

Annex D – Manchester Airport’s Public Interest and Accounts

CONDITIONS AS TO ACCOUNTS IMPOSED IN RELATION TO MANCHESTER AIRPORT IN ACCORDANCE WITH SECTION 40(1)(a) OF THE AIRPORTS ACT 1986

Interpretation

- 1 (1) For the purposes of these conditions and of the Schedule hereto:
- (a) 'accounting reference period' has the meaning given by sections 224 to 226 of the Companies Act 1985;
- 'accounts of the airport operator' means accounts delivered to the registrar of companies in accordance with the Companies Act 1985;
- 'airport operator' means the person for the time being having the management of Manchester airport;
- 'auditors' means the auditors appointed by the airport operator in accordance with section 384 of the Companies Act 1985.
- (b) the value of any asset or other thing shall be taken to be:
- (i) the value attributed to that asset or other thing in the accounting records kept by the person transferring the asset or giving the thing; or
- (ii) where that value is unknown or is unascertainable by the airport operator,
- (aa) the value of the asset or thing assessed by the auditors, or
- (bb) where the auditors consider it reasonable for a valuation of the asset or thing to be made, or for them to accept a valuation made, by another person who appears to them to have the requisite knowledge and experience

to carry out the valuation, the value of the asset or thing assessed by that other person;

- (c) any question whether a person is connected with another person shall be determined as, for the purposes of the Income and Corporation Taxes Act 1970, it falls to be determined under section 533(5) to (7) of that Act;
- (d) all forms of property shall be assets, whether situated in the United Kingdom or not, including:
 - (i) options, debts and incorporeal property generally, and
 - (ii) any currency including sterling, and
 - (iii) any form of property created by the person disposing of it; and
- (e) references to a transfer of an asset include references to a part transfer of an asset, and there is a part transfer of an asset where an interest or right over the asset is created by the transfer, as well as where it subsists before the transfer, and generally, there is a part transfer of an asset where, on a person making a transfer, any description of property derived from the asset remains untransferred.

(2) Other expressions used in these conditions shall, unless the context otherwise requires, have the same meaning as in the Airports Act 1986.

(3) Any requirement of these conditions that the accounts of the airport operator shall disclose information shall be satisfied if that information is disclosed in a schedule to the accounts signed on behalf of the board by two directors of the airport operator.

2 These conditions shall apply to accounts of the airport operator prepared in respect of each accounting reference period ending after 1 April 1988.

CONDITION 1

- 1 Subject to paragraph 2, the accounts of the airport operator shall disclose, in relation to each transaction of a description specified in the first column of the Schedule hereto which took place during the accounting reference period to which the accounts relate, the person or authority who was a party to the transaction with the airport operator and the information specified in relation to that transaction in the second column of that schedule.

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 - (1) Any amount required to be disclosed in relation to transactions specified in paragraphs 4, 5, 6, 7, 8, 10, 11 and 12 of the Schedule may be aggregated with any other such amounts arising from such transactions with the same person or authority.

 - (2) Nothing in paragraph 1 shall require the disclosure of any information:
 - (a) if the aggregate of any amounts required to be disclosed in accordance with paragraphs 4, 5, 6, 7, 8, 10, 11 and 12 of the Schedule arising from transactions with the same person or authority, is not material to the business as a whole; or

 - (b) relating to a transaction wholly unconnected with the business of the airport operator consisting of the carrying on of operational activities at Manchester airport.

- 3 The accounts of the airport operator shall disclose:
 - (a) particulars of any special circumstances which reduce the liability of the airport operator in respect of taxation during the accounting reference period to which the accounts relate or the liability in respect of taxation during succeeding accounting reference periods, and such particulars shall include the identity of any person or authority contributing to the reduction of that liability and the terms on which such contribution is made; and

 - (b) any benefit received by the airport operator in consideration of the airport operator having contributed to the reduction of such liabilities of any other person as are referred to in subparagraph (a) above and the identity of that person.

CONDITION 2

- 1 The accounts of the airport operator shall disclose the broad principles on which costs of the airport operator have, in respect of the accounting reference period to which the accounts relate, been allocated between the business carried on by it so far as consisting of the carrying on of operational activities relating to Manchester airport and any other activities carried on by it.
- 2 Where the aggregate expenditure of the airport operator attributable to the carrying on of operational activities relating to Manchester airport during the accounting reference period to which the accounts relate exceeds the aggregate income attributable to such activities, the accounts of the airport operator shall disclose the amount, if any, by which the aggregate income of the airport operator attributable to any other activities carried on by it exceeds the aggregate expenditure attributable to such activities.

CONDITION 3

- 1 The accounts of the airport operator shall disclose the broad principles on which costs of the airport operator have, in respect of the accounting reference period to which the accounts relate, been allocated between the activities in respect of which airport charges were levied at Manchester airport during that period and any other operational activities relating to that airport carried on by it.
- 2 The accounts of the airport operator shall disclose the aggregate income and expenditure of the airport operator attributable to activities in respect of which airport charges were levied at Manchester airport during the accounting reference period to which the accounts relate.

CONDITION 4

The accounts of the airport operator shall disclose the aggregate income and expenditure of the airport operator during the accounting reference period to which the accounts relate, attributable to operational activities relating to Manchester airport (whether carried on by the airport operator or any other person).

CONDITION 5

- 1 The airport operator shall require its auditors to carry out an independent examination for the purpose of making a special report to the CAA as to whether, in the opinion of the auditors, the accounts of the airport operator comply with the requirements of the foregoing conditions.
- 2 The auditors' special report shall state:
 - (a) whether the auditors have conducted an independent examination of the accounting records of the airport operator and of such other documents and information which the auditors consider necessary for them to form an opinion for the purposes of making the special report;
 - (b) whether, in the opinion of the auditors, the accounts of the airport operator comply with the requirements of the foregoing conditions which are in force in relation to Manchester airport by virtue of the Airports Act 1986.
- 3 If the auditors are of the opinion that proper accounting records have not been kept or if the auditors have failed to obtain all the information and explanations which, to the best of their knowledge and belief, are necessary for the purposes of making the special report, they shall state that fact or facts in their report.
- 4 If the auditors are of the opinion that the accounts of the airport operator do not comply with the requirements of the foregoing conditions which are in force in relation to Manchester airport by virtue of the Airports Act 1986 they shall state particulars of the way in which, in their opinion, the accounts do not so comply.
- 5 If the auditors have, for the purposes of the foregoing conditions which are in relation to Manchester airport, made a valuation of any asset or other thing, they shall state in their report the method used to value that asset or thing or, if the valuation has been made by another person, they shall state in their report the name of that person, the knowledge and experience he has to carry out the valuation and the method used by him to carry out the valuation.
- 6 The airport operator shall submit the special report to the CAA at the time that the accounts are delivered to the registrar of companies in accordance with the Companies Act 1985.

SCHEDULE

	Column 1		Column 2
1	Any borrowings or sums raised by the airport operator in any currency from any person connected with the airport operator.	1	The principal of the amount borrowed or raised, the date on which or the dates between which repayment is to be made and the rate of interest payable.
2	Any borrowings or sums raised by the airport operator in any currency from any public or local authority or from any institution of the European Economic Community.	2	The principal of the amount borrowed or raised, the date on which or the dates between which repayment is to be made and the rate of interest payable.
3	The guaranteeing or giving of any other form of security by any person or authority for the repayment of the principal of, or the payment of interest on, any sums borrowed or raised by the airport operator in any currency.	3	The form of the guarantee or other security given, the principal of the sums borrowed or raised, the date on which or the dates between which repayment is to be made and the rate of interest payable.
4	The making of any grant to the airport operator.	4	The amount of the grant.
5	The transfer of any asset to the airport operator by a person connected with the airport operator for a consideration which is less than the value of the asset.	5	The amount by which the consideration for the transfer is less than the value of the asset.
6	The transfer of any asset to the airport operator by a person connected with the airport operator for which no consideration is given.	6	The value of the asset.

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| 7 | The transfer of any asset by the airport operator to a person connected with the airport operator for a consideration which is more than the value of the asset. | 7 | The amount by which the consideration for the transfer is more than the value of the asset. |
| 8 | Any two transactions each involving the transfer of an asset to the airport operator by the same person, being a person connected with the airport operator, taking place within a period of 5 years, where the consideration given in respect of each of the transactions is less than would have been given had the transactions been effected as a single transaction. | 8 | The amount by which the aggregate consideration for the two transactions is less than the consideration which would have been given had the transactions been effected as a single transaction. |
| 9 | <p>The supply of any service to the airport operator by a person connected with the airport operator either:</p> <p>(a) where that service has been supplied for a consideration which is less than the cost attributed to the supply of that service in the accounting records kept by the person supplying the service;
or</p> <p>(b) where the cost attributed to the supply of the service in the accounting records of the person supplying it is unknown or</p> | 9 | In either case, the nature of the service supplied, the terms of which it was supplied and the total charge made for the service and, in any case where the cost attributed to the supply of the service in the accounting records of the person supplying it is unknown or unascertainable by the airport operator, the fact that it is unknown or unascertainable. |

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the airport operator.

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| 10 | The omission by any person connected with the airport operator to exercise a right as a result of which the value of the assets less liabilities ('net assets') of the airport operator is increased. | 10 | The person omitting to exercise the right and the amount by which the value of the net assets of the airport is increased. |
| 11 | The waiver by any person connected with the airport operator of any consideration, remuneration or other payment owed by the airport operator. | 11 | The person making the waiver and the amount of the consideration, remuneration or payment waived. |
| 12 | Any other transaction, not falling within paragraphs 1 to 11, to which the airport operator and any person connected with the airport operator are parties and which is material to the business as a whole if the value of the consideration given by the airport operator is less than the value of the thing in respect of which the consideration is given. | 12 | The amount by which the value of the consideration given by the airport operator is less than of the thing in respect of which the consideration is given. |

CONDITIONS AS TO REBATES TO BE PAID BY THE OPERATOR OF MANCHESTER AIRPORT WHERE QUALITY OF SERVICE FAILS TO MEET SERVICE STANDARDS IN ACCORDANCE WITH SECTION 46(2) OF THE AIRPORTS ACT 1986

WHEREAS the Competition Commission (“CC”) in the report to the Civil Aviation Authority (“CAA”) following a reference made by the CAA to the Competition Commission on 28 February 2002 in respect of the operator of Manchester Airport (“MA”) concluded that in failing to conduct itself, during the period between 10 December 1996 and 28 February 2002, so as to make prices paid sufficiently reflect the level of service provided, MA has pursued a course of conduct that has operated and might be expected to operate against the public interest.

AND WHEREAS the CC found that the effect adverse to the public interest which this course of conduct has had and might be expected to have is that prices do not reflect the quality of service to the extent that would otherwise be the case and in consequence that there is an absence of the financial incentive to provide the quality of service which would obtain in a competitive market.

AND WHEREAS the CC recommended that this adverse effect could be remedied by the imposition of a condition that would:

- a) Require MA to comply with any agreements that MA had concluded with the Airline Operators Committee (“AOC”), by the date of the condition, as to rebates in the event of quality standards not being met in the areas of: check-in desks; outbound baggage systems; security queuing; airbridges; stand availability; fixed electrical ground power; inbound baggage system and remote coaching; and
- b) Require MA to comply with the agreements in relation to every airline that uses Manchester Airport in the future, whether or not it is a member of the AOC.
- c) To the extent that such matters are not covered by agreements concluded with the AOC by the date of the condition, the condition would require MA to pay specified rebates to airlines whenever specified standards are not met and to comply with specified monitoring and reporting requirements: the rebates, standards, monitoring and reporting requirements would be specified in the condition which could contain provision for exceptions.

NOW THEREFORE the CAA, in exercise of its powers and duties under section 46(2) of the Act hereby imposes the following conditions on MA:-

1. MA shall notify the CAA within fourteen days of the date this condition comes into force of any agreements that it has concluded with the AOC in respect of rebates payable when an agreed level of service quality is not met in the following areas:- check-in desks; outbound baggage systems; security queuing; airbridges; stand availability; fixed electrical ground power; inbound baggage system and remote coaching. This notification should include the service levels specified, the basis of rebates, any exceptions, the basis for the measurement of service quality, and any arrangements agreed with the AOC for dispute resolution.
2. Where MA and the AOC have both subsequently agreed modifications to an agreement, or the terms of a new agreement to replace the existing agreement or to discontinue the existing agreement then MA shall notify the CAA in writing. If within 28 days of such notification the CAA has not written to MA to withhold consent to the proposed changes then the agreement may be modified or discontinued accordingly. If the CAA writes to MA withholding consent then the pre-existing agreement remains in force until such time as the CAA consents to changes.
3. Within one month of the date this condition comes into force MA shall publish the terms of any agreement described in (1) then in force and shall comply with the terms of that agreement, in relation to every operator of aircraft that uses Manchester Airport, whether or not that airline is a member of the AOC.
4. If as of the date this condition comes into force MA has not made agreements with the AOC in accordance with paragraph 1 above and where the CAA has, after consultation with MA and users, published a schedule of rebates which are payable in the event of certain quality levels not being reached then MA shall calculate and pay to the operators of aircraft such rebates as from time to time specified by the CAA.

These conditions shall take effect on 1 April 2003 and shall continue in force until 31 March 2009 unless before that date they are modified or withdrawn. The conditions may be extended beyond 31 March 2009 in accordance with section 51(2) of the Act.

CONDITIONS AS TO THE PROCEDURES FOR CONSULTATION WITH USERS IN RESPECT OF MANCHESTER AIRPORT IN ACCORDANCE WITH SECTIONS 46(2), 51(2) AND 51(6) OF THE AIRPORTS ACT 1986

WHEREAS the Monopolies and Mergers Commission ("MMC") in the report made to the Civil Aviation Authority ("CAA") following a reference made by the CAA to the MMC on 10 December 1996 in respect of Manchester Airport ("MA") concluded that the carrying on of inadequate procedures for consultation had operated and might be expected to operate against the public interest.

AND WHEREAS the MMC recommended in the report that the CAA should impose conditions to require MA to implement consultation procedures to be approved by the CAA.

AND WHEREAS the CAA had regard, as required by Section 46(4) of the Airports Act 1986 ("the Act"), to the recommendations made by the MMC as to the conditions by which the effects adverse to the public interest could be remedied or prevented.

AND WHEREAS the CAA imposed a condition on 31 October 1997.

AND WHEREAS the Competition Commission recommended in its report following a reference made by the CAA on 28 February 2002 that the condition imposed by the CAA on 31 October 1997 should be extended.

NOW THEREFORE THE CAA, in exercise of its duties and powers under Sections 46(2), 51(2) and 51(6) of the Act, hereby imposes the following conditions on MA:-

1. MA shall forthwith notify the CAA of any changes to its arrangements for consulting users about its capital investment plans, the structure of airport charges, charges in relation to operational activities, and quality of services at the airport about which it informed the CAA in accordance with paragraphs 1 to 5 of the condition imposed by the CAA on 31 October 1997. The changes to be notified are those in respect of:
 - A description of the information to be provided to users;
 - The identity, where relevant, of the appropriate consultative body;
 - The frequency of consultative meetings;
 - The procedural arrangements for consultation including the level of attendance at meetings, forwarding of papers for meetings, minutes of the discussions and explaining how final decisions were reached.

2. At the request of the CAA, MA will make such reasonable changes to its arrangements for consultation as the CAA may specify at any time.
3. This condition shall apply until 31 March 2009 after which date it may be extended in accordance with section 51(2) of the Act.

CONDITIONS AS TO THE COST INFORMATION AVAILABLE TO USERS IN RESPECT OF MANCHESTER AIRPORT IN ACCORDANCE WITH SECTION 46(2) OF THE AIRPORTS ACT 1986

WHEREAS the Monopolies and Mergers Commission ("MMC") in the report made to the Civil Aviation Authority ("CAA") following a reference made by the CAA to the MMC on 9 December 1991 in respect of Manchester Airport ("MA") concluded that the provision of inadequate information to users on the costs of a number of facilities and services might be expected to operate against the public interest.

AND WHEREAS the MMC recommended in the report that the CAA should impose conditions to require MA to provide on an annual basis or at the time of each price increase information to the CAA and to users on the detailed costs or other factors on which such charges are based.

AND WHEREAS the CAA imposed conditions as to the cost information available to users in its decision published on 30 October 1992.

AND WHEREAS the MMC in the report made to the CAA following a reference made by the CAA to the MMC on 10 December 1996 in respect of MA concluded that the provision of inadequate information to users on the cost and revenues associated with the supply of utilities might be expected to operate against the public interest.

AND WHEREAS the MMC recommended in the report that the CAA should impose conditions to require MA to provide annually to users and the CAA full information on the revenue from and the costs of supplying utilities to users.

AND WHEREAS the Competition Commission in the report to the CAA following a reference made by the CAA to the Competition Commission on 28 February 2002 recommended that the conditions imposed by the CAA should be extended beyond 31 March 2003.

AND WHEREAS the CAA has had regard, as required by Section 46(4) of the Airports Act 1986 ("the Act"), to the recommendations made by the MMC as to the conditions by which the effects adverse to the public interest could be remedied or prevented.

NOW THEREFORE THE CAA, in exercise of its duties under Section 46(2) of the Act, hereby imposes the following conditions on MA:-

1. By 31 December in each year MA shall inform the CAA of the system used by it to allocate costs to non-airport charges activities. If so requested by CAA MA shall make any amendments to its cost allocation system by 31 March prior to each charging year commencing on 1 April.
2. By 31 December in each year MA shall provide to the CAA and to users or organisations representing users statements of actual costs and revenues in respect of each of the facilities specified in paragraph 7 for the year ending the previous 31 March. MA shall require its auditors to carry out an independent examination of the accounting records of MA and of such other documents and information as may be necessary to enable them to make a special report to the CAA, at the same time that the statements are provided, as to whether MA has properly complied with this condition.
3. Each year MA shall provide to the CAA and to users or organisations representing users of the specified facilities prior to implementing any price changes a statement of the pricing principles for each item charged.
4. Each year including the current year MA shall provide the CAA and users or their representatives the assumptions and relevant cost information adequate to verify that the charges derive from the application of the pricing principles.
5. Where the costs stated by MA to be in connection with a particular charge vary from those provided in the costing reports supplied to the CAA, MA shall provide to the CAA and to users or their representatives a reconciliation with detailed reasons for such differences.
6. Where charges for the specified facilities are not established in relation to cost MA shall provide to the CAA and to users or their representatives a statement of the principles on the basis of which the charges have been set with full background information as to the calculation of such charges including statements of any comparables used.
7. The specified facilities are: check-in desks and baggage systems, other desk licences, staff car parking, staff ID cards, fixed electrical ground power, hydrant refuelling, airside licences, cable routing, and maintenance, heating and utility services.
8. This condition shall apply until 31 March 2009 after which date it may be extended in accordance with section 51(2) of the Act.