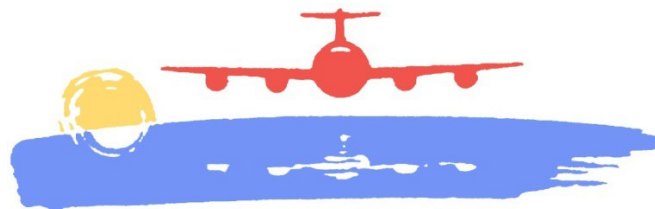


# **Conditions of Use**

## **Broome International Airport**

**1 July 2019**



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## BACKGROUND

### Broome International Airport Group

The Broome International Airport Group of companies is a private group that owns and operates the Broome International Airport (**Airport**).

The main companies in the group are PCP, BIA and BSS. PCP is the owner of the Airport, BIA is the operator of the Airport and BSS provides labour hire services at the Airport.

### Conditions of Use

These Conditions of Use (**Conditions**) set out the standard operating conditions of use for all users at the Airport.

We agree to supply Aviation Services and Government Mandated Services to You on the terms of these Conditions and in consideration of such supply You agree to pay to Us the Charges and otherwise comply with all the other obligations imposed on You by these Conditions.

### Effective date

These Conditions take effect from 1 July 2019.

### Contact Information

Broome International Airport

Address: Macpherson Road, Broome,  
Western Australia

Postal address: Locked Bag 4016, Broome,  
Western Australia, 6725

Telephone: +61 8 9194 0600 (during business  
hours)  
+61 437 900 566 (outside  
business hours)

Fax: +61 8 9194 0610

Email: [admin@broomeair.com.au](mailto:admin@broomeair.com.au)

Website: [www.broomeair.com.au](http://www.broomeair.com.au)

## 1. INTERPRETATION

### 1.1 Defined Terms

The defined terms in these Conditions are set out in Schedule 1.

### 1.2 Interpretation

In these Conditions, unless the context otherwise requires:

- (a) the singular includes the plural and the plural includes the singular.
- (b) words of any gender include all genders.
- (c) words denoting an individual includes any company, partnership, joint venture, association, firm, body corporate and any government or governmental, administrative, monetary, fiscal or judicial agency, authority, body, commission, department, tribunal or entity as well as an individual.
- (d) references to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them.
- (e) headings and bold type are for convenience only and do not affect the

interpretation of these Conditions.

- (f) a reference to a clause, condition, paragraph or schedule is a reference to the same in these Conditions.
- (g) a reference to a party to a document includes a party's personal representatives, successors in title and permitted assigns.
- (h) a reference to an agreement other than these Conditions includes a deed and any legally enforceable undertaking, agreement, arrangement or understanding, whether or not in writing.
- (i) a promise on the part of two or more persons binds them jointly and severally.
- (j) a promise in favour of two or more persons is for the benefit of them jointly and severally.
- (k) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document.
- (l) a reference to a whole thing includes a reference to part of that thing.
- (m) a reference to a body, other than a party to these Conditions (including an institute, association or authority), whether statutory or not, which ceases to exist or whose powers or functions are transferred to another body, is a reference to the body which replaces it or which substantially succeeds to its powers or functions.
- (n) if You are a trustee of a trust you are bound in Your own personal capacity and as trustee of the trust.
- (o) no rule of construction applies to Our disadvantage because We were responsible for the preparation of, or seek to rely on, these Conditions or any part of them.
- (p) where a word or phrase is defined in these Conditions, other parts of speech and grammatical forms of that word or phrase have a corresponding meaning.
- (q) "include", "including" and other similar expressions are not words of limitation.
- (r) "month" means calendar month.
- (s) a reference to time is a reference to Western Standard time.
- (t) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day.

### 1.3 Currency

These Conditions are current from the date on the front page of these Conditions, until We amend them in accordance with these Conditions.

### 1.4 Application of Conditions

Unless We have agreed to different conditions with You in writing, these Conditions govern the relationship between You and Us, and by using the Aviation Services or Government Mandated Services you are taken to have agreed to these Conditions.

### 1.5 Alterations to Conditions

- (a) We reserve the right to alter these Conditions at any time and where practical will notify You by the publication of the proposed alterations on our Website [www.broomeair.com.au](http://www.broomeair.com.au). The

alterations shall become effective at the expiration of 60 days after the date of such notification unless the safety or security of the Airport is affected in which instance the change shall be immediate.

- (b) All users of the Airport who use or continue to use the Airport after any published alteration to these Conditions on our Website takes effect will be deemed to accept same.
- (c) We will use reasonable endeavours to notify Major Users by email of any proposed material alterations to these Conditions and to consult with them on such proposed alterations before publishing such alterations.

## 1.6 Service of notice

We may give notice of any act, matter or thing concerning these Conditions to users of the Airport by publication on our Website [www.broomeair.com.au](http://www.broomeair.com.au). Any other notice or communication to a particular Party concerning these Conditions:

- (a) must be in writing and be signed by the Party giving the notice, its Authorised Officer, or its solicitors, provided that an email does not have to be signed;
- (b) must be given or served on the Party to whom it is addressed in one of the following ways:
  - (i) in a manner authorised by law or by personal delivery;
  - (ii) by sending by prepaid mail to the address of that Party;
  - (iii) by sending by fax to the fax number of that Party;
  - (iv) by sending by email to the email address of that Party;
- (c) takes effect from the time it is received and is taken to be received:
  - (i) if served or given by personal delivery, at the time it is delivered;
  - (ii) if left at the address of the Party to whom it is addressed, at the time it is left;
  - (iii) if sent by fax to the fax number of that Party, at the time shown in the transmission report as the time that the whole fax was sent;
  - (iv) if sent by email to the email address of that Party, at the time when the email (including any attachment) comes to the attention of that Party or a person acting on its behalf,

provided that if a notice or other communication is received after 5.00 pm in the place of receipt or on a non-business day, it is taken to be received at 9.00 am on the next business day.

## 2. SERVICES

### 2.1 Use of Airport subject to Conditions

- (a) These Conditions (as amended from

time to time) are the conditions under which You use the Facilities and Services at the Airport, unless We have agreed to different conditions with You in writing.

- (b) Notwithstanding that You may not have signed an agreement embodying these Conditions, by using any of the Facilities and Services at the Airport, You accept these Conditions, and agree to be bound by them (as amended from time to time) and all of Our rules and reasonable directions from time to time in relation to the use of the Airport.
- (c) We will take all reasonable steps to notify You of the existence of and the requirement to comply with these Conditions prior to Your use of the Facilities and Services by the publication of these Conditions on our Website [www.broomeair.com.au](http://www.broomeair.com.au).

### 2.2 Supply of services

We agree to supply Aviation Services and Government Mandated Services in accordance with:

- (a) these Conditions;
- (b) with due care and skill;
- (c) the service levels in the form of Performance Measures or, in the case of Government Mandated Services, as required by the Department of Infrastructure or the relevant governmental agency, authority, body or department;
- (d) all applicable laws and regulations;
- (e) otherwise in a manner consistent with best practice for Australian domestic and international airports.

### 2.3 Government Mandated Services

We provide and administer the Government Mandated Services for the provision of safety and security at the Airport, which may include:

- (a) terminal passenger security screening;
- (b) terminal passenger checked bag screening;
- (c) other services required by law or any governmental agency, authority, body or department (including the Department of Infrastructure) and additional security measures We are required by law to take or which We undertake through third parties;
- (d) any hiring of equipment required for providing the Government Mandated Services; and
- (e) any operational and administrative costs incurred by Us to provide the Government Mandated Services either directly, or through a contractor.

### 2.4 Management of Government Mandated Services

We will use Our best endeavours to provide the Government Mandated Services directly or through any third party contractors in an economically efficient and cost effective manner, having regard to good practice in the industry and the service levels mandated by law or any governmental agency, authority, body or department.

### 2.5 Payment of Charges

You must pay the Charges for the Aviation Services and Government Mandated Services at the rates

specified in Schedule 2 in accordance with Condition 6 if you use the Airport, whether or not these Conditions or any changes to them have not been notified to You.

## 2.6 Other Airport services and charges

These Conditions do not cover or apply to the provision of other Airport services We provide or the recovery of costs and charges for these other services. Other Airport services are available for use from Us on separate commercial terms and at commercial rates.

## 2.7 Excluded services

For the avoidance of doubt, Aviation Services and Government Mandated Services in these Conditions do not currently include the following:

- (a) Aircraft, building, motor vehicle or other security services;
- (b) air traffic control services;
- (c) rescue and fire-fighting services;
- (d) en-route services;
- (e) meteorological services;
- (f) catering Services;
- (g) quarantine waste disposal, customs or immigration services;
- (h) mechanical repair or maintenance services (other than in connection with the Facilities and Services);
- (i) environmental clean-up services; and
- (j) non-visual navigation aids services.

## 3. ACCESS AND USE OF AIRPORT

### 3.1 Access to Airport

We will provide access to You and other users to the Airport in accordance with these Conditions, Our agreement with the Commonwealth of Australia and any applicable law. You acknowledge and agree that Your access to the Airport and the Facilities and Services are subject to the demands of other users of the Airport.

### 3.2 Use of Airport

Your use of the Airport is subject to You complying with:

- (a) local flying restrictions including the requirements of the *Civil Aviation Act 1988* (Cth), the *Civil Aviation Regulations 1988* (Cth), the *Air Navigation Act 1920* (Cth), the *Air Navigation Regulations 1947* (Cth) and the *Air Navigation (Aircraft Noise) Regulations (1994)* (Cth);
- (b) any noise management procedures or regulations in place from time to time in relation to the Airport including ERSA and the Airport's Fly Neighbourly Procedures (see Our Website [www.broomeair.com.au](http://www.broomeair.com.au));
- (c) conditions, instructions, orders or directions of the Civil Aviation Safety Authority and Airservices Australia including publications such as the Aeronautical Information Publications,

ERSA and NOTAM; and

- (d) conditions, instructions, orders or directions We publish from time to time in relation to the Airport including these Conditions (as amended), MOWP, the environmental requirements in the Airport Environmental Strategy and directives on security of airports and Aircraft issued by or on behalf of the Commonwealth of Australia.

### 3.3 Compliance

When You use the Airport, You must comply with the following:

- (a) these Conditions;
- (b) the Airport Aerodrome Manual;
- (c) the Aerodrome Emergency Procedures;
- (d) the Airport Transport Security Program;
- (e) all applicable laws and regulations including Civil Aviation Safety Authority and Airservices Australia rules and regulations, the *Occupational Safety and Health Act 1984* (WA) and *Occupational Safety and Health Regulations 1996* (WA);
- (f) the requirement to obtain from Us any licence We require for you to carry on business on the Airport and the requirement to hold and display a valid ASIC at all times when in Airside Secure Area;
- (g) the insurance policy requirements set out in Condition 9;
- (h) environmental and safety directions notified by Us from time to time;
- (i) any restrictions on flying operations that We or any governmental agency, authority, body or department may have in place from time to time;
- (j) reasonable safety and security directions We notify from time to time and necessary for the day to day operation of the Airport; and
- (k) when operating Aircraft outside of the operational hours of the Airservices Australia Air Traffic Control service at the Airport, You must, for the benefit of safety of all other users of the Airport, make all necessary radio calls on the CTAF frequency (VHF 126.00) in the following circumstances:
  - (i) at 30 nautical miles inbound to the Airport;
  - (ii) when circuiting the Airport;
  - (iii) when turning down wind of the Airport;
  - (iv) when turning base;
  - (v) when turning on final approach of the Airport;
  - (vi) following any missed approach to the Airport;
  - (vii) when clear of the runways;
  - (viii) when taxiing on the movement areas of the Airport; and
  - (ix) when departing the Airport.

### 3.4 Interruptions and shutdowns

- (a) We may close or be directed to close all or any part of the Airport or interrupt or shutdown all or part of the Facilities and Services at any time if required by law or if We believe it

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necessary to deal with an emergency or security incident. In such circumstances, We will use reasonable endeavours to:

- (i) give You reasonable notice of such closure, interruption or shutdown but You acknowledge that this may not always be possible;
  - (ii) minimise the effect of any such unplanned closure, interruption or shutdown on the Aircraft Operator
- (b) We may close the Airport or part of the Airport or interrupt or shutdown all or part of the Facilities and Services at any time if We consider it necessary for repair, maintenance or for any construction work on the Airport, and in such circumstances, wherever it is reasonably practicable to do so We will:
- (i) consult on an appropriate works plan (including MOWP) with Major Users;
  - (ii) give prior notice by email or publication on Our Website of such a closure or interruption including the extent and period of the closure or interruption;
  - (iii) when applicable issue a NOTAM; and
  - (iv) use reasonable endeavours to minimise the effect of any such closure or interruption upon Airport users.
- (c) We will not be liable for any loss or damage You may suffer directly or indirectly as a result of a planned or unplanned closure, interruption or shutdown.

### **3.5 Parked Aircraft**

- (a) We may at any time acting reasonably require You to either move a parked Aircraft to another position, or remove it from the Airport within the time specified by Us. If You do not comply with Our order within the specified time, We may move or remove the Aircraft and You must pay all of Our reasonable costs of having the Aircraft moved or removed.
- (b) If in Our reasonable opinion, Your Aircraft, equipment or facilities or activity interrupt or compromise the safe and/or viable operation of the Airport, We may remove, cause to be removed or direct You to remove such Aircraft, equipment, or facilities or direct or cause You to cease those activities.
- (c) You shall indemnify and keep us indemnified from any loss and damage which We may suffer or incur as a result of acting under this Condition unless caused by Our negligence or the negligence of Our officers, employees, agents or contractors.
- (d) You agree We are entitled to take whatever steps may be reasonably necessary and as expeditiously as possible to maintain the safety of the

Airport.

### **3.6 Breach of Confidentiality**

We need not give You information if it would breach a confidentiality obligation on Us or a security restriction. If We give You such information and ask that You keep it confidential and only disclose it to authorised personnel, You must comply with this request.

### **3.7 Use of Common User Facilities**

If You use the Common User Facilities at the Airport, You must comply with the Common User Conditions in Schedule 4.

### **3.8 Exclusion of personnel**

- (a) We may exclude and restrain from being on the Airport or any part thereof any of Your employees, agents or contractors working at the Airport who are not conducting themselves in a reasonable and bona fide manner
- (b) We will give You written notice of Our requirement under Condition 3.7(a) and following the receipt of that notice You have 48 hours in which to investigate the matter, and discuss it with Us. This time period may be extended by Us at Our reasonable discretion.
- (c) This Condition does not entitle Us to require You to terminate the employment or contract with any person, but We may restrict that person's access to the Airport.

### **3.9 Scheduling Rules**

- (a) We may at any time make or change scheduling rules for the use of the Facilities and Services which rules will take effect on the date We specify.
- (b) If We want to make or change scheduling rules, We will first consult with the affected Aircraft Operators and use reasonable endeavours to obtain their consent to the scheduling rules or change to them. Aircraft Operators must not unreasonably withhold or delay their consent to the scheduling rules or change to them.
- (c) The Aircraft Operators agree at all times to comply with the relevant scheduling rules.

## **4 SERVICE PHILOSOPHY**

### **4.1 Service philosophy**

We aim to exceed the expectations of users of the Airport through the delivery of safe, secure and efficient services to develop a safe and efficient Airport business environment for all stakeholders. To achieve this aim We commit to the Performance Measures and to the performance principles set out in Condition 4.2.

### **4.2 Performance principles**

We apply the following performance principles in the operation and development of the Airport:

- (a) maintain and operate the Airport in a secure, safe and efficient manner;
- (b) provide a comfortable and friendly environment to the travelling public;
- (c) keep the Facilities and Services in good repair and condition (fair wear and tear excepted)

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and continue to improve them in accordance with Our plans;

- (d) ensure that a high standard of cleanliness of public areas and facilities at the Airport are maintained;
- (e) maintain high environmental standards;
- (f) ensure compliance with occupational health and safety laws and standards;
- (g) respond promptly to enquiries;
- (h) take reasonable steps to treat You with courtesy and respect;
- (i) work closely with airlines, Aircraft Operators, representative organisations and government agencies to ensure that the Facilities and Services are supplied and allocated in a mutually beneficial and equitable manner and with the public's best interests in mind.
- (j) act with professionalism in a spirit of open and honest communication, striving for reasonable outcomes for all parties, wherever practicable.

#### 4.3 Our investment at the Airport

The quality of Our Aviation Services will largely be determined by the effectiveness of Our long-term investments at the Airport. It is therefore important for stakeholders to appreciate that the provision of quality Aviation Services is dependent upon Us being appropriately and fairly funded through Our Charges.

#### 4.4 Consultation

We agree to meet and or consult with users of the Facilities and Services (either directly or through representatives) as often as reasonably required to discuss the plans and development for the Airport and the performance outcomes which may have a material effect on the Facilities and Services including:

- (k) capital expenditure programs;
- (l) Airport Terminal development;
- (m) Master plans;
- (n) customer service standards and on time performance;
- (o) Airport Environmental Strategy;
- (p) safety and security requirements and initiatives; and
- (q) statistical data for planning purposes.

#### 4.5 Performance Measures

- (r) We will establish Performance Measures we consider appropriate to assist Us to deliver quality service to users of the Airport. The Performance Measures will act as benchmarks against which results will be assessed in order to identify the underlying causes or trends and to obtain from Aircraft Operators and relevant agencies and organisations the requisite support for and response to such results.
- (s) We intend to periodically survey a representative sample of Passengers and other users of the Airport to

determine the level of satisfaction across a range of Performance Measures.

## 5 REQUIRED INFORMATION

### 5.1 Information required

- (a) You must provide us in such form as We reasonably determine from time to time information relating to Your use of the Facilities and Services.
- (b) Information You provide to Us will be used by Us to calculate Charges and to assist Us monitor growth in activity, efficiently manage the Airport, undertake future planning and cater for the future needs of Aircraft Operators.

### 5.2 RPT Operations

For Aircraft Operators involved in RPT Operations:

- (a) You must within 7 days of the end of each month provide Us with the number of Passengers per flight that You embarked and disembarked at the Airport during that month, together with the number of Transit Passengers and Transfer Passengers shown separately.
- (b) where You fail to provide the information mentioned in Condition 5.2(a), You agree We may calculate and levy Our Charges based upon the presumption of maximum seat load capacity for the Aircraft in use and You must pay such Charges.
- (c) to the extent that such information has not already been provided, You must provide to Us:
  - (i) reasonable evidence that You have security procedures that comply with Our security requirements and applicable laws;
  - (ii) reasonable evidence that You have emergency procedures that complement Our emergency plans and applicable laws;
  - (iii) Your name, address, ABN and contact details and the names, addresses, telephone numbers, fax numbers, email addresses and all other contact details for Your key personnel (to enable Us to be able to contact You at any time in an emergency or on security or operational matters concerning Your use of the Airport);
  - (iv) evidence of the insurance policies You hold as required by Condition 9 and evidence of the renewal of such policies every 12 months whilst You are using the Facilities and Services;
  - (v) ground handling arrangements for Your passengers and cargo;
  - (vi) arrangements for the repositioning of Your stationary Aircraft;
  - (vii) information on the types and standards of Aircraft being flown by You to and from the Airport and, if available, confirmation that they are compliant with the *Air Navigation (Aircraft Noise) Regulations (1994)* (Cth);



- (viii) any other information required from You in accordance with these Conditions.
- (d) You shall furnish to Us, in such form as We may from time to time reasonably require, further information (if You ordinarily collect such information and it is readily accessible) relating to Your use of the Facilities and Services.
- (e) You must provide Us with the details of any changes made to information provided under this Condition 5.2 within 30 days of such change.
- (f) If We ask You to do so, You must give Us certified statements from Your accountants or auditors verifying the accuracy of the information You have provided Us under this Condition 5.2. You must give Us the statements within 30 days of the date of Our request, which shall be made no more frequently than once every 12 months. Your accountants or auditors must be members of an independent accounting firm.
- (g) You must permit Us to conduct an independent audit at Our cost of any information You provide Us under this Condition 5.2.
- (h) Where the information You provide to Us, or the information We obtain from the audit We carry out, discloses any error in the information We have been provided with, We shall be entitled to calculate and levy Charges based upon the information obtained from the independent audit.
- (i) If the error identified by any audit is in Our favor by 5% or more based on the information You have given to Us, then You must reimburse Us the cost of the audit carried out by Us under Condition 5.2(g).

### **5.3 Non RPT Operators**

For Aircraft Operators using the Facilities and Services who are not involved in RPT Operations:

- (a) if requested by Us You must within 7 days of the end of each month provide Us with the number of Passengers per flight that You embarked and disembarked at the Airport during that month, together with the number of Transit Passengers and Transfer Passengers shown separately.
- (b) where You fail to provide the information mentioned in Condition 5.3(a), You agree We shall be entitled to calculate and levy Our Aviation Charges based upon the registered MTOW as published by CASA or equivalent International Aircraft register and You and the Aircraft Owner are jointly and severally liable to pay such Charges.
- (c) to the extent that such information has not already been provided, You must provide Us the information specified in Condition 5.2(c) together with ownership details for the Aircraft using the Facilities

and Services and MTOW for that Aircraft.

### **5.4 All Aircraft Operators**

- (a) You are responsible for giving Us prompt written notice of the ownership or operator of the Aircraft using the Facilities and Services on Your behalf, if the ownership or operator of that Aircraft changes.
- (b) You are responsible for giving Us prompt written notice of any changes to Aircraft type or schedule that You are planning for the Airport.

## **6 CHARGES**

### **6.1 Aviation Charges**

You must pay Us the Aviation Charges for Your use of the Facilities and Services calculated in accordance with Schedule 2.

### **6.2 Government Mandated Charges**

You must pay Us any Government Mandated Charges applicable for Us providing the Government Mandated Services to You in accordance with Schedule 2.

### **6.3 Payment of Charges**

- (a) All Charges must be paid in Australian dollars before the Aircraft leaves the Airport, unless our invoice permits a later time or You have made other written arrangements for the provision of credit with Us.
- (b) Invoices for the Charges are prepared on a monthly basis and will be issued during the following month. The invoice will detail the charges incurred.
- (c) Payment of all invoices for Charges must be made within 30 days of the date of the invoice either by:
  - (i) direct deposit into Our bank account;
  - (ii) cheque made payable to Us;
  - (iii) approved credit card (including a reasonable allowance for fees and bank charges incurred by Us as a result), or
  - (iv) any other method approved by Us.
- (d) We shall be entitled at any time at Our cost to have an independent audit undertaken to determine that the basis of the Aviation Charges (whether by MTOW or by Passenger) is accurate.

### **6.4 Credit account**

- (a) An Aircraft Operator may apply for a credit account with Us but We are not obliged to approve an application for credit.
- (b) If We approve the credit account, We will notify You and establish the credit account.
- (c) We may suspend a credit account at any time by providing 7 days' notice for non-compliance.

### **6.5 Interest and costs**

- (a) We may charge interest at the Interest Rate on any Charges which have not been paid by the due date for payment calculated daily from the due date to the date it is paid in full. Each month We may add the interest to the unpaid amount and charge interest at the Interest Rate on the total outstanding amount.

- (b) We may recover from the Aircraft Operator and the Aircraft Owner any reasonable costs of recovering any unpaid Charges including, without limitation, reasonable legal fees.

## 6.6 Liability for the Charges

The Charges are fixed and recoverable as a debt due to Us. We hold the Aircraft Owner and/or the Aircraft Operator jointly and severally liable for the payment of all Charges and any interest and costs in relation thereto.

## 6.7 Disputed Charges

- (a) You must notify Us in writing within 21 days of the date of Our invoice if You dispute any Charges shown in the invoice and provide Us with all information and copies of all documents We may reasonably require for the purpose of resolving the dispute.
- (b) We will negotiate with You in good faith with a view to resolving the dispute as soon as practicable. Every effort will be made to settle disputes and if necessary adjust accounts prior to the next invoice.

## 6.8 Variation of Aviation Charges

- (a) The Aviation Charges take into account current investments in the Facilities and Services. However, if We decide to make further investment in the Facilities and Services We may increase the Aviation Charges.
- (b) We have assumed certain traffic forecasts in calculating the Aviation Charges. We reserve the right to review and vary the Aviation Charges if a major unexpected event occurs which has a material effect on such traffic forecasts.
- (c) In addition to paragraphs (a) and (b), We may vary any of the Aviation Charges in any manner at any time, but prior to making any such variation:
  - (i) We will use reasonable endeavours to consult with the relevant major users before we decide to vary the Aviation Charges; and
  - (ii) We will notify You at least 60 days before any variation becomes effective by email or publication on Our Website.

## 6.9 Changes to Government Mandated Charges

We will notify You of any changes to the Government Mandated Charges in the same manner as specified in Condition 6.8(c).

## 6.10 Other charges excluded

You acknowledge that the Charges exclude any navigation charges, rescue and firefighting charges, en route charges and meteorological service charges which may be separately levied and payable by You to Airservices Australia, CASA, the Department of Infrastructure or the Bureau of Meteorology.

## 7 DEFAULT

## 7.1 Default and termination

Where You commit a breach of Your obligations under these Conditions which:

- (a) if capable of being remedied, is not remedied within 14 days of notice from Us specifying the breach and requiring it to be remedied;
- (b) is not capable of remedy; or
- (c) an Insolvency Event occurs in relation to you,

You are in default of these Conditions and We may, in addition to any other rights provided by law, terminate these Conditions by notice to You, but such termination does not affect any of our accrued rights or remedies.

## 7.2 Additional rights on default

Subject to any relevant terms of Our agreement with the Commonwealth of Australia and any applicable law, if You do not pay Us any undisputed amount payable under these Conditions by the due date for payment or negotiations over disputed amounts fail, We may, in addition to any other rights provided by law, refuse to allow any or all of Your Aircraft to use the Facilities and Services at the Airport or the Airport generally.

## 7.3 General

- (a) You release and indemnify Us from any damage, loss and liability You suffer or incur arising out of anything We do or omit to do in exercising Our right to detain and sell an Aircraft under these Conditions, including not obtaining a market price and Our application of the sale proceeds.
- (b) You must pay to Us upon demand all costs and expenses We incur if We detain Your Aircraft or take any other action as a result of the non-payment of Charges including exercising any rights under Our security interest and in relation to the sale of any Aircraft.
- (c) You must make any set-off against or deduction from the Charges payable to Us for any reason whatsoever.
- (d) These Conditions do not limit any other action lawfully available to Us to recover anything You owe Us.
- (e) Our rights under these Conditions are not lost, or deemed to be waived, where any of Your Aircraft are removed from the Airport.

## 8 AIRPORT SECURITY

### 8.1 Responsible for security

We are responsible for Airport security arrangements and emergency response activities under the *Air Navigation Act 1920* (Cth), the *Air Navigation Regulations 1947* (Cth), any Department of Infrastructure instruments or directions, and additional security measures which may be imposed upon us from time to time. The Department of Infrastructure is the main security regulatory authority for the Airport and may impose on us certain security requirements which You must comply with.

### 8.2 Airport Transport Security Program

The Airport Transport Security Program outlines Our requirements regarding Our obligations in

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relation to Airport security. You must comply with the Airport Transport Security Program.

### 8.3 Aviation Security Identification Card (ASIC)

- (a) Subject to paragraph (b), You and Your employees, agents and contractors must hold an ASIC before they will be permitted to access and use of the Airside Secure Area.
- (b) You and Your employees, agents and contractors must not access or use the Security Restricted Area unless required for valid operational reasons or otherwise required for the purposes of Your business.
- (c) The holder of an ASIC must display a valid ASIC at all times he or she is in the Airside Secure Area. You and Your employees, agents and contractors must display the ASIC above the waist in a visible location on the person at all times whilst in the Airside Secure Area, and it must be produced for inspection by Us or any other lawful authority at any time.

### 8.4 ASIC security checks

- (a) As part of an ASIC application, You and Your employees, agents and contractors acknowledge that Department of Infrastructure or its agencies (Auscheck) are able to conduct a detailed police service and law enforcement checks on all applicants, which will include a check on the applicant's criminal and other history to determine their suitability to be granted an ASIC.
- (b) More information about this, and about the applicant's consent for Our security checks, is on Our ASIC application form. You must pay Our fees for an ASIC at the time of making the application.

### 8.5 ASIC conditions of use

If We, or an authorised issuing authority, issue You or Your employees, agents and contractors with an ASIC, the ASIC is issued on Our ASIC issuing conditions on the ASIC application form available from Our office. The ASIC must be surrendered to us or any other lawful authority on demand or when Your employment ceases or when it is no longer required.

### 8.6 Security Screening Authority for the Airport

We are the authorised security screening authority for both Passenger screening and checked baggage screening at the Airport Terminal. The requirements for screening are prescribed by Department of Infrastructure. You and We must comply with these screening requirements at all times.

### 8.7 Airport Operations Committees

We have the following committees in relation to Airport security operations:

- (a) the Airport Security Committee, a regulatory requirement; and
- (b) the Airport emergency committee as prescribed in the Airport Aerodrome

Manual, a regulatory requirement of the Civil Aviation Safety Authority.

### 8.8 Airport exercises and training

We conduct airport related exercises at the Airport which may include training for You and Your employees, agents and contractors on a variety of Airport related activities and procedures (including security and emergency procedures). We will give You reasonable notice before these exercises and training may be conducted. You and Your employees should participate in these exercises if We ask You to.

### 8.9 Building works in Airside Secure Area

- (a) If required, before You undertake any construction or modifications to buildings or other structures on the Airport which are in the Airside Secure Area or which may impact the security of any restricted or controlled areas of the Airport, You must first have Our approval. Where reasonably necessary, We may ask that You have security personnel supervising any building or construction work in such areas at all times.
- (b) We or any lawful authority may supervise Your building or construction work in the Airside Secure Area. We may invoice You for the reasonable costs and expenses if We require security personnel to supervise Your building or construction work (on a full recovery basis).
- (c) If there is a failure in security or a breach of Our security requirements We may take any reasonable action necessary to re-secure Your area at Your expense.

## 9 INSURANCE

- (a) The Aircraft Owner and Aircraft Operator must at all times maintain with insurers and on terms approved by Us (which approval will not be unreasonably withheld) in the Aircraft Owner and Aircraft Operator's names:
  - (i) public liability insurance for at least \$20,000,000 (or such higher amount as We notify from time to time); and
  - (ii) any other insurances which are required by law in connection with the Aircraft Owner and Aircraft Operator's use of the Airport and that a prudent airline or Aircraft Operator would ordinarily take out.
- (b) You must whenever requested by Us produce evidence of the currency of the insurance policy required by this Condition 9.
- (c) You must notify Us immediately if an insurance policy required under this Condition 9 is cancelled or an event occurs which may allow a claim or affect rights under an insurance policy in connection with the Aircraft Owner and the Aircraft Operator's use of the Airport.
- (d) An Aircraft Operator may not enforce, conduct, settle or compromise claims under any insurance policy required by these Conditions, even if that policy also covers other property, if the claim relates to the Aircraft Owner or Aircraft Operator's use of the Airport but We

- will not prejudice the conduct or settlement of any claim.
- (e) An Aircraft Owner and Aircraft Operator must not do anything which may adversely affect their rights under any insurance or which may increase an insurance premium payable in connection with its or their Use of the Airport without Our prior consent (which consent shall not be unreasonably withheld).

## 10 INDEMNITY

### 10.1 Indemnity

The Aircraft Owner and Aircraft Operator are liable for and shall indemnify and keep Us indemnified against loss, damage and liability arising from and cost incurred in connection with:

- (a) a breach of these Conditions by the Aircraft Owner and/or Aircraft Operator, including loss or damage that results from Us exercising any rights under these Conditions or at law, or Our termination of Your use of the Airport;
- (b) damage or loss (to person or property) or personal injury or death to the extent caused or contributed to by the Aircraft Owner and/or Aircraft Operator's act, omission or default or that of any of their respective employees, contractors or agents;
- (c) damage or loss (to person or property) or personal injury or death caused or contributed to by the Aircraft Owner and/or Aircraft Operator's bringing onto, or storing at, the Airport any dangerous or contaminating substances;
- (d) Us doing anything which the Aircraft Owner and/or Aircraft Operator are required to do under these Conditions but have not done;
- (e) the overflow or leakage of water into or from any area at the Airport that the Aircraft Owner and/or Aircraft Operator use or fire on or escaping from any area at the Airport that the Aircraft Owner and/or Aircraft Operator use;
- (f) Our exercise of the right to detain, move, remove or sell an aircraft;
- (g) any claim by third parties arising out of the personal injury or death of any person, or damage to property caused by the Aircraft Owner and/or Aircraft Operator's use of the Airport;
- (h) the Aircraft Owner's and/or Aircraft Operator's use of the Airport;
- (i) any loss or damage the Aircraft Owner and/or Aircraft Operator suffers for any reason at any time because any part of the Airport is closed or any of the Facilities and Services are unavailable;
- (j) any loss or damage the Aircraft Owner and/or Aircraft Operator suffers, or any person claiming through the Aircraft Owner and/or Aircraft Operator suffers, for any reason because of delays in the
- movement or scheduling of Aircraft;
- (k) any consequential injury, loss or damage as a result of or arising from or in connection with Your Use of the Airport including during any closure or part closure of the Airport, except to the extent it is caused or contributed to by Our negligence or default or the negligence or default of Our employees or agents.

### 10.2 Your Risk

Aircraft Owners and Aircraft Operators Use the Airport at their own risk.

### 10.3 Release

The Aircraft Owner and Aircraft Operator release Us from, and agree that We are not liable for any loss, damage or liability arising from and cost incurred in connection with:

- (a) the loss, damage or injury (to person or property) or death except to the extent it is caused or contributed to by Our negligence or default or the negligence or default of Our employees or agents; and
- (b) anything We are permitted or required to do under these Conditions except to the extent it is caused or contributed to by Our negligence or default or the negligence or default of Our employees or agents.

### 10.4 Survival of indemnities

Each indemnity in these Conditions is a continuing obligation, separate and independent from the other obligations, and shall survive the termination of these Conditions and the end of your Use of the Airport or any part thereof.

### 10.5 Enforcement of indemnities

It is not necessary for Us to incur expense or make payment before enforcing any right of indemnity conferred by these Conditions.

### 10.6 Limitation of Liability

- (a) We will exercise due care and skill in providing the Facilities and Services to You. However, Our liability for breach of these Conditions is limited to:
- (i) in the case of goods, the replacement of the goods, the supply of equivalent goods, the repair of the goods, the payment of the cost of repairing or replacing the goods or the payment of acquiring equivalent goods;
- (ii) in the case of services, the supplying of services again or the payment of the cost of having the services supplied again.
- (b) If a warranty or condition is implied under any statute in connection with any goods and services We provide, We exclude it to the maximum extent permissible by law but if We cannot exclude it, then Our liability for breach of that warranty or condition is limited to:
- (i) in the case of goods, the replacement of the goods, the supply of equivalent goods, the repair of the goods, the payment of the cost of repairing or replacing the goods or the payment of acquiring equivalent goods;
- (ii) in the case of services, the supplying of

services again or the payment of the cost of having the services supplied again.

## 11 FORCE MAJEURE

- (a) Non-performance by a Party of any of their respective obligations in accordance with these Conditions (other than non-payment of money) will be excused during the time and to the extent that performance is prevented wholly or in part, by Force Majeure.
- (b) The Party claiming the benefit of Force Majeure must give prompt written notice to the other Party detailing the cause and extent of its inability to perform any of its obligations under these Conditions and the likely duration of such non-performance, and take all reasonable steps to remedy or abate the Force Majeure.
- (c) Performance of any obligation affected by Force Majeure must be resumed as soon as reasonably possible after the abatement of the Force Majeure.
- (d) The non-performance of obligations under this Condition 11 will not prejudice the rights of either Party against the other in respect of any matter occurring prior to the occurrence of the Force Majeure.

## 12 CONFIDENTIALITY

- (a) Each Party acknowledges that all Confidential Information of the other Party is and will be the sole and exclusive property of that other Party.
- (b) Each Party undertakes to the other Party to keep confidential the other Party's Confidential Information. Each Party must use its best efforts to prevent third parties from gaining access to the other Party's Confidential Information, other than as permitted under these Conditions. To this end, each Party must not, without the other Party's prior written consent:
  - (i) disclose or in any way communicate to any other person all or any of the other Party's Confidential Information except as permitted by these Conditions; or
  - (ii) permit unauthorised persons to access to places where the other Party's confidential information is displayed, reproduced or stored; or
  - (iii) make or assist any person to make any unauthorised use of the other Party's Confidential Information, and must take all reasonable steps (including obtaining confidentiality undertakings from officers, employees, agents and contractors who have or may have access to the other Party's Confidential Information) to ensure that the other Party's Confidential

Information is not disclosed to any other person by any of its officers, employees, agents and contractors.

- (c) Subject to Condition 12(d), A Party may disclose the other Party's Confidential Information to its employees, officers, agents and contractors in the course of their employment on a need to know basis or to its advisers in relation to its rights under these Conditions.
- (d) Nothing in these Conditions prohibits the use or disclosure of any Confidential Information to the extent that:
  - (i) the Confidential Information is lawfully in the possession of the recipient of the information through sources other than the Party who disclosed the Confidential Information; or
  - (ii) it is required by law or the rules of a stock exchange; or
  - (iii) it is strictly and necessarily required in connection with legal proceedings relating to these Conditions; or
  - (iv) the Confidential Information is generally and publicly available other than as a result of a breach of confidence by any person.
- (e) Each Party must ensure its employees, officers, contractors, agents and all other persons under its control or direction comply with the obligations imposed on it under this Condition 12.
- (f) If a Party's servants, officers, agents or contractors breach the confidentiality obligations contained in these Conditions it must immediately notify the other Party of this in writing and, subject to this Condition, indemnify the other Party for any direct loss and damage caused by such breach.
- (g) Each Party acknowledges that a breach of this Condition 12 may cause the other Party irreparable damage for which monetary damages would not be an adequate remedy. Accordingly, in addition to other remedies that may be available, each Party may seek and obtain injunctive relief against such a breach or threatened breach.
- (h) The obligations under this Condition 12 survive expiry or termination of these Conditions.
- (i) Notwithstanding any other provision in these Conditions, We are entitled to disclose the following information:
  - (i) Your annual total Passenger numbers; and
  - (ii) Your monthly total Passenger numbers;to any person or government agency, authority or body for the purpose of a tender, a renegotiation of contract, or for any other purpose deemed appropriate by Us.

## 13 PRIVACY AND DATA PROTECTION

### 13.1 Application

This Condition applies to the Personal Information collected, used and disclosed by Us during the term of these Conditions.

### 13.2 Our obligations

- (a) We will comply with the Privacy Act in respect of all Personal Information collected under these Conditions.
- (b) We will provide access to an individual's Personal Information held by Us, to the individual to whom the Personal Information relates, upon reasonable notice to Us and upon payment of Our reasonable expenses relating to providing that access, provided that no application fee for requesting access will be charged.

### 13.3 Our rights

You acknowledge and agree that We:

- (a) may collect from You, the Personal Information which is relevant to Our administration and operation of the Airport and for enforcement of these Conditions;
- (b) may use the Personal Information for purposes related to the purposes described in paragraph (a) including research by Us or authorised third parties, statistical analysis by Us and for promoting and marketing the Airport or other services offered by Us to tenants, occupiers and users of the Airport;
- (c) may be required to collect some Personal Information under these Conditions so that we can comply with Our obligations under applicable legislation; and
- (d) may disclose the Personal Information collected under these Conditions for any reason permitted by the Privacy Act including:
  - (i) if required by law;
  - (ii) for the purposes of obtaining legal, financial or other professional advice;
  - (iii) for research by Us or authorised third parties, statistical analysis by Us and for promotion and marketing the Airport or other services offered by Us to tenants, occupiers and users of the Airport;
  - (iv) to a third party for their use if We sell, transfer or assign the whole or part of Our business and/or Airport assets and facilities to that third party;

### 13.4 Consent and acknowledgement

- (a) You consent to Us using and disclosing Personal Information provided to Us under these Conditions for the purposes set out in Condition 13.3.
- (b) You acknowledge and agree that if You provide the Personal Information of someone other than Yourself to Us as required by these Conditions You must:
  - (i) comply with the Privacy Act in respect of the collection, use and disclosure of that information;
  - (ii) take all reasonable steps to ensure

that the individual concerned is aware that the disclosure will be made to Us and of Our obligations and rights under Conditions 13.2 and 13.3; and

- (iii) to the extent necessary or appropriate comply with the Privacy Act.

## 14 GOODS AND SERVICES TAX (GST)

- (a) Unless otherwise stated, all amounts payable by one Party to the other Party under these Conditions are exclusive of GST.
- (b) A recipient of a taxable supply made under these Conditions must pay to the supplier an amount equivalent to any GST paid or payable by the supplier in respect of the taxable supply subject to the supplier issuing a valid tax invoice in accordance with the GST Act to the recipient. The GST amount must be paid at the same time as the other consideration for the supply is to be paid or provided.
- (c) A Party's obligation to reimburse the other Party for an amount paid or payable to a third party includes GST on the amount paid or payable to the third party except to the extent that the Party being reimbursed is entitled to claim an input tax credit for that GST.
- (d) Each Party must issue an adjustment note to the other Party as soon as it becomes aware of an adjustment event relating to a taxable supply by it under these Conditions.
- (e) Any expression used that is also used in the GST Act shall have for the purposes of these Conditions the meaning used in or attributed to that expression by the GST Act.

## 15 DISPUTE RESOLUTION

### 15.1 Procedure

If a dispute arises between the Parties in connection with or relating to the Airport or the Use of the Airport or these Conditions (**Dispute**), then the Parties must follow the procedure set out in this Condition 15 to resolve the Dispute. In particular before commencing court proceedings the Parties must first comply with Conditions 15.2 to 15.6.

### 15.2 Notice of a Dispute

The Party that considers a Dispute has arisen must give the other Party notice of the Dispute (**Dispute Notice**) which must include reasonable details of the Dispute. The Parties must then attempt to resolve the Dispute as soon as practicable.

### 15.3 Authorised Officers to meet

If the issue remains unresolved for 14 days after a Party receives the Dispute Notice, then an Authorised officer from each Party must meet at the Airport (or at another mutually agreed location) or communicate by telephone to discuss and attempt to resolve the Dispute in good faith. The meeting / discussion must take place between the Authorised Officers within 14 days following the Dispute being referred to them.

### 15.4 Failure to agree

If the Dispute remains unresolved for 14 days after Dispute was referred to the Authorised Officers, or such longer period as the Parties may agree, either Party may refer the Dispute to their

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respective chief executive officers (CEO).

#### **15.5 Referral to Chief Executive Officers**

Each Party's CEO or their nominee must then meet at the Airport offices (or at another mutually agreed location) or communicate by telephone to discuss and attempt to resolve the Dispute in good faith. The meeting / discussion must take place between the CEOs within 14 days following the Dispute being referred to them.

#### **15.6 Mediation**

If the Dispute remains unresolved for 14 days after the Parties' CEOs have met or discussed (or should have met or discussed) in accordance with Condition 15.5, then the Parties agree that the issue will be referred to mediation, which mediation will be conducted in accordance with the then current rules of The Institute of Arbitrators and Mediators Australia. The mediation will take place in Perth or Broome, Western Australia and each Party will bear their own costs and expenses in respect to the mediation despite the outcome (including legal costs). However, despite any provision in the rules of The Institute of Arbitrators and Mediators Australia, a decision of the arbitrator or mediator will not in any way be binding on either Party at any time unless it is agreed to be binding by the Parties, and if no agreement is reached between the Parties following mediation then they can subsequently institute legal proceedings in regard to the Dispute, if required.

#### **15.7 Legal proceedings**

Nothing in this Condition 15 prevents either Party from commencing legal proceedings for urgent interlocutory or temporary relief.

## **16 GENERAL**

### **16.1 Invalidity**

If any provision of these Conditions becomes invalid, the provision is enforceable to the extent that it is not invalid, whether it is in severable terms or not, provided that this Condition does not apply where enforcement of a provision of these Conditions in accordance with this Condition would materially affect the nature or effect of the Parties' obligations under these Conditions.

### **16.2 Waiver**

No Party may rely on the words or conduct (including a failure or delay in the exercise of a right, power or remedy arising under or in connection with these Conditions) of the other Party as a waiver of any right, power or remedy under or in connection with these Conditions unless the waiver is in writing and signed by the Party granting the waiver, and any single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy.

### **16.3 Governing law**

These Conditions are governed by and construed in accordance with the law in force in Western Australia and the parties agree to submit to the jurisdiction of the courts of that State and any court hearing appeals from those courts in all matters arising out of these Conditions.

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## SCHEDULE 1 - DEFINITIONS

In these Conditions:

**Aerodrome Emergency Procedures** means the document detailing those procedures in place from time to time for Airport staff and emergency agencies to follow in the event of an emergency arising, copies of which document are available to users of the Airport from Us on request and form part of the Airport Aerodrome Manual.

**Air Operator's Certificate** means the certificate of that name issued under Division 2 of Part 111 of the *Civil Aviation Act 1988*.

**Air Traffic Control** means any service provided by air traffic control which includes a traffic advisory service, traffic avoidance service, and traffic information.

**Aircraft** means any aircraft including helicopters using the Facilities and Services.

**Aircraft Owner** means the Person named as the registration holder on the Aircraft Certificate of Registration.

**Aircraft Operator** means the Person named as the registered operator of the Aircraft on the Aircraft Certificate of Registration.

**Aircraft Parking Charges** or **APC** means parking charges not already covered by the General Landing Charges.

**Airport** means Broome International Airport situated at MacPherson Street, Broome, Western Australia and includes all hangars, buildings, roads and other improvements and facilities on the Airport.

**Airport Environmental Strategy** means those strategies implemented by Us from time to time in relation to the protection and preservation of the environment.

**Airport Aerodrome Manual** means the manual which are located at Our Offices on the Airport.

**Airport Exercises** are mandatory exercises required to be done by Us from time to time to amongst other things test the ability of Us, You, and any other parties to react to any emergency situation on the Airport.

**Airport Transport Security Program** means that program which has been put in place from time to time at the Airport.

**Airport Security Committee** means the committee convened for the purposes of administering Airport Security.

**Airport Terminal** means those buildings at the Airport known as the airport terminal buildings.

**Airside Secure Area** means all areas which are airside of the security fences on the Airport, including the Security Restricted Area.

**ASIC** means Airport Security Identification Card.

**Authorised Officer** means an individual with the appropriate authorisation from a party to bind that party to agreed obligations.

**Aviation Charges** means as at the date of these Conditions the charges specified in Schedule 2 which are payable by You in consideration for Your use of the Facilities and Services.

**Aviation Infrastructure and Facilities**

**Investments** means those projects at the Airport that We invest in to expand or improve Aviation Services including:

- (a) runways, taxiways and apron; or
- (b) Airport Terminal and other buildings; or
- (c) new developments.

**Aviation Services** means those Aircraft movement facilities and activities, and passenger processing facilities and activities set out in Schedule 3 excluding:

- (a) services provided by Us to commercial ground transport operators, fuel companies and fuel suppliers; and
- (b) those services set out in Condition 2.7.

**BSS** means Broome Shared Services Pty Ltd ABN 45 056 265 877.

**BHS** means the physical baggage handling system which transports baggage from some Counters along conveyor belts but does not include the transport of baggage from the conveyor belts to Aircraft.

**BIA** means Broome International Airport Pty Ltd ABN 99 074 187 732.

**Business Day** means a day that is not a Saturday, Sunday or public holiday in Western Australia.

**CASA** means the Civil Aviation Safety Authority.

**Certificate of Registration** means:

- (a) for an Aircraft on the Australian Register of Aircraft, the certificate of registration issued by CASA under the Civil Aviation Regulations; and
- (b) for foreign Aircraft, the registration of the aircraft on a national register of Aircraft other than the Australian Register of Aircraft.

**Charges** means amounts payable by You pursuant to these Conditions including Aviation Charges and Government Mandated Charges.

**Charter Operations** means any charter operations for transporting people and or goods which are not available to the general public without prior arrangement.

**Common User Conditions** means the conditions in Schedule 4.

**Common User Facilities** include the BHS, the Counters, the Departure/Arrival Equipment, FIDS, Our Equipment, and the PA System, which form part of the Facilities and Services.

**Conditions** means these conditions of use for the Airport.

**Confidential Information** means all information relating to or developed in connection with or in support of a party's business disclosed or otherwise provided by a party to another party or otherwise obtained by a party which:

- (a) is not trivial in character; or
- (b) is not generally available to the public; or
- (c) if generally available to the public, became available to the public as a result of an unauthorised disclosure or otherwise by reason of a breach of confidence on the part of a party.

**Counter** means those counters in the Airport Terminal used for, amongst other things, check in,



service and sales.

**Counter Equipment** means the equipment at each Counter

**CTAF** (Common Traffic Advisory Frequency) means an air traffic frequency at which a mandatory Aircraft radio call is required to be made to pilots of other adjacent aircraft in uncontrolled airspace advising of the pilot's intentions.

**Day** means a period of 24 hours commencing at midnight.

**Department of Infrastructure** means the Commonwealth Department of Infrastructure and Regional Development.

**Departure/Arrival Equipment** means the Airport Terminal equipment and departure gate Counters.

**Disembarking Passengers** means all passengers on board an arriving Aircraft including Transit Passengers, Transfer Passengers, Infants, Domestic-On-Carriage and Positioning Crew, but excludes Operating Crew.

**Domestic** means any Aircraft or passenger from origin or destination within Australia.

**Domestic-On-Carriage** means a passenger on an International flight who travels from one Australian port to another.

**Embarking Passengers** means all passengers on board a departing Aircraft including Transit Passengers, Transfer Passengers, Infants, Domestic-On-Carriage and Positioning Crew, but excludes Operating Crew.

**ERSA** means the En Route Supplement Australia.

**Facilities and Services** means all or any part of the Airport made available by Us for Aircraft landing, take-off, taxiing, movement and parking (including the runways, taxi-ways and aprons), Passenger processing facilities and services (including the Aviation Services and the Common User Facilities) and for discharging or taking on Passengers or cargo.

**FIDS** means Flight Information Display Systems.

**Force Majeure** means acts of God, acts of any governmental or super-national authority, war or national emergency, riots, civil commotion, fire, explosion, flood or epidemic or strikes.

**General Airport Services** means those services and facilities that We provide to users of the Airport that are neither Aviation Services nor Government Mandated Services but include those services which are generally provided to airlines and Aircraft operators at the Airport such as airline offices, passenger lounges, landside storage areas within terminal areas, staff car parking and leased sites and buildings for office, freight, Aircraft maintenance, catering and similar services.

**General Aviation Operations** means any Aircraft operations, other than Domestic or International RPT Operations.

**General Landing Charges** or **GLC** means Charges for General Aviation Operations calculated by a dollar amount multiplied by MTOW.

**Government Mandated Charges** means those charges levied by Us and payable by You in accordance with these Conditions under any legislation or regulation or any order or direction of any governmental agency, authority, body or

department.

**Government Mandated Costs** means those costs incurred by Us for providing to You the Government Mandated Services which are permitted to be charged to users of the Airport pursuant to legislation or regulation or any order or direction of any governmental agency, authority, body or department.

**Government Mandated Services** means those services which We provide to You which are mandated by legislation or regulation or any order or direction of any governmental agency, authority, body or department (including the Department of Infrastructure), and which include the services set out at Condition 2.3.

**GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended or replaced from time to time.

**GST** means any tax imposed on a Supply by or through the GST Act.

**Infant** means a child under 2 years of age who has not paid to occupy a seat on an Aircraft.

**Insolvency Event** means:

- (a) in respect of a corporate, being in liquidation, provisional liquidation or under administration, having a controller (as defined in section 9 of the Corporations Act) appointed to it or any of its property, becoming an insolvent under administration (as defined in section 9 of the Corporations Act), as a result of the operation of section 459F(1) of the Corporations Act being taken to have failed to comply with a statutory demand or being unable to pay its debts as and when they fall due and payable;
- (b) in the case of a natural person, dying, being unable to pay his or her debts as and when they fall due and payable, having a trustee in bankruptcy appointed, ceasing to be of full legal capacity or otherwise becoming incapable of managing his or her own affairs for any reason;
- (c) in relation to any person, entering into any compromise, arrangement or assignment, whether formal or informal, with any of its creditors; or
- (d) anything analogous or having a substantially similar effect to any of the events specified above occurs.

**Interest Rate** means a rate of interest of 1.5% per month.

**International** means any Aircraft or passenger that arrives at the Airport from an origin outside Australia, or that is departing to a destination outside Australia, and also such passengers or Aircraft in transit through the Airport en-route to or from an International port.

**Liquids, Aerosols And Gels Charge (LAGS)** means the charge applied for the security screening of liquids, aerosols and gels incurred in processing International Embarking Passengers.

**Major User** means the airline or Aircraft operators that are the major users of the Airport including those conducting RPT Operations, coastal surveillance and heavy helicopter operations.

**Military Landing Charges** or **MLC** means Charges applied to military operations of a commercial

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nature.

**Minimum Cleaning Charges** or **MCC** means the minimum Charges applied for airside cleanup which may include charges for the costs of cleaning spillages, remediating pollution or contamination and other environmental related costs.

**MOWP** means a Method of Working Plan.

**MTOW** means the maximum take-off weight for an Aircraft as specified by the manufacturer.

**NOTAM** means a Notice to Airmen.

**Operating Crew** means Your employees and contractors operating as flight or cabin crew on arriving or departing Aircraft.

**Our Equipment** means any equipment supplied by Us under these Conditions.

**PA system** means Our public address system throughout the Airport Terminal buildings.

**Party** means You or Us and **Parties** means both You and Us.

**Passengers** means all persons on board an Aircraft including persons travelling on points redemption bookings through frequent flyer programs, Transit Passengers, and airline staff travelling on concessional fares, but excludes Operating Crew.

**Passenger Facilitation Charge** or **PFC** means the charge for the use of the Airport Terminal and its facilities and services incurred in processing Domestic, International, military and other Passengers.

**PCP** means Pearl Coast Properties Pty Ltd ABN 34 009 197 031.

**Performance Measures** means the areas or parts of the Facilities and Services and Aviation Services that We measure Our performance against as determined by Us from time to time.

**Personal Information** has the same meaning as it does under the *Privacy Act 1988* (Cth) (**Privacy Act**).

**Positioning Crew** means Your flight and cabin crew, other than the Operating Crew, arriving into, or departing from the Airport on duty travel for the purpose of positioning for, or returning from, crewing duties.

**Registered** in relation to an Aircraft means that the Aircraft has a Certificate of Registration.

**RPT Operations** means air service operations where, for a fee, the Aircraft is operated according to fixed schedules over specific routes and is available to the general public on a regular basis, and includes any such services that may be diverted from another airport to the Airport.

**Security Screening Charge (SSC)** means Government mandated Charges relating to aviation security arrangements.

**Security Restricted Area** means the regular passenger transport apron area on the southern part of the Airport surrounding to the Airport Terminal.

**Supply** has the meaning given to it in the GST Act.

**Tax invoice** has the meaning given to it in the GST Act.

**Transfer Passenger** means a Passenger who changes from the service of one carrier (airline) to another service of the same carrier (online transfer) or to the service of another carrier (interline transfer) of which the departing flight has a different flight number.

**Transit Passenger** is a Passenger who arrives and then departs from the Airport on a flight with the same flight number and on the same Aircraft.

**Use** means use of any of the Facilities and Services.

**Website** means the Broome International Airport Website [www.broomeair.com.au](http://www.broomeair.com.au).

**We, Us, Our** or **Operator** means BIA and, where applicable, PCP and BSS and each of them, and each of their officers, employees, agents and contractors.

**You** or **Your** means the person using any of the Facilities and Services and includes the Aircraft Owner, the Aircraft Operator or any person who is responsible for the control or operation of the Aircraft at the time the Facilities and Services are used.

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## **SCHEDULE 2 - CHARGES**

### **1. AVIATION CHARGES**

The following Aviation Charges as varied from time to time apply for the use of the Facilities and Services.

#### **1.1 PASSENGER FACILITIES CHARGE (PFC)**

This Charge applies to all Embarking Passengers and Disembarking Passengers (excluding Transit Passengers) on scheduled RPT Operations and other Aircraft using the Airport Terminal unless other arrangements are agreed in writing:

- from 1 July 2019 to 30 June 2020 - \$21.72 per head (per arriving and departing Passenger movement) plus GST.
- from 1 July 2019 to 30 June 2020 - \$11.11 per child plus GST.

#### **1.2 SECURITY SCREENING CHARGE (SSC)**

This Charge applies to all Embarking Passengers (excluding Transit and Transfer Passengers) on Aircraft using the Security Restricted Area unless other arrangements are agreed in writing:

- from 1 July 2019 to 30 June 2020 - \$13.79 plus GST per departing Passenger.

#### **1.3 GENERAL LANDING CHARGE (GLC)**

This Charge applies to all civil Aircraft operations at the Airport unless other arrangements are agreed in writing:

- for RPT Operations, from 1 July 2019 to 30 June 2020 - \$24.51 per tonne MTOW plus GST.
- for non RPT Operations for Aircraft under 5.7 tonnes MTOW, from 1 July 2019 to 30 June 2020 - \$25.91 per tonne MTOW plus GST.
- for non RPT Operations for Aircraft equal to or more than 5.7 tonnes MTOW, from 1 July 2019 to 30 June 2020 - \$30.57 per tonne MTOW plus GST.
- for Broome based operators only, a 25% discount is available for Aircraft not exceeding 2,800kg MTOW who pay within 30 days of the date of Our invoice.

#### **1.4 MILITARY LANDING CHARGES (MLC)**

As negotiated by the Australian Airports Association from time to time.

#### **1.5 AIRSIDE ESCORT CHARGES (AEC)**

Airside escort (including attendance on or to an Aircraft and contractor supervision):

- \$80.00 per hour plus GST.

#### **1.6 AIRSIDE ENVIRONMENTAL CHARGES (AECS)**

Where Aircraft Operators are directly responsible and do not complete their own clean-up of fuel and oil spills on the Airport to Our satisfaction, We will clean up any fuel or oil spills at the following rates:

- \$80.00 per hour plus GST (minimum 3 hours if called out).

#### **1.7 AIRCRAFT PARKING CHARGES**

- Codes A & B Aircraft Parking Fee - \$41.00 per day (excluding GST).
- Code C Aircraft Parking Fee - \$285.00 per day (excluding GST).

### **2. GOVERNMENT MANDATED CHARGES**

There are currently no Government Mandated Charges applicable.

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## SCHEDULE 3 - AVIATION SERVICES

1. The following Aircraft movement facilities and activities:
  - (a) airside grounds, runways, taxiways and aprons;
  - (b) airfield lighting, airside roads and airside lighting;
  - (c) airside safety;
  - (d) Aircraft parking;
  - (e) visual navigation aids; and
  - (f) Aircraft re-fueling services.
2. The following Passenger processing facilities and activities:
  - (a) forward airline support area services;
  - (b) buses;
  - (c) departure lounges and holding lounges (but excluding commercially important persons lounges);
  - (d) immigration and customs service areas;
  - (e) security systems and services (including closed circuit surveillance systems);
  - (f) baggage make-up, handling and reclaim;
  - (g) public areas in terminals and public amenities; and
  - (h) flight information display systems (FIDS).

## SCHEDULE 4 - COMMON USER CONDITIONS

This Schedule 4 applies to the use of the Common User Facilities at the Airport Terminals.

### 1. Ownership of Counter Equipment

#### *Owner of Counter Equipment*

- (a) The Counter Equipment, other than Our Equipment and equipment belonging to third parties, which remain the property of the owner of that equipment or the person entitled to ownership of that equipment.

#### *Other equipment We own*

- (b) The Counters and other equipment provided by us remain Our property.

#### *No parting with possession of equipment We own*

- (c) You must not part with possession or control of Our Equipment unless We instruct You to do so in writing.

### 2. Baggage handling system (BHS) conditions

We will provide the BHS for domestic and international operations, regional operations, charter operations and general aviation operations, and will allocate the same in accordance with licensing arrangements as appropriate.

### 3. Allocation of Departure/Arrival Equipment

We will allocate the use of the Departure/Arrival Equipment to You in accordance with Our allocation rules and these Conditions. The allocation of the specific locations will be in Our absolute discretion to achieve efficient operation of the Airport.

### 4. FIDS and PA System Conditions

We will provide the FIDS core system that provides the information display systems including the central database, the distribution system and the display devices in public areas.

### 5. Airport Management and Rules

- (a) You accept that We are responsible for managing and operating the Airport.

#### *No interference from You*

- (b) You must ensure that You and Your employees, agents and contractors do not do anything that prevents Us from observing and performing Our duties and obligations managing and operating the Airport.

#### *Our rules*

- (c) You agree that We can make rules for the day to day operation of the Airport that will bind You and Your employees, agents and contractors, all of whom must comply with those rules at all times.

### 6. No unaccompanied baggage

You must not use any Counter or the BHS to accept from any person baggage or cargo for transportation and distribution baggage which is being sent as unaccompanied baggage or cargo.