assets

16.9.1 **BIAL notes CCS's request to the Authority seeking reconsideration of allocation of fixed assets as KPMG is "not happy with the auditing standards".**

16.9.2 BIAL would like to clarify that KPMG has not expressed dissatisfaction with the auditing standards of BIAL. On the contrary, while providing BIAL with an auditor's report on asset allocation ratio, KPMG has given the context of their own engagement stating that their report is based on "agreed-upon procedures" and relates to "Statement of allocation of fixed assets". KPMG has only clarified that their report does not constitute either an audit or a review made in accordance with the generally accepted auditing standards in India. This does not mean that BIAL's fixed assets as per financial statements, which are allocated based on the asset allocation ratio reported by KPMG have not been accounted for as per the auditing standards.

16.10 Proposal 7: Regarding the depreciation of Plant & Machinery relating to safety and security

16.10.1 In response to the request of CCS to consider re-computation of depreciation for estimating Average RAB, BIAL would like to submit that the depreciation value with respect to Safety and Security and IT equipment refers to actual depreciation, which are being capitalised and considered in the books.

16.11 Proposal 15: Regarding Quality of Service (QoS)

16.11.1 CCS has mentioned that while there must be a number of parameters to assess QoS, no numbers associated with any such parameters have been provided by the Authority (while analysing the QoS of KIAB). Accordingly, CCS has commented that it is not clear whether in the years BIAL has been in operation, its QoS has shown an upward trajectory, whether any further improvement is possible or whether it has reached the pinnacle. CCS has also raised questions on how the QoS of BIAL compares with other airports nationally and internationally.

16.11.2 BIAL would like to highlight that its CA mandates maintaining a minimum Airport Service Quality (ASQ) score of 3.5 on a scale of 5. BIAL has been consistently performing over 4.5 and above, ensuring that the quality standards/ service levels at KIAB are maintained. Further, the Authority has proposed in the CP that BIAL shall ensure that service quality at KIAB conforms to the performance standards as indicated in the CA over the Second Control Period. Finally on comparative performance with other airports, BIAL would like to submit that KIAB has been ranked second in the list of 2017 ASQ Award winners for "Best Airport by Size: 15-25 Million Passengers" with Denpasar, Haikou and Sanya Airports tied in first place. Therefore, the airport is continuously wining accolades for its quality of performance and customer satisfaction.

16.12 Proposal 16: Regarding computation of Aggregate Revenue Requirement (ARR)

16.12.1 BIAL notes the comment made by CCS regarding there being a "large" difference between the Yield Per Passenger ('YPP') requested by BIAL against that proposed by the Authority.

16.12.2 BIAL would like to submit that its MYTP submission to the Authority for tariff determination is based on provisions of various project agreements such as CA, LLD, amongst others and within the economic regulatory framework established by the Authority. Accordingly, no frivolous submissions have been made to the Authority.

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16.12.3 Also, in response to CCS's comment on comparing YPP across airports, BIAL submits that YPP is determined based on a combination of multiple factors including traffic, capital expenditure, operating expenditure, nature of airport, provisions of the Concession Agreement, among others. These factors differ across various airports and the individual tariff determination exercise for each airport takes into account each of these factors. Therefore, YPP is not comparable between airports.

16.12.4 Finally, BIAL notes the comment made by CCS questioning how the YPP would be recovered since it is not possible to recover the exact amount from each and every passenger. BIAL would like to submit that the YPP represents the average revenue that can be collected on a per passenger basis, which is divided into a basket of charges representing direct charges for airlines like Landing, Parking and Housing charges and indirect charges such as User Development Fee.

Submissions in response to Mr. Sanjeev V Dyamannavar's comments on CP No. 05/2018-19

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17 Sanjeev V Dyamannavar ('Respondent')

At the outset BIAL submits that the Respondent is not a 'stakeholder' as per definition of 'stakeholder' provided in Section 2(o) of the AERA Act read with the AERA's Guidelines on Stakeholder Consultation dated December 14, 2009 (as amended on March 24, 2011). However, without prejudice, BIAL submits as under:

17.1 Regarding airports being self-sustainable and the requirement for UDF

17.1.1 Respondent has commented that based on the manner in which GoK and GoI have given concessions in terms of land, interest free loan, wavier of taxes during construction among others it appears that both the state and central governments would like KIAB to be developed and operated efficiently as a self-sustainable venture without being a burden on either the government or the airport users.

17.1.2 BIAL submits that KIAB is a PPP project and is governed by the CA and other project agreements and operates within the regulatory framework as prescribed by the Authority and other government agencies. All the concessions that were provided as part of the award of the airport project have been recognized and taken into consideration in terms of running the PPP project appropriately.

17.1.3 Respondent has also requested the Authority to bring down UDF to zero for the remaining years in the Second Control Period as KIAB has collected excess UDF for the past 27 months.

17.1.4 BIAL submits that any under/over recovery will be considered by the Authority for true up in the CP. Any excess charges in the past 27 months of the Second Control Period will be trued up as part of the ATP submission by the Authority while determining the final tariff for the Second Control Period.

17.1.5 Respondent has commented that the promoters of KIAB have shown least interest in overall development of economic activities around the airport terminal to generate sufficient revenues, which in turn could supported the Airport's expansion and sustenance without being an economic burden to the government and passengers. The Respondent added that BIAL's private investors were "busy in buying and selling stake during last 12 years, how to make profit in exchanging the ownership".

17.1.6 BIAL wishes to submit that it is a pioneer in PPP model of airport development and operations with the State and Central government having 13% stake each represented by Karnataka State Industrial and Infrastructure Development Corporation Limited (KSIIDC) and AAI respectively. The Chief Secretary of GoK is the Chairman of BIAL's Board.

17.1.7 The KIAB has been witnessing high growth right from AOD and BIAL has been continuously creating the necessary capacities on the airside and landside to facilitate the growth. BIAL has re-invested around 92% of the resource generated into the business for capacity expansion / servicing debts / running of the airport.

17.1.8 The Authority has been constituted as per the AERA Act to regulate aeronautical services and BIAL submits that real estate developments are outside the purview of regulation. Without prejudice, BIAL submits that commercial exploitation of unutilized land has to be evaluated on the basis of investments, return and market conditions.

17.2 Regarding commercial activities development at airport

17.2.1 Respondent has inferred based on the perusal of the CP that the promoters of KIAB have not shown adequate interest in developing economic activities around the airport terminal which could have generated additional revenues to expand the airport.

17.2.2 The above submission of Respondent has been addressed above in paras 17.1.5 to 17.1.8.

17.2.3 The Respondent has raised a similar concern stating that even after having sufficient land of approximately 4,000 acres, BIAL has not come out with any real estate plans to generate non-aeronautical revenues.

17.2.4 BIAL would like to reiterate that it was provided with approximately 4000 acres of land to cater to the demand and growth requirements during the entire concession period of 30 years. KIAB's development is according to the Master Plan, which gets updated periodically based on the traffic demand and growth. The Authority has been constituted as per the AERA Act to regulate only aeronautical services provided at the airport and BIAL submits that real estate developments are to remain outside the purview of regulation. Without prejudice, BIAL submits that commercial exploitation of unutilized land has to be evaluated on the basis of investments, return and market conditions.

17.2.5 A detailed response in this regard has been provided in BIAL's its response to the CP.

17.3 Regarding the extension of tenure for the Interest Free Loan from GOK

17.3.1 Respondent has requested the Authority to consider the Karnataka Cabinet's decision on 22.06.2018 to defer the loan repayment of interest-free loan by another ten years while determining tariffs.

17.3.2 As per the Authority's working in CP, BIAL would require an equity infusion of approximately Rs. 413 crore for future expansion and operational requirements during the Second Control Period. In support of BIAL's current capital expansion and funding requirements, the repayment of interest free loan has been deferred for a further period of 10 years (vide Government Order no. IDD -111DIA 2017 – dated 29.06.2018). The same is to be considered by the Authority for tariff determination.

17.4 Regarding the growth in passenger traffic at KIAB

17.4.1 Respondent has requested the Authority to reconsider the historical growth in passenger and cargo volumes to arrive at the UDF requirement for Second Control period.

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17.4.2 The Authority has considered the historical growth of BIAL to arrive at traffic projection and the same is detailed out in the CP. The projected traffic is considered for arriving at YPP and further tariffs like UDF.

17.5 Regarding the cost of connectivity to airport from city

17.5.1 The Respondent states that with KIAB planning to handle 40-50 million passengers, during 2005 itself, either GoK or its management should have given serious thought and moved on mass public transport to ensure no congestion happens at the airport terminal as has been followed in all major international airports.

17.5.2 The connectivity and transportation issues comes under the purview of the State Government and BIAL coordinates with GoK for ensuring mass public transport. Currently, more than 250 BMTC buses ply daily to the airport for passenger commute. In Dec 2017, the GoK has cleared the line for metro connectivity to the airport, which should address the mass public transportation issues.

17.5.3 Respondent has commented that the metro connectivity proposed to be provided by BMRCL would cost Rs. 1,000 crore, which would further burden the passengers. Further, Respondent states that after the metro line is operational, all passengers travelling to and from the airport metro line should be charged a premium service charge by way of higher ticket fares, which will reduce UDF burden on passengers.

17.5.4 BIAL submits that the proposal of metro connectivity is not part of the MYTP submission of BIAL for the Second Control Period and does not form part of its tariff determination.

17.5.5 Respondent has requested for suburban rail connectivity to the airport

17.5.6 BIAL wishes to submit that the decision for suburban railway is a subject matter of the Railway Board and BIAL cannot comment on the same.

17.5.7 Respondent submits that KIAB has already claimed the cost of building the Trumpet flyover and treated it as an aeronautical asset and airport passengers are forced to pay the Trumpet flyover cost through UDF during First Control Period, which was unfair and now further recovery is proposed from passengers for Metro and Tunnel.

17.5.8 BIAL wishes to submit that the trumpet is only single access connectivity to the KIAB and BIAL was forced to undertake investment for connectivity from airport to National Highway (known as trumpet interchange) as the airport opening date was fast approaching. The same is forming part of aero assets of BIAL.

17.6 Regarding design, cost and alternative connectivity to the Eastern Tunnel project

17.6.1 Respondent has suggested redesigning the tunnel such that its costs are lower.

17.6.2 BIAL submits that it has conducted the AUCC for need identification, options development and detailed design for Phase 1 on 22.06.2018. The Phase 2 work cost estimate is being provided as a tentative cost. BIAL will approach the AUCC separately for Stage 3 for the Phase 2 work.

17.6.3 Respondent has suggested that BIAL should exercise the option of additional connectivity through Devanahalli rather than spending on the Eastern Tunnel Connectivity.

17.6.4 BIAL submits that it has already discussed reasons why the alternative of north connectivity from Devanahalli is not appropriate for KIAB during the AUCC stakeholder consultation meeting. The north connectivity option would eventually connect to the main access road and not cater to the needs of traffic coming from south and east of Bengaluru.

17.7 Regarding aeronautical revenues of KIAB

17.7.1 Respondent has requested for details for aeronautical revenues from the Authority.

17.7.2 As part of the regulatory approach for tariff determination, the Authority determines the ARR and subsequently, based on consideration of the ATP, the Authority shall finalize the tariff to be collected.

17.8 Regarding the treatment of CGF services

17.8.1 Respondent has requested the Authority not to entertain BIAL's submission of considering CGF as non-aeronautical services.

17.8.2 As part of its response to the CP, BIAL has highlighted provisions of its CA, which allows for CGF being part of 'Other than the Regulated Charges' and accordingly being treated as non-aeronautical in the case of BIAL.

17.9 Regarding the treatment of BAHL losses

17.9.1 Respondent has suggested that the Authority must not consider the losses of the airport hotel but consider 10% of the hotel's turnover as revenue to be added into non-aeronautical revenues of BIAL while determining tariffs.

17.9.2 BIAL submits that as per Schedule 3 Part B of its CA, commercial property development including hotels has clearly been defined as a non-airport activity. Further, the CA, LLD and other project agreements provides that non-airport activities of BIAL would continue beyond the concession period. The Clause 4.1 of the LLD clearly permits BIAL to undertake both airport and non-airport activities without seeking prior permission. The LLD does not envisage any form of cross-subsidization of airport activities and doing so will go against its principle objectives. Accordingly, the risk & rewards of the real estate business is to BIAL. The treatment of real estate as per the CA and other project agreements is detailed in BIAL's response to the CP and accordingly, hotel is to be treated as a non-airport activity and kept outside the regulatory purview.

17.9.3 Further, BIAL would like to highlight that the hotel is currently in losses and no revenues are accruing to BIAL. In the absence of any such revenues, the Authority has considered a notional lease rental from the hotel as non-aeronautical revenue in the hands of BIAL, 30% of which is used to cross-subsidize aeronautical charges. BIAL submits that notional lease rental should not be considered for cross subsidization as the same is outside the regulatory framework.

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17.9.4 However, BIAL submits that property development (including hotel) its corresponding income should be kept outside the purview of regulation and not be subjected to 30% SRT to respect the provisions of the CA and LLD, and commitments made in other project agreements.

17.9.5 Further, we do not observe any rationale provided by the Respondent on the suggestion. In the absence of any basis / details, BIAL could not respond and observes the above suggestion would have been made on impulsive basis.

17.10 Regarding treatment of Pre-Control Period losses

17.10.1 Respondent has requested the Authority not to entertain the request of BIAL to recover Pre-Control Period losses.

17.10.2 BIAL submits that it has justified its position based on judicial pronouncements and prior treatments of the Authority in this regard. BIAL's detailed response on the matter has been provided in its response to the CP.

17.11 Regarding information on BIAL's expenditure on CSR activities

17.11.1 Respondent has requested the Authority to direct KIAB to share in the public domain details of those activities where CSR funds have been spent as the same have been funded through UDFs.

17.11.2 The CSR spend in a financial year forms part of the Annual report and the same is made available on BIAL's website. The Authority has disallowed the CSR expenditure in the CP and BIAL has made its detailed submission to consider the same as part of the tariff determination in its response to the CP.

17.12 Regarding payment of dividend to shareholders

17.12.1 Respondent proposes that the Authority must allow dividend payments to shareholders only when there is zero UDF at the KIAB.

17.12.2 BIAL submits that the declaration of dividend is a decision of the BIAL Board in consonance with the Companies Act 2013 and as per the provisions of the Shareholders Agreement as well.

17.12.3 However, 92% of the internal accrual generated by BIAL is ploughed back into the airport business for capacity expansion, servicing debts or running the airport. Only 2% of the internal accrual generation has been disbursed to the shareholders as dividends.

17.12.4 Further, BIAL would like to submit that it is entitled to collect various aeronautical charges, including landing, parking, housing and UDF charges. The Authority determines the ARR for the given control period and provides flexibility to the airport operator to determine the revenue to be collected in terms of various charges as explained above. At the end of control period the Authority calculates the eligible revenue and the actual revenue collected (including UDF) and any surplus / deficit of revenues will be trued up while determining tariff for the subsequent control period.

17.12.5 In lieu of the above, BIAL submits that there is no coherence between payment of dividends and ensuring zero UDF. Any linkage between payments of dividends and UDF charges appears to be a misconception.

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17.13 Regarding the allocation of select heads of operating expenditure

17.13.1 Respondent has commented that lease rent, utility costs, and property taxes among other operating expenses are allocated as 100% aeronautical but can be directly linked to non-aeronautical activities as well.

17.13.2 BIAL submits that it has adopted a detailed allocation methodology to allocate its expenses between aeronautical and non-aeronautical components. The rationale for allocating these expenses as 100% aeronautical had been shared with the Authority as part of BIAL's MYTP submissions, as a certificate from BIAL's statutory auditor.

17.14 Regarding the projection of select non-aeronautical revenues

17.14.1 Respondent has requested the Authority to re-look into the projection methodology for flight catering, terminal entry, food & beverages, and rents & land lease as the projected increase in them are "almost flat".

17.14.2 BIAL would highlight that it has already submitted a detailed response on the constraints on the growth of NAR such as F&B and flight catering in its response to the CP.

17.15 Regarding the management of funds acquired as a result of depreciation

17.15.1 Respondent has commented that the depreciation amount is "quite high" and has requested for clarity on how funds acquired as a result of depreciation are managed.

17.15.2 The Authority allows depreciation as per its regulatory framework and the funds are ploughed into funding the airport business and operations.

18Annexure 1

The Authority has considered the following treatment for Real estate/property development:

- A notional lease rental has been considered from hotel and treated as non-aeronautical revenues amounting to Rs. 101.84 crore till end of second control period
- Security Deposit of Rs. 76.5 crore received from hotel is considered as part of tariff determination. Actual interest on these security deposits amounting to Rs. 55 crore have been factored in as a non-aeronautical revenues and subjected to 30% SRT
- Equity investments of BIAL in the hotel are ring fenced for the purpose of computing FRoR

Considering the Authority's proposal, there is a contradiction in the Authority's treatment.

Contradiction No.1 - Notional revenues
The Authority has considered a notional rental income on the premise that there is no income accruing on account of Hotel business. However, Hotel has earned actual interest income of approx. Rs. 55 crore from the security deposits received from the earlier concessionaires of the Hotel. This interest amount of Rs. 55 crore been considered by AERA as part of interest income and 30% of the same considered for cross subsidization of aeronautical charges. This interest income was kept outside the regulatory scope in the first control period whereas in second control period it was considered for cross subsidization.
BIAL wishes to submit that the Authority should not consider any notional income for tariff determination in lieu of actual interest income earned and considered for cross subsidization. Any consideration of both actual interest income and notional revenues will result into two fold impact on the Airport.

Contradiction No.02 –Ring fencing- Not considering investment in Hotel for WACC calculations of BIAL
AERA has considered investment in the Hotel to be ring fenced and reduced the same from WACC calculation. However, in certain years the security deposit and interest earned from security deposit not been netted off.
For instance, the Authority has considered the investment in Hotel of amount of Rs.220 crore in FY 2015-16 as non airport/real estate /property development and ring fenced it and reduced it from equity for FROR calculation. There is a contradiction in this treatment, that on one hand, the Authority is keeping it out of regulatory purview, but on the other hand, the Security Deposits of Rs. 76.5 crore in FY 2015-16 from Hotel is taken in the regulatory purview. Further, interest from the Security deposit of Rs. 55 crore is considered as a notional income and taken for cross-subsidization. Both security deposit and interest income earned put together Rs. 131.5 crore needs to be netted off against the investment of Rs. 220 crore while calculating WACC.

BIAL Submission:
BIAL wishes to submit AERA to consider the above contradictions that were highlighted while determining the treatment of Ring fencing and other issues pertaining to Hotel business.

Provisions of The project agreements of BIAL – Non Airport activites to be kept outside the scope of Regulation:

Notwithstanding AERA's approach and certain contradictions as highlighted above, BIAL wishes to submit that the property development is not within the regulatory purview. The AERA Act 2008

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defines the functions of the Authority and AERA Act 2008 including the Preamble to the Act indicate that the Authority will determine tariff in respect of aeronautical services rendered at the 'airport' and will consider non-aeronautical services for purpose of tariff determination.

The Concession Agreement, Land Lease deed and other project Agreement of BIAL does not envisage any form of cross-subsidization.

The Clause 4.1 of the Land Lease Deed permits BIAL to undertake both airport and non-airport activities without seeking prior permission. As per Schedule 3 Part B of BIAL's Concession Agreement, commercial property development including hotels, SEZs, business parks, commercial buildings, and commercial complexes have clearly been defined as a non-airport activity.

The above non-airport activities also forms part of the Concession Agreement and are set out in Schedule 3, Part 2. Thus, there is no prior permission /approval required to carry out the non-airport Activities. As per Clause 4.2 of LLD, BIAL can undertake activities other than those mentioned in Clause 4.1 with the prior permission/approval of KSIIDC.

BIAL requests the Authority to consider the relevant provisions of AERA Act, BIAL's Concession Agreement and LLD and consider property development as non-airport activity.

BIAL request Authority to ring fence the Non-Airport activities and not to consider the notional lease rental and interest income from Hotel. Further, the Authority may ring fence the net investments in Hotel after reducing the security deposit (Rs. 76.5 crore) and interest (Rs.55 crore) while adjusting Equity investments for arriving at FRoR.