



## **Conditions of Use Port Lincoln Airport**

Port Lincoln Airport Management Authority c/- Lower Eyre Council  
32 Railway Terrace, Cummins SA 5631  
P: (08) 8676 0400  
E: [mail@dclep.sa.gov.au](mailto:mail@dclep.sa.gov.au)  
W: [www.lowereyrepeninsula.sa.gov.au](http://www.lowereyrepeninsula.sa.gov.au)

Date of adoption: 20 May 2026

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## 1. INTRODUCTION, PHILOSOPHY AND APPLICATION

- 1.1 Port Lincoln Airport is owned by Lower Eyre Council (**Council**) and operated by the Port Lincoln Airport Management Authority (**PLAMA**) as a subsidiary of Lower Eyre Council under section 42 of the Local Government Act South Australia.
- 1.2 These Conditions of Use (**Conditions**) have been adopted by the Council in the interests of safety, security and efficient operations at the Airport. The Conditions detail the safety, security and operational rules applicable to all Aircraft Operators who use the Airport. The Conditions aim to provide a safe environment for all users, passengers and aircraft operations.
- 1.3 These Conditions apply to all Aircraft Operators who use the Airport (which are subsequently captured by the terms **You** and **Your** in these Conditions) and Your use of the Facilities and Services at the Airport. To the extent that any of these Conditions are inconsistent with any separate contract that You have with the Council for Your use of the Facilities and Services at the Airport then these Conditions take precedence.
- 1.4 These Conditions apply on and from the date on which they are adopted by the Council and continue in force until revoked or replaced by the Council. They supersede all previous versions. A copy of these Conditions can be found on the Council's website:  
<http://www.lowereyrepeninsula.sa.gov.au/services/airports/port-lincoln-airport>.
- 1.5 If You use the Airport and / or Facilities and / or Services then You agree to be bound by these Conditions.

## 2. DEFINITIONS

- 2.1 **Additional Fees and Charges** means any fees, charges or amounts, that are in addition to the Fees and Charges, that You have agreed to pay to the Council in connection with Your use of the Airport pursuant to a separate written contract that You have with the Council, including any fees and charges relating to Checked Baggage Screening and Passenger Security Screening.
- 2.2 **Aerodrome Emergency Plan** means the emergency plan developed for the Airport to coordinate all agencies (and their individual airport emergency procedures) when dealing with an Airport emergency.
- 2.3 **Aerodrome Manual** means the manual detailing the safety requirements necessary for the licensing of the Airport as required by Part 139 of the *Civil Aviation Regulations 1988*(Cth).
- 2.4 **Aerodrome Safety Management System** means the 'Port Lincoln Airport Safety Management System Manual' that satisfies the Civil Aviation Safety Authority compliance requirements as stated in CASR 139.095.
- 2.5 **Aircraft** includes fixed wing aircraft, helicopters, balloons, powered or un-powered and, their parts and accessories, equipment and stores.
- 2.6 **Aircraft Operator** means the person whose name appears on the Aircraft Register as the operator of the Aircraft, the holder of a 'Certificate of Registration' with respect to the Aircraft or any person who, with the authority of the holder of the 'Certificate of

Registration' for the Aircraft and the written acceptance of the Council, operates that Aircraft when it arrives at or departs from the Airport (as the case may be) and it includes Aircraft Operators engaged in emergency services work.

- 2.7 **Australian Civil Aircraft Register** means the register of Australian Aircraft pursuant to Part 47 of the Australian Civil Aircraft Register.
- 2.8 **Airport** means the 'Port Lincoln Airport' which is located on Piece 22 in Deposited Plan 86780.
- 2.9 **Airport Car Park** means the car park for the Airport.
- 2.10 **Airport Hours** means the operating hours for the Airport published by the Council from time to time.
- 2.11 **Airport Operations Manager** means the person nominated by the Council from time to time that is responsible for the day to day management of Airport, or their nominee.
- 2.12 **Airside** means the movement area of the Airport, adjacent terrain and buildings or portions thereof, access to which is controlled as described in Annex 17 to the 'Convention on International Civil Aviation'.
- 2.13 **ASIC** means an Aviation Security Identification Card.
- 2.14 **Authority** means any government, statutory, public or other authority or body having jurisdiction over the Airport or any matter or thing relating to the Airport.
- 2.15 **Business Day** means any day in South Australia which is not a Saturday, Sunday or proclaimed public holiday.
- 2.16 **Checked Baggage Screening** or **CBS** means the Australian Federal Government mandated security screening of all departing passenger checked baggage which is carried out utilising the CBS Infrastructure.
- 2.17 **CBS Infrastructure** means the equipment provided by the Airport to facilitate the Checked Baggage Screening activity and includes x-ray equipment, building modifications and associated baggage handling system improvements.
- 2.18 **Common Areas Rules** means any and all rules adopted by the Council from time to time for the management, safety, security, care and / or cleanliness of areas of the Airport that are for the common use of all Aircraft Operators and Airport tenants and their employees, contractors, customers and invitees and visitors to the Airport.
- 2.19 **Common Facilities and Services Rules** means any and all rules adopted by the Council from time to time for the management, safety, security, care and / or cleanliness of Facilities and Services that are for the common use of all Aircraft Operators.
- 2.20 **Council** means Lower Eyre Council (ABN 13 559 739 724) of 32 Railway Terrace Cummins 5631, South Australia, Australia, and it includes the employees, agents and contractors of the Council.
- 2.21 **Default Rate** means the rate that is 3% per annum greater than the published Local Government Finance Authority Cash Advance Debenture Rate and if there is more

than one rate published the highest of those rates and if such rate is no longer published then it means 10%.

- 2.22 **Excluded Loss** means loss of business revenue, loss of profits, loss of opportunity, loss of bargain, failure to realise expected profits or savings, loss of reputation and / or goodwill and economic loss of any kind in contract, tort, under any statute or otherwise arising out of or in connection with the Airport, the Facilities, the Services and / or the Council's ownership and / or management of the Airport.
- 2.23 **Facilities** are as defined in Schedule 1, as varied by the Council from time to time.
- 2.24 **Fees and Charges** means the amounts calculated to be applicable to Your use of the Airport and the Facilities and Services in accordance with the fees and charges for the use of the Airport and Facilities and Services adopted by the Council pursuant to section 188 of the *Local Government Act 1999*(SA) from time to time (**Fees and Charges Schedule**).
- 2.25 **GST Law** means a *New Tax System (Goods and Services Tax) Act 1999* and any other act, order, ruling or regulation which imposes or otherwise deals with the administration of imposition of GST in Australia.
- 2.26 **International Operations** means operations by an Aircraft Operator that involve departure from a point outside Australia or arrival at a point outside Australia of an Aircraft Operator's Aircraft.
- 2.27 **Laws** means any relevant Statute or Act of Parliament (whether State or Federal) and any regulation or by-law including by-laws issued by any Authority.
- 2.28 **Local Government Finance Authority Cash Advance Debenture Rate** is provided for in Chapter 10 of the *Local Government Act 1999* (Rates & Charges), including use of the Cash Advance Debenture Rate (CADR).
- 2.29 **NOTAM** means a 'Notice to Airmen' published in accordance with the Aerodrome Manual.
- 2.30 **Passenger Security Screening** means the security arrangements for passenger and cabin baggage screening at the Airport to meet the requirements of the *Aviation Transport Security Act 2004*(Cth) and the *Aviation Transport Security Regulations 2005*(Cth).
- 2.31 **PLAMA** means the Port Lincoln Airport Management Authority.
- 2.32 **Services** means those services described in Schedule 1, as varied by the Council from time to time.
- 2.33 **Security Restricted** means that portion / those portions of the Airport designated as security restricted.
- 2.34 **Statutory Requirements** means all relevant Laws and all lawful conditions, requirements, notices and directives issued or applicable under any such Laws or by any Authorities.
- 2.35 **Transport Security Program** or **TSP** means the aviation security program that details the measures adopted by the Airport to safeguard civil aviation against acts of unlawful interference.

2.36 **VIC** means a 'Visitor Identification Card'.

2.37 **You** and **Your** is as defined in clause 1.3.

### **3. INTERPRETATION**

In these Conditions, unless the context otherwise requires:

3.1 headings do not affect interpretation;

3.2 singular includes plural and plural includes singular;

3.3 words of one gender include any gender;

3.4 a reference to any monetary amount is that amount in Australian currency;

3.5 a reference to:

3.5.1 an entity includes its executors, administrators, successors and permitted assigns;

3.5.2 a person includes a partnership, corporation, association, government body and any other entity;

3.5.3 these Conditions includes any schedules to these Conditions;

3.5.4 a document includes that document as varied, novated, or replaced from time to time;

3.5.5 legislation includes any amendment to it, any legislation substituted for it, and any subordinate legislation made under it;

3.5.6 a thing includes the whole and each part of it;

3.5.7 a group of persons includes all of them collectively, any two or more of them collectively and each of them individually;

3.5.8 the president of a body or authority includes any person acting in that capacity;

3.5.9 a clause or a schedule is unless the context otherwise requires, a reference to a clause or schedule of these Conditions;

3.5.10 any policy document of the Council is to a policy document appearing on the Council's website and refers to that policy as amend, varied or replaced from time to time;

3.5.11 any plan or manual prepared by the Council for the Airport is to that document as amend, varied or replaced from time to time;

3.5.12 the Council's or Airport Operations Manager's approval or consent, is to the Council's or Airport Operations Manager's prior written approval or consent which, unless otherwise expressly specified, may be granted or withheld in the absolute discretion of the Council or the Airport Operations Manager and which if granted may be granted subject to any conditions as the Council or the Airport Operations Manager sees fit;

- 3.5.13 a time or date is to that time or date in Adelaide, Australia as at the relevant time;
- 3.6 a provision is not construed against the Council only because the Council drafted it;
- 3.7 an unenforceable provision or part of a provision may be severed, and the remainder of these Conditions continue in force, unless this would materially change the intended effect of these Conditions;
- 3.8 the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar expressions;
- 3.9 an expression defined in the *Corporations Act 2001* (Cth) has the meaning given by the Act; and
- 3.10 where there are multiple standards or requirements for a particular matter, then the higher or better of those standards or requirements will be applicable.

#### **4. AIRPORT OPERATIONS MANAGER**

- 4.1 The Council via PLAMA has appointed the Airport Operations Manager to manage the day to day operations of the Airport.
- 4.2 The Airport Operations Manager's contact details are as follows:
- |                 |                                                         |
|-----------------|---------------------------------------------------------|
| Postal address: | Port Lincoln Airport Manager, PO Box 41 Cummins SA 5606 |
| Email address:  | mail@dclep.sa.gov.au                                    |
| Telephone:      | (08) 8676 0400                                          |

#### **5. USE OF AIRPORT**

- 5.1 All Aircraft Operators wishing to use the Airport must have written approval from the Council for such use (which approval may be granted or withheld in the Council's absolute direction and, if granted, may be granted subject conditions).
- 5.2 If You are approved to use the Airport in accordance with clause 5.1, these Conditions apply to Your use of the Airport and the Facilities and Services at the Airport. By using the Airport and Facilities and / or Services at the Airport You acknowledge, accept and agree to be bound by these Conditions.
- 5.3 You agree that:
- 5.3.1 access to the Airport and use of the Facilities and / or Services are subject to:
- (a) You paying the Fees and Charges and any Additional Fees and Charges;
  - (b) You complying with all relevant Statutory Requirements, applicable Airport policies and procedures, and reasonable and lawful directions of the Airport Operations Manager;
  - (c) the demands and rights of other users of the Airport;
  - (d) the Common Areas Rules and Common Facilities and Services Rules; and

- (e) any restrictions pursuant to Legislation;
- 5.3.2 International Operations may be conducted at the Airport; and
- 5.3.3 the Council may close the Airport and restrict access to Facilities and / or Services in accordance with these Conditions.
- 5.4 You acknowledge that the following services are not provided at the Airport:
  - 5.4.1 terminal navigation services;
  - 5.4.2 rescue and fire fighting services;
  - 5.4.3 en-route services;
  - 5.4.4 ground handling services; and
  - 5.4.5 engineering services.
- 5.5 You further acknowledge that the Facilities and Services are provided on an 'as is' basis and the Council is under no obligation, and makes no commitment and gives no guarantee to You, as to the availability and /or standard of the Facilities and Services from time to time. It is Your responsibility to ensure that the Facilities and Services are suitable for Your needs on each occasion that You use the Airport (Except in the circumstance of a separate Air Services Agreement in place).
- 5.6 You must not access or use any areas of the Airport that are for the exclusive use of another person.
- 5.7 You must not interfere with the use of the Airport by any other person who is entitled to use the Airport.

## **6. COMPLIANCE WITH LAWS, POLICIES AND PROCEDURES**

- 6.1 When using the Airport and /or any Facilities and / or Services, You must comply with:
  - 6.1.1 these Conditions;
  - 6.1.2 the Common Areas Rules and the Common Facilities and Services Rules;
  - 6.1.3 the operational requirements of the Airport as published in En Route Supplement Australia (ERSA) and Notice to Airmen (NOTAM);
  - 6.1.4 Civil Aviation Safety Authority and Airservices Australia rules and regulations;
  - 6.1.5 security rules and regulations issued by the Commonwealth Department of Home Affairs and / or other Authority;
  - 6.1.6 the Aerodrome Manual;
  - 6.1.7 the Transport Security Program;
  - 6.1.8 the Aerodrome Emergency Plan;
  - 6.1.9 the Aerodrome Safety Management System;

- 6.1.10 all safety and security directions of the Airport Operations Manager;
  - 6.1.11 any reasonable instructions/directions from the Airport Operations Manager;
  - 6.1.12 environmental and safety directions notified by the Airport Operations Manager, including but not limited to engine ground running, bird and wildlife hazard management and fuel / oil spill management;
  - 6.1.13 the requirement to obtain and observe the relevant operator licences issued by the Airport Operations Manager or Council, including, but not limited to, airside vehicle permits, airside driving licences, ASICs and VICs;
  - 6.1.14 Checked Baggage Screening and Passenger Security Screening as per the Transport Security Program and the requirements of the Australian Federal Government; and
  - 6.1.15 all applicable Laws, Statutory Requirements, Codes of Practice, Australia Standards and Airport policies and procedures.
  - 6.1.16 any relevant Council policies or procedures.
- 6.2 If You identify any inconsistency between any of the requirements or documentation detailed in clause 6.1, You must promptly report that inconsistency to the Airport Operations Manager and comply with all directions of the Airport Operations Manager as to the requirement and / or documentation that is to take precedence.
- 6.3 You must not do anything, or omit to do anything which You are required to do under these Conditions, which may cause or contribute to the Council being in breach of any Laws or Statutory Requirements.

## **7. SAFETY**

In addition to the safety requirements detailed elsewhere in these Conditions, You must, and must ensure that Your agents, contractors and employees, comply with any and all safety requirements for the Airport which the Council notifies you of from time to time.

## **8. SECURITY**

### **8.1 General**

- 8.1.1 You must, and must ensure that Your agents, contractors and employees, comply with the following security measures when using the Airport:
- (a) the Transport Security Program;
  - (b) any security measures notified to You in writing by the Council:
    - (i) that are required as a result of changes to any Law; and / or
    - (ii) that the Council considers are reasonably necessary to:
      - (1) manage security at the Airport, including any aviation-security related activity not covered by the Transport Security Program;

- (2) prevent an act of unlawful interference with aviation occurring at the Airport or in relation to the aviation operations it services; and / or
- (3) increase public confidence in aviation security arrangements at the Airport; and
- (c) any directions of the Airport Operations Manager.

8.1.2 You must not use the Airport outside of the Airport Hours except with the Council's prior written consent. If the Council consents to any after-hours use of the Airport, You must pay or reimburse the Council on demand any additional fees, costs and charges incurred by the Council in connection with this.

## 8.2 Aviation Security Identification Cards

8.2.1 Your employees, agents and contractors must not enter the Airside area or any Security Restricted area of the Airport unless:

- (a) they hold a validly issued and current ASIC; and
- (b) have an operational need to do so.

8.2.2 You must not issue an ASIC in respect of the Airport without the Council's prior written consent.

8.2.3 Your employees, agents and contractors must:

- (a) wear any ASIC that has been issued to them in accordance with these Conditions above the waist in a visible location at all times whilst within an Airside area or Security Restricted area of the Airport; and
- (b) produce for inspection any ASIC that has been issued to them in accordance with these Conditions on request by the Airport Operations Manager, the Council or any other Authority with powers to regulate Airport operations.

8.2.4 You acknowledge and agree that security and background checks may be conducted for the purposes of determining whether the Council will consent pursuant to clause 8.2.2, to the issue of an ASIC. You must also provide any information the Council or the Airport Operations Manager reasonably requests for such purposes.

8.2.5 ASICs remain the property of the Council at all times. Your employees, agents and / or contractors that are issued an ASIC must comply with the following:

- (a) an ASIC must be surrendered to the Council or another lawful Authority:
  - (i) immediately on demand;
  - (ii) as soon as reasonably practicable after You cease using the Airport;

- (iii) as soon as reasonably practicable after that employee, agent or contractor ceases to be employed or engaged by You; and / or
- (iv) as soon as reasonably practicable after it is no longer required.

### **8.3 Visitor Identification Cards**

- 8.3.1 The Council will only issue a VIC for a maximum period of 28 days per calendar year, in accordance with the *Transport Security Regulations (2005)*(Cth) and *Aviation Transport Security Act (2004)*(Cth).
- 8.3.2 You must ensure that any person employed or engaged by You that is issued with a VIC has completed all training required by Legislation and is otherwise necessary to ensure compliance with these Conditions prior to commencing any work or services for You at the Airport.

## **9. FEES AND CHARGES**

### **9.1 Invoicing and payment of Fees and Charges**

- 9.1.1 In consideration of Your use of the Airport and the Facilities and Services, You must pay the Council:
  - (a) the Fees and Charges (as varied from time to time); and
  - (b) any Additional Fees and Charges (as varied from time to time in accordance with any separate agreement You may have with the Council).
- 9.1.2 You acknowledge that the Council reviews, and may vary, the Fees and Charges for each Financial Year.
- 9.1.3 9.1.1 and 9.1.2 do not apply if a separate Air Services Agreement exists that stipulates separately negotiated Fees and Charges.
- 9.1.4 The Council may utilise the services of a third party landing fee management contractor (including but not limited to Avdata) to carry out the recording, billing and reconciliation of Fees and Charges on behalf of the Council.
- 9.1.5 The Council will invoice you for:
  - (a) Fees and Charges payable in accordance with these Conditions on a monthly basis; and
  - (b) Additional Fees and Charges in accordance with Your separate agreement with the Council.
- 9.1.6 You must pay the Fees and Charges in accordance with, and by the due date stipulated in, an invoice issued to You in accordance with clause 9.1.5(a).
- 9.1.7 You must pay any Additional Fees and Charges in accordance with Your separate agreement with the Council.
- 9.1.8 To enable the Council to calculate the Fees and Charges payable by You pursuant to clause 9.1, You must provide a written report to the Council

within 7 Business Days of the end of each calendar month which includes the following information for that calendar month:

- (a) number of passengers arriving and departing on Your flights to and from the Airport; and
- (b) the total number of Aircraft movements of Your flights at the Airport including flight date, flight number, city pair, aircraft type and seat capacity, aircraft registration number and MTOW.

## **9.2 Overdue payments**

9.2.1 If You don't pay Fees and Charges as required by, and in accordance with, clauses 9.1.1 and 9.1.6 or any other amount that You are required to pay in accordance with these Conditions, You must pay interest on that amount on demand by the Council from when it becomes due for payment until it is paid in full. Interest is calculated on daily balances at the Default Rate and is capitalised on the last day of each month if unpaid.

9.2.2 In addition to, the Council's rights pursuant to clause 9.2.1, If You don't pay Fees and Charges as required by, and in accordance with, clauses 9.1.1 and 9.1.6 or any other amount that You are required to pay in accordance with these Conditions, the Council may:

- (a) refuse to allow any or all of Your Aircraft to use the Airport and / or the Facilities and /or Services;
- (b) use any reasonable means to detain any of Your Aircraft;
- (c) issue a notice directing You to remove any or all of your Aircraft from the Airport and if You fail to comply with such notice within 21 days of the Council issuing the notice, the Council may:
  - (i) remove Your Aircraft from the Airport and add the costs associated to the amount owing by You to the Council; and / or
  - (ii) commence proceedings against You.

9.2.3 For the removal of doubt, the remedies specified in this clause 9.2 are not exhaustive and do not operate to limit the Council's remedies in the event of a breach by You of clause 9.1 or any other provision of the Conditions. The Council reserves its rights entirely in relation to any other remedial action afforded to it by law.

## **9.3 No set off**

9.3.1 You must not, except with the Council's prior written consent, setoff against, or deduct from, the Fees and Charges, any Additional Fees and Charges, or other amounts that You are required to pay any amounts owing or claimed by You from the Council.

## **10. MOVING AIRCRAFT**

10.1 The Council or the Airport Operations Manager may direct You to:

10.1.1 move Your Aircraft (or any one of them) to another position at the Airport;  
and /or

10.1.2 remove Your Aircraft (or any one of them) from the Airport,

at Your cost and within a specified time (which must be reasonable in the circumstances) and You must comply with any such direction.

10.2 If you do not comply with a direction given in accordance with clause 10.1 within the time specified by that direction, and provided that the Council has made reasonable attempts to contact You, the Council may move or remove the Aircraft the subject of the direction and:

10.2.1 You must pay the Council's reasonable costs of having the Aircraft moved or removed and any costs incurred by the Council as a result of having the aircraft moved or removed; and

10.2.2 You are liable for and must indemnify the Council, our officers, employees and agents against any personal injury, death, loss or damage caused or contributed to by Your failure to comply with the direction.

## **11. SCHEDULING**

You must provide the Airport Operations Manager with information in relation to flight scheduling as required by any separate agreement You have with the Council.

## **12. BAY ALLOCATION**

12.1 You acknowledge and agree that the allocation of bays at the Airport is at the absolute discretion of the Airport Operations Manager.

12.2 You must confirm the availability of a bay at the Airport with the Airport Operations Manager or an Airport Operations Officer prior to using that bay.

## **13. CAR PARK**

13.1 You acknowledge that some car parking spaces within the Airport Car Park are leased and / or licenced to third parties on an exclusive basis (**Exclusive Use Car Parks**). You must not use any Exclusive Use Car Parks.

13.2 You and Your employees, contractors, invitees and customers must not damage any equipment or infrastructure installed in connection with the Airport Car Park (including but not limited to electric vehicle chargers).

13.3 You must take reasonable steps to ensure that Your employees, agents and contractors who use the Airport Car Park comply with all notified terms and conditions and pay all applicable Fees and Charges.

#### **14. AIRPORT CLOSURE / UNAVAILABILITY OF FACILITIES AND / OR SERVICES**

- 14.1 The Council will use reasonable endeavours to keep the Airport open for use, and make the Facilities and Services available, during the Airport Hours.
- 14.2 The Council may close and /or restrict access to the Airport or any Facilities and / or Services from time to time for:
  - 14.2.1 maintenance, repair, renewal and upgrades;
  - 14.2.2 development;
  - 14.2.3 operational purposes;
  - 14.2.4 in the event of an emergency; and / or
  - 14.2.5 due to events beyond the Council's control.
- 14.3 The Council will use reasonable endeavours to notify You before any closure or restriction of access pursuant to clause 14.2.
- 14.4 Where there is any closure in accordance with clause 14.2, the Council may (but is not required to) identify alternative facilities and services which might be available for Your use, which You may (or may not) use at Your sole discretion.

#### **15. DAMAGE**

- 15.1 If You cause any damage to the Airport or the Facilities then You must, at the Council's election:
  - 15.1.1 promptly repair to the damage; or
  - 15.1.2 pay or reimburse the Council's reasonable costs of having the damage repaired.

#### **16. NON-COMPLIANCE WITH CONDITIONS**

##### **16.1 Failure to comply with safety obligations**

- 16.1.1 If the Council informs You that it is of the reasonable opinion that You:
  - (a) are not using the Airport and / or the Facilities and / or Services in accordance with your safety obligations pursuant to these Conditions; and / or
  - (b) are conducting Yourself in such a way as to endanger the health and safety of any person at the Airport;

**(Safety Notification)** You must:

  - (c) promptly remedy the matter;
  - (d) arrange for a senior management representative to attend a meeting at the Airport Operations Manager's office to provide details of the matter and what is being done in response to it; and

- (e) raise an incident report and investigate the matter, providing a copy of the incident investigation report to the Airport Operations Manager once completed to provide comment.

16.1.2 If, within any 12-month period You receive three Safety Notifications:

- (a) the Council may inform CASA of the Safety Notifications; and / or
- (b) the Council may suspend Your use of the Airport and /or Services and /or Facilities for a period of up to 12 months.

## **16.2 Failure to comply with other Conditions**

16.2.1 If You fail to comply with these Conditions where the failure does not give rise to a Safety Notification, then the Council may instruct You to take measures to ensure compliance with these Conditions;

16.2.2 If You fail to comply with any instructions issued by the Council under clause 16.2.1 within the timeframe stipulated in the instructions, the Council may suspend Your use of the Airport and /or Services and /or Facilities until You satisfy the Council that You will resume Your use of the Airport in conformity with these Conditions.

## **16.3 Costs**

16.3.1 You must pay or reimburse on demand the Council's costs in connection with it exercising its rights pursuant to this clause 16.

## **17. DISPUTES**

17.1 If You consider there to be an unresolved issue in relation to Your use of the Airport and / or any Facilities and / or Services, then before commencing court proceedings (except for urgent equitable or injunctive relief):

17.1.1 You must give the Council written notice specifying the nature and details of the dispute;

17.1.2 on receipt of that notice, the Airport Operations Manager and Your representative must negotiate in good faith in an effort to resolve the dispute;

17.1.3 if the Airport Operations Manager and Your representative are unable to resolve the dispute within fourteen (14) days, they must promptly refer the dispute to their respective Chief Executive Officers, who must meet to attempt to resolve the dispute and must be authorised to resolve the dispute;

17.1.4 if the Chief Executive Officers are unable to resolve the dispute, then either You or the Council may refer the dispute for mediation under the mediation rules of the Law Society of South Australia Inc to:

- (a) an agreed mediator; or
- (b) failing agreement within 5 Business Day, to a mediator nominated by the President of the Law Society or the President's nominee.

The role of a mediator is to assist in negotiating a resolution of the dispute. A mediator may not make a decision that is binding on You or the Council

unless that party has agreed in writing. Each party must bear its own mediation costs and the parties must bear equally the costs of any mediator. If possible, each party must continue to comply with these Conditions during negotiations and mediation.

## **18. RISK, RELEASE AND INDEMNITY**

- 18.1 Your use of the Airport and the Facilities and Services is at Your own risk.
- 18.2 Without limiting clause 18.1, the Council is not responsible for the security of Your Aircraft or Your property.
- 18.3 The Council is not liable for, and You must indemnify the Council against:
  - 18.3.1 any loss or damage caused to an Aircraft, its equipment, its load or the property of its crew or passengers at the Airport; and
  - 18.3.2 any personal injury caused to the crew or passengers of, or persons servicing an Aircraft or any other person at the Airport, unless, and then only to the extent, caused by the Council's negligence.
- 18.4 The Council is also not liable for, and, to the extent permitted by Law, You release the Council in from and in respect of:
  - 18.4.1 any loss You suffer for any reason because the Airport or any part of it is closed or any of the Facilities and Services at the Airport are unavailable or insufficient for Your needs;
  - 18.4.2 any loss You suffer, or any person claiming through you suffers, for any reason because of delays in the movement or scheduling of your aircraft; and / or
  - 18.4.3 any consequential injury, loss or damage in connection with the use of or closure of the Airport (including anything referred to in clauses 18.4.1 and /or 18.4.2).
- 18.5 You are liable for, and You must indemnify the Council against:
  - 18.5.1 any damage Your Aircraft causes to the Council's property and / or any third party property;
  - 18.5.2 any costs the Council incurs in detaining any of Your Aircraft in accordance with these Conditions;
  - 18.5.3 any claims for:
    - (a) personal Injury;
    - (b) death to any person; and/or
    - (c) loss or damage to property;

which is caused or contributed to by You, unless, and then only to the extent that, the same is caused by the Council's negligence.

- 18.6 You agree to indemnify the Council for any liability, loss, cost, charge or expense of the kind contemplated and that is suffered or incurred by any of the Council's officers, employees or agents.
- 18.7 You further agree to indemnify the Council for any costs the Council may incur in the recovery of any monies owed to the Council for the use of the Facilities and Services at the Airport, on a full indemnity basis, including but not limited to, court costs and filing fees, legal fees and disbursements, the costs of any necessary service provider and airport administration costs.

## **19. EXCLUSION OF WARRANTIES AND CONDITIONS**

- 19.1 The Council makes no representation and gives no warranty or guarantee that the Airport will be suitable for Your use or otherwise in relation to the operation of the Airport and the Facilities and Services and the Council expressly excludes all implied warranties and conditions that can be excluded.
- 19.2 If a warranty or condition is implied under any Laws in connection with any Facilities or Services provide and it can be excluded, the Council excludes it and if it cannot be excluded, then the Council's liability for breach of that warranty or condition is limited to:
  - 19.2.1 the supplying of the services again; or
  - 19.2.2 the cost of having the services supplied again.
- 19.3 To the extent permitted by Law, the Council will not be liable to You for any Excluded Loss suffered or incurred by You in connection with Your use of the Airport.

## **20. INSURANCE**

- 20.1 The Council is a member of the Local Government Association Mutual Liability Scheme (**Scheme**) and is bound by the rules of the Scheme pursuant to the provisions of the *Local Government Act 1999 (SA)*. If the Council ceases to be a member of the Scheme the Council will take out and maintain insurance as required by, and for the minimum amounts prescribed by, the *Local Government Act 1999 (SA)*.
- 20.2 You must at all times have a policy of insurance for at least \$50,000,000 (or such other amount as the Council may require) per occurrence and unlimited in the annual aggregate insuring against all claims which may be brought against You or the Council for personal injury (including illness and death) and / or damage to property arising out of Your use of the Airport. You must also ensure that Your contractors at the Airport are similarly insured.
- 20.3 The insurance required by clause 20.2 must be with a reputable insurer.
- 20.4 You must provide the Council with evidence of the currency of the insurance policy required by clause 20.1 on request by the Council.

## **21. VARIATION OF CONDITIONS**

- 21.1 The Council may unilaterally vary these Conditions at any time.

- 21.2 Any variation of these Conditions will take effect from the date nominated by the Council, and such date will not be less than 30 days after the date on which a copy of the proposed changes are published on the Council's website.

## **22. GST**

- 22.1 Words used in this clause defined in the GST Law have the meaning given to them in the GST Law.
- 22.2 Unless otherwise provided, all amounts specified in these Conditions are expressed to be exclusive of GST.
- 22.3 If GST applies to any Supply made by either party under or in connection to these Conditions, the consideration (or payment) provided or to be provided for that Supply will, upon production by the Supplier of an appropriate tax invoice, be increased by an amount equal to the GST liability properly incurred by the party making Supply.
- 22.4 If a payment to a party under these Conditions is a reimbursement or indemnification of an expense or other liability incurred or to be incurred by that party, then the amount of the payment must be reduced by the amount of any input tax credit to which that party is entitled for that expense or other liability, such reduction to be effected before any increase in accordance with the previous subclause.

## **23. CONFIDENTIALITY**

- 23.1 Confidential information must not be disclosed by the Council, PLAMA or You to any third party except:
- 23.1.1 to members of the Council / PLAMA board;
  - 23.1.2 where the Council or You are legally required to do so under any Law including to the extent required by the rules of any recognised stock exchange or in the course of legal proceedings;
  - 23.1.3 to professional advisers of You or the Council for the purposes of obtaining advice; or
  - 23.1.4 to the extent that such information is already or becomes in the public domain without breach of this clause.
- 23.2 Each of You and the Council must take reasonable steps to ensure that employees, advisers and agents do not disclose any Confidential Information except where required by Law.

## **24. MISCELLANEOUS**

- 24.1 These Conditions are governed by the laws of South Australia.
- 24.2 You must pay or reimburse the Council's costs in connection with any actual or potential breach of these Conditions by You.
- 24.3 Any notice required or permitted to be given or served under these Conditions must be in writing and will, without prejudice to any other mode of service, be treated as being duly given or served if it is:

- 24.3.1 left at or sent by pre-paid mail to the recipient party's principal and current business address; or
  - 24.3.2 sent by electronic mail to any address notified by the other party for this purpose.
- 24.4 The failure, delay, relaxation, or indulgence on the Council's part in exercising any power or right conferred upon the Council under these Conditions does not operate as a waiver of that power or right, nor does any single exercise of any power or right preclude any other or further exercise of it or the exercise of any other right or power under these Conditions.
- 24.5 No variation or waiver of, or any consent to any departure by the Council from, a provision of these Conditions is of any force or effect unless it is confirmed in writing, signed by the Council and PLAMA and then that variation, waiver or consent is effective only to the extent to which it is made or given.
- 24.6 Subject to clause 24.7, these Conditions constitute the sole and entire agreement between the Council and You and no warranties, representations, guarantees or other terms or conditions of any nature not contained and recorded herein will be of any force or effect.
- 24.7 Where You have entered into a separate contract with the Council for Your use of the Facilities and Services at the Airport, then these Conditions will be read together with that separate contract and to the extent that they are inconsistent then these Conditions will prevail to the extent only of the inconsistency.
- 24.8 If any provision of these Conditions is invalid and not enforceable in accordance with its terms, all other provisions which are self-sustaining and capable of enforcement without regard to the invalid provisions will be and continue to be valid and enforceable in accordance with their terms.

## Schedule 1 – Facilities and Services

The following Facilities and Services may be provided by the Council at the Airport from time to time and on an “as is” basis. The Facilities and Services may be varied by the Council at any time in the Council's absolute discretion. It is noted RPT Airlines require a minimum standard and will be involved in any variation/s or covered in a separate Air Services Agreement.

|                                                     |                                                                                                                                           |
|-----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Aircraft movement facilities and services</b>    |                                                                                                                                           |
| 1.                                                  | Airside grounds, runways, taxiways and aprons                                                                                             |
| 2.                                                  | Airfield lighting, airside roads, airside lighting                                                                                        |
| 3.                                                  | Airside safety                                                                                                                            |
| 4.                                                  | Aircraft parking                                                                                                                          |
| 5.                                                  | Visual navigation aids                                                                                                                    |
| 6.                                                  | Environmental hazard control                                                                                                              |
| 7.                                                  | Ground to air radio                                                                                                                       |
| <b>Passenger processing facilities and services</b> |                                                                                                                                           |
| 8.                                                  | Check-in counters and related facilities / subject to separate charges as per separate agreement                                          |
| 9.                                                  | Existing Common User Terminal Equipment (CUTE) / subject to separate charges as per separate agreement                                    |
| 10.                                                 | Departure lounges and holding lounges (but excluding non-aeronautical services and facilities)                                            |
| 11.                                                 | Terminal gates and aerobridges (if applicable) used in airside areas                                                                      |
| 12.                                                 | Public areas in terminals, public amenities, public lifts and escalators (if applicable)                                                  |
| 13.                                                 | Public address systems, closed circuit surveillance systems and security systems (if applicable)                                          |
| 14.                                                 | Terminal and perimeter security                                                                                                           |
| 15.                                                 | Existing baggage make-up, oversize, handling and reclaim systems in common areas                                                          |
| 16.                                                 | Forward airline support areas services, including Ground Service Equipment (GSE) storage                                                  |
| 17.                                                 | Flight information display systems (FIDS)                                                                                                 |
| 18.                                                 | Signage locating passenger processing facilities                                                                                          |
| 19.                                                 | Landside roads, landside lighting and covered walkways (if applicable)                                                                    |
| 20.                                                 | IT (i.e. computers terminals and printing for passenger check-in only) and communication room                                             |
| 21.                                                 | Baggage facilities: baggage arrivals and departure systems including carousels, make up belts, oversize baggage acceptance area, reclaim. |
| 22.                                                 | Water supplies: common use toilet facilities and fresh water supplies.                                                                    |
| 23.                                                 | Communications: a communication room in common with other airlines.                                                                       |
| 24.                                                 | Public address system: a public address system within the Airport terminal.                                                               |
| 25.                                                 | Ground Handling Areas.                                                                                                                    |
| 26.                                                 | Baggage scale yearly calibration.                                                                                                         |
| 27.                                                 | Maintenance Compound: for scheduled and emergency maintenance of Ground Service Equipment.                                                |
| <b>Mandated Security Services</b>                   |                                                                                                                                           |
| 28.                                                 | Passenger and cabin baggage screening                                                                                                     |
| 29.                                                 | Checked baggage screening                                                                                                                 |
| 30.                                                 | Airside inspection                                                                                                                        |
| <b>Exclusions</b>                                   |                                                                                                                                           |
| 31.                                                 | En route navigation                                                                                                                       |
| 32.                                                 | Aviation rescue and firefighting                                                                                                          |
| 33.                                                 | Ground handling services                                                                                                                  |