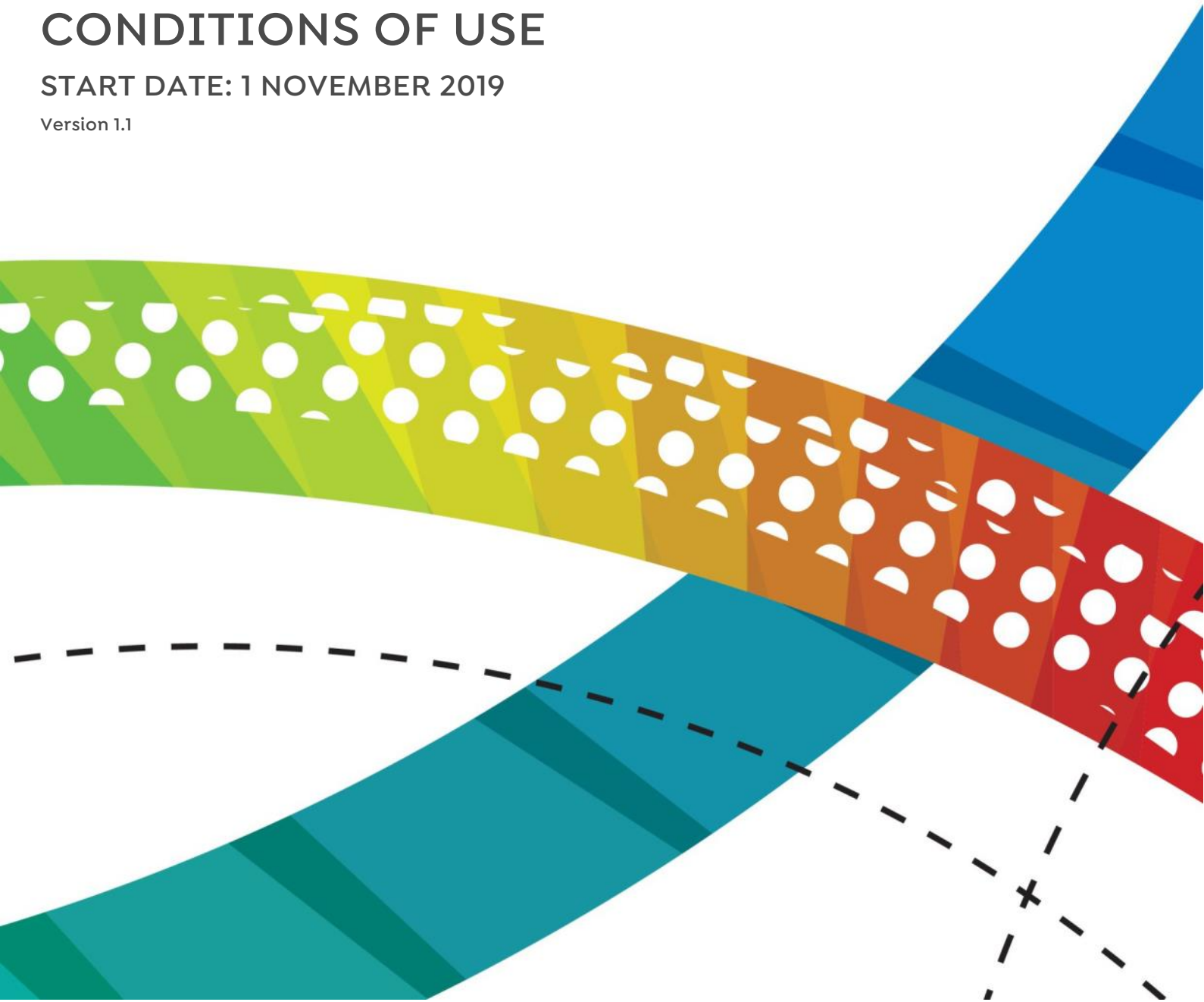


BUSSELTON MARGARET RIVER AIRPORT CONDITIONS OF USE

START DATE: 1 NOVEMBER 2019

Version 1.1



1. These Conditions of Use

1.1 Commencement

These Conditions of Use commence on the Start Date.

1.2 Notification of Conditions of Use

We will take reasonable steps to notify you of the Conditions of Use prior to the Start Date.

1.3 Deemed acceptance of Conditions of Use

If you access or use the Airport after the Start Date then this will constitute acceptance by you of these Conditions of Use.

1.4 Inconsistency

In the case of an inconsistency between:

- (1) these Conditions of Use and any Other Agreement (including an ASA), the Other Agreement will prevail unless otherwise specifically stated in these Conditions of Use or that Other Agreement; and
- (2) a clause of these Conditions of Use and a Schedule or annexure to these Conditions of Use, the clause of these Conditions of Use will prevail,

to the extent of the inconsistency.

2. Your use of the Airport

2.1 Access and use

We will provide you with certain access to and use of the Airport and the Aviation Services subject to these Conditions of Use.

2.2 Your primary obligations

You must:

- (1) comply with and ensure your Associates comply with these Conditions of Use;
- (2) obtain and keep current all necessary Approvals required for your use of the Airport;
- (3) promptly pay all applicable Aviation Charges and Government Mandated Charges in connection with your use of the Airport;
- (4) comply with any Airport Operating Procedures and Operating Policy;
- (5) comply with 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 2016* (Cth) and Airservices Australia publications including aeronautical information publications, enroute supplements and notice to airmen;
- (6) comply with the requirements of all CASA and Airservices Australia rules and regulations, orders, instructions, directions and notices;
- (7) comply with any local flying restrictions;
- (8) comply at all times with all relevant Laws and the our policies and procedures including the Noise Management Plan;
- (9) comply with any safety and security directions notified by us, a Relevant Authority, the Australian Federal Police or the Western Australian Police from time to time and necessary for the day to day operations of the Airport;
- (10) only use the Airport during the standard hours of operation unless you have first obtained the prior approval of the Airport Manager; and
- (11) comply with all reasonable and lawful conditions, instructions, orders or directions made by us or a Relevant Authority.

2.3 Restrictions

You must not:

- (1) interfere with the use and enjoyment of other users of any common areas at the Airport;

- (2) without our prior written consent, restrict, obstruct or hinder:
 - (a) any part of the common areas at the Airport;
 - (b) access to any parts of the Airport by other users (including entrances, exits, driveways and other parts of the common areas);
 - (c) any vehicle access to the Airport, including to any set down or pick up areas; or
 - (d) access by us to any part of the Airport;
- (3) conduct any illegal or unlawful activities at the Airport.

2.4 Prior permission required

You must not without our prior permission:

- (1) operate Aircraft greater than 5,700 kilograms MTOW at the Airport; or
- (2) nominate the Airport as an Alternate Airport for use by an Aircraft greater than 5,700 kilograms.

2.5 Scheduling rules

- (1) We may at any time make or change scheduling rules for the use of the Airport and Aviation Services which will take effect on the day we specify.
- (2) If we want to make or change scheduling rules we will first consult with affected Airport users and use our reasonable endeavours to accommodate the relevant Airport user requirements.
- (3) You agree to comply at all times with any scheduling rules we make from time to time.

3. Information you must provide us

3.1 Information to be provided to us

- (1) If requested, you must provide to us, in such form as may be reasonably required by us information relating to your use of the Airport, including:
 - (a) your name, address, ABN and contact details (including postal address, phone number and email address);
 - (b) evidence, to our satisfaction, that you have in place a security program that meets our security requirements and otherwise complies with all applicable laws;
 - (c) evidence, to our satisfaction, that you have in place emergency procedures that meet our emergency and safety requirements and otherwise complies with the Airport Emergency Plans and all applicable laws;
 - (d) evidence, to our satisfaction, of the insurance policies you hold that are consistent with the requirements of clause 13 and confirmation that these policies will remain current at all times when you are using the Airport;
 - (e) the names, addresses, telephone numbers, facsimile numbers and all other relevant contact details of your key personnel and designated security officer to enable us to contact them at any time regarding emergencies or security or operational matters in connection with your use of the Airport;
 - (f) proposed ground handling arrangements for operating crew, passengers and cargo;
 - (g) arrangements for the repositioning of stationary aircraft
 - (h) confirmation that the types and standards of aircraft being flown by you into and from the Airport are compliant with the *Air Navigation (Aircraft Noise) Regulations 2018* (Cth); and
 - (i) details of the type, registration, configuration and MTOW of each aircraft.
- (2) You must provide us with the details of any changes made to information required under this clause 3.1, within one month of any change.

3.2 Regular Public Transport Operations

- (1) If you are conducting Regular Public Transport Operations you must within seven days of the end of each calendar month, provide us with a statement which specifies for the relevant month, a listing of each aircraft movement that includes details of dates of operations, flight number, aircraft registration, aircraft type, aircraft capacity, port of origin/destination, scheduled time of operation (STA/STD), block of time (ATA/ATD), total number of origin destination passengers, Transit Passengers and Transfer Passengers, any non-revenue passengers (including infants and crew) and any other reasonable detail requested by us from time to time. The statement must be provided in Excel format unless otherwise requested by us.

- (2) Where you fail to provide the information required under clause 3.2(1), we will calculate and levy our Charges based on the presumption of maximum seat load capacity as published by you, which amounts you are required to pay before the correct load capacity will be recalculated.
- (3) If you become aware of any error in your statement, you must inform us of the error and provide the correct information.
- (4) If we ask you to do so you must give us a certificate signed by your Auditor certifying that the information provided under clause 3.2(1) and (3) is correct.
- (5) If the Auditor's report discloses that the Charges that were paid by you were inaccurate we may, at our option, calculate the Charges that should have been paid by you and demand payment of any unpaid Charges and any interest payable on those Charges.
- (6) We must not ask you for an Auditor's certificate more than once a year unless we have reasonable grounds for believing the information you have provided to us pursuant to clause 3.2(1) and (3) is misleading, inaccurate or incomplete.

3.3 Non Regular Public Transport Operations

- (1) If you are using the Airport and are not involved in Regular Public Transport Operations but have an MTOW greater than 20,000 kilograms you must within seven days of the end of each calendar month, provide us with a statement which specifies for the relevant month, a listing of each aircraft movement that includes details of dates of operations, flight number, aircraft registration, aircraft type, aircraft capacity, port of origin/destination, scheduled time of operation (STA/STD), block of time (ATA/ATD), total number of origin destination Passengers, Transit Passengers and Transfer Passengers, any non-revenue passengers (including infants and crew) and any other reasonable detail requested by us from time to time. The statement must be provided in Excel format unless otherwise requested by us.
- (2) Where you fail to provide the information required under clause 3.3(1), when requested, we will calculate and levy our Charges based on the MTOW as published by CASA or equivalent international aircraft register.
- (3) If you become aware of any error in your statement, you must inform us of the error and provide the correct information.
- (4) If we ask you to do so you must give us a certificate signed by your Auditor certifying that the information provided under clause 3.3(1) and (3) is correct.
- (5) If the Auditor's report discloses that the Charges that were paid by you were inaccurate we may, at our option, calculate the Charges that should have been paid by you and demand payment of any unpaid Charges and any interest payable on those Charges.
- (6) We must not ask you for an Auditor's certificate more than once a year unless we have reasonable grounds for believing the information you have provided to us pursuant to clause 3.3(1) and (3) is misleading, inaccurate or incomplete.

3.4 Training operations

You must not conduct flight training operations at our Airport without a flight training approval issued by us in accordance with the Noise Management Plan and City of Busselton Airport Local Law.

4. Services

4.1 Supply of services

We will supply the Aviation Services and Government Mandated Services:

- (1) in accordance with these Conditions of Use;
- (2) with due care and skill;
- (3) in accordance with all applicable Laws; and
- (4) otherwise in accordance with best industry practice for Australian airports.

4.2 Facilities

- (1) Unless agreed by us, you do not have an exclusive right to use or occupy facilities at the Airport.
- (2) We may allocate you pre agreed time limited rights to use designated facilities (including the runway, taxiways, aprons and terminal facilities) for the purpose of Flight related operations.
- (3) If required by us, to honour allocations to another Airport user, you must vacate or terminate your use of the facilities referred to in clause 4.2(2) at the end of your allocated time whether or not your Flight related operations have concluded.

4.3 Use of Common User Facilities

If you use the Common User Facilities at the Airport you must comply with the Common User Conditions.

4.4 Other airport services and charges

These Conditions of Use do not cover or apply to:

- (1) the provision of services, including General Airport Services, other than those specified in these Conditions of Use; or
- (2) the recovery of costs and charges for the provision of those other services.

4.5 Services we do not provide

For the avoidance of doubt we do not provide the following services as part of the Aviation Services or Government Mandated Services:

- (1) security services for aircraft, buildings, motor vehicles;
- (2) Air Traffic Control services;
- (3) rescue and firefighting services;
- (4) en-route services;
- (5) meteorological services;
- (6) quarantine waste disposal, customs or immigration services;
- (7) mechanical repair or maintenance services;
- (8) ground handling services, refuelling services and apron services (other than allocating aircraft parking bays);
- (9) environmental clean-up services; or
- (10) non visual navigation aid services.

4.6 Ground Handling

Ground Handling Services at the Airport may be:

- (1) acquired by you from a Handling Agent licenced by us to provide Ground Handling Services at the Airport; or
- (2) undertaken by you using equipment and materials carried on your Aircraft however you must not undertake your own Ground Handling Services using equipment or materials located at the Airport without first obtaining our prior written consent or agreeing commercial terms with us.

4.7 Consultation

We will consult with Airport users as often as is reasonably required to discuss the plans and development for the Airport including:

- (1) capital expenditure programs;
- (2) Airport terminal development;
- (3) master plans;
- (4) customer service standards and on time performance;
- (5) safety and security requirements and initiatives; and
- (6) statistical data for planning purposes.

5. Aviation Charges

5.1 Application of Aviation Charges

You agree to pay the Aviation Charges for your use of the Aviation Services.

5.2 Calculation of Aviation Charges

The amount you must pay is determined in accordance with the Aviation Charges.

5.3 Variation

- (1) We may vary any of the Aviation Charges or their application at any time.
- (2) If we intend to vary any of the Aviation Charges:
 - (a) we will do so in accordance with the requirements of the *Local Government Act 1995 (WA)*; and
 - (b) the amendments to Aviation Charges will be published on our Website.

5.4 Investment in Aviation Services

- (1) Minor investments in Aviation Services have been taken into account by us when determining the Aviation Charges.
- (2) If we decide to make a major investment in Aviation Services, we may increase the Aviation Charges at such time at our sole discretion.

6. Government Mandated Charges

6.1 Government Mandated Services

We administer the Government Mandated Services for the provision of safety and security at the Airport which include (but are not limited to) the following services:

- (1) terminal passenger and cabin baggage screening;
- (2) terminal passenger checked bag screening; and
- (3) other services required by the Commonwealth Government or other lawful authority and any additional security measures we are required to take and which are provided by us to you at the Airport from time to time.

6.2 Application of Government Mandated Charges

You agree to pay the Government Mandated Charges for providing the Government Mandated Services to you.

6.3 Government Mandated Costs

- (1) Government Mandated Costs are the costs we incur by providing to you the Government Mandated Services.
- (2) To recover the Government Mandated Costs we impose the Government Mandated Charges on you.

6.4 Changes to Government Mandated Charges

We will notify you of any changes to the Government Mandated Charges as soon as reasonably practicable.

6.5 Recovery of Government Mandated Charges

The Government Mandated Charges are payable by you on a 'pass through' basis that we review every six months. Any under or over recovery of Government Mandated Costs will be adjusted in the following period by increasing or reducing the Government Mandated Charges in the following period.

6.6 Management of Government Mandated Services

- (1) We will use our best endeavours to manage the provision of the Government Mandated Services in the most economically efficient and cost effective manner having regard to industry best practice and the service levels mandated by the Commonwealth Government.
- (2) We will take all reasonable steps to manage any third party costs and any third party contractors in order to efficiently manage the Government Mandated Costs.

7. Payment of Charges

7.1 When you must pay

- (1) You must pay us our correctly invoiced Charges.
- (2) All Charges accrue from day to day and will be invoiced monthly.

7.2 Currency of payment

You must pay us in Australian dollars only.

7.3 Payment of Charges

- (1) Where invoices are issued in relation to the Charges, payment of those Charges must be made within 30 days or as specified on each invoice rendered.
- (2) You must pay the Charges specified in the invoice either by:
 - (a) direct deposit into our bank account, the details of which will be provided;
 - (b) cheque made payable to us, noting that you may also be responsible for bank charges incurred for cheque processing; or
 - (c) any other method approved by us.

7.4 No set off

You must not make any set-off against or deduction from the Charges.

8. Failure to pay charges

8.1 Failure to pay charges when due

- (1) You must notify us immediately if you become aware that you will not, or might not be able to pay an Aviation Charge or Government Mandated Charge by the due date.
- (2) Neither your giving, nor our receipt, of that notice, affects our rights under these Conditions, and you will remain liable for the payment of the Government Mandated Charges and Aviation Charges.

8.2 Interest and other costs for overdue payments

- (1) If you do not pay our invoices for the Charges when due then we may charge you interest.
- (2) Interest is calculated on a daily basis from the due date until the date of payment for the Charges at the Interest Rate.
- (3) We may recover from you any reasonable costs of recovering any unpaid Charges including any reasonable legal fees.
- (4) We will not charge interest on any amount that is the subject of a bona fide dispute under clause 8.3 until such time as that dispute is resolved.

8.3 Disputed charges

- (1) You must notify us in writing within 14 days of the invoice date that you dispute any Aviation Charges or Government Mandated Charges shown in an invoice.
- (2) If, in our reasonable opinion, you have bona fide grounds to dispute any Aviation Charges or Government Mandated Charges, then we will negotiate with you in good faith and you must negotiate with us in good faith to resolve the dispute.

8.4 Detention of Aircraft and exclusion from access to the Airport

- (1) If you do not pay us any amount payable under these Conditions of Use within 21 days of them becoming overdue, or negotiations over disputed amounts fail, we may:
 - (a) refuse to allow any or all of your Aircraft to use our Airport;
 - (b) use reasonable means to detain any of your Aircraft and any other ancillary equipment used to cover your operations until you have paid all outstanding amounts;
 - (c) sell any of your property or detained Aircraft to recover the Charges, interest and our costs incurred.
- (2) You acknowledge that we have the rights conferred by this clause 8.4, and submit to the obligations to pay under these Conditions of Use.
- (3) We will not exercise the rights under this clause 8.4 on any amount that is the subject of a bona fide dispute under clause 8.3 until such time as that dispute is resolved.

9. Security

9.1 Bank Guarantee

- (1) If:
 - (a) on two or more occasions, you have failed to pay Charges (which are not subject to a reasonable dispute) by the date specified within the invoice rendered; or

- (b) we have at any time commenced recovery action against you, we may require that you provide us with a Bank Guarantee.
- (2) If we request a Bank Guarantee from you as security for your use of our Airport and the Aviation Services, you must provide the Bank Guarantee within 30 days of our request.
- (3) The amount of the Bank Guarantee will be the greater of:
 - (a) ten thousand dollars; and
 - (b) the aggregate of the previous three months charges payable by you to us.
- (4) We may on 30 days written notice require you to increase the amount of the Bank Guarantee if:
 - (a) you fail to pay any Charges; or
 - (b) you fail to comply with these Conditions of Use.

9.2 Default

- (1) If you fail to pay any Charges or cause any damage to the Airport or otherwise breach these Conditions of Use we may immediately and without notice to you call upon the Bank Guarantee to remedy your default and remedy any loss or damage sustained by us and any costs, expenses or liabilities in any way arising from or related to your default and any loss or damage.
- (2) If we draw upon the Bank Guarantee you must immediately give us a replacement Bank Guarantee for the amount required under clause 9.1.
- (3) You may be prohibited from using the Aviation Services until a replacement Bank Guarantee is provided.

10. Interruptions to Airport Services

10.1 Unplanned interruptions and shutdowns

- (1) We may close the Airport or part of the Airport or interrupt or shutdown a facility or service at any time if required by law or if we believe it necessary to deal with an emergency or an airport security incident.
- (2) We will use our reasonable endeavours to:
 - (a) give you reasonable notice of a closure or interruption in these circumstances, but you recognise and acknowledge that in some circumstances this may not be possible; and
 - (b) minimise the way you are affected by an unplanned closure or interruption.

10.2 Planned interruptions and shutdowns

- (1) We may close the Airport or part of the Airport or interrupt or shutdown a facility or service at any time if we believe it necessary for repair or maintenance.
- (2) Where we intend to undertake planned interruptions or shutdowns we will:
 - (a) consult with all Major Users;
 - (b) give reasonable prior notice by email or other means; and
 - (c) use our reasonable endeavours to minimise the way you are affected by the interruption or shutdown.

10.3 Liability for interruptions or shutdowns

We are not liable for any loss or damage that you may suffer as a direct or indirect consequence of a planned or an unplanned closure, interruption or shutdown of the Airport or any facility or service.

11. Aircraft parking and moving aircraft

11.1 Aircraft parking

Aircraft may be parked at the Airport only in designated aircraft parking areas.

11.2 Moving Aircraft

- (1) Subject to any licence or lease we may have with you, we may at any time, acting reasonably, require you to:
 - (a) move any aircraft to another position at the Airport; or

- (b) remove an aircraft from the Airport at your cost and within a specified time.
- (2) You must ensure that when moving aircraft, and at any time, no aircraft engine exhaust, jet blast, propeller or rotor wash is directed in such a manner to jeopardise safety or cause injury, damage or hazard to any person, structure or property.

11.3 Failure to comply

If you do not comply with any requirement made by us under clause 11.2 within the specified time, we may move or remove the aircraft.

12. Airport security

12.1 Security at our Airport

We are responsible for Airport security arrangements and emergency response activities at the Airport under the *Aviation Transport Security Act 2004* (Cth), the *Aviation Transport Security Regulations 2005* (Cth), Airport Transport Security Program, instruments or directions, and additional security measures which may be imposed upon us from time to time. The Department may impose on us certain security requirements which you must comply with.

12.2 Airport Security

The Airport's Transport Security Program outlines our requirements regarding security. You must comply with any rules or directions we impose in relation to security at the Airport..

12.3 Aviation Security Identification Card (ASIC)

- (1) You and your Associates must hold an ASIC before they will be permitted to access and use the airside secure area;
- (2) You and your Associates must not access or use the Security Restricted Area unless required for valid operational reasons or otherwise required for the purposes of your business.
- (3) The holder of an ASIC must at all times they are in the airside secure area display a valid ASIC above the waist in a visible location on the person and it must be produced on demand for inspection by us or any other lawful authority at any time.

12.4 Airport Exercises

- (1) We conduct regular Airport Exercises on a variety of Airport related activities and procedures (including security and emergency procedures).
- (2) We will give you reasonable notice before an Airport Exercise will be conducted.
- (3) You and your Associates should participate in the Airport Exercises if we ask you to.

13. Insurance

13.1 Insurance required

- (1) You must at all times maintain with insurers and on terms approved by us (which approval will not be unreasonably withheld):
 - (a) public liability insurance for at least \$20 million insuring against all claims which may be brought against either you or us for bodily injury (including death) and/or damage to property whether or not arising out of the use of any aircraft by you or any other party you authorise to use such aircraft; and
 - (b) other insurances required by law or reasonably required by us.
- (2) In respect of the insurances required by this clause you must:
 - (a) whenever requested by us produce evidence of the currency of the insurance policy required by this clause;
 - (b) pay punctually all premiums;
 - (c) in the event of a claim made under the policies, apply the insurance moneys to the purpose for which the claim was made; and
 - (d) not do anything or omit to do anything that causes the insurance to become vitiated or non-effective.

- (3) You must notify us immediately if an insurance policy required by this clause 13.1 is cancelled or an event occurs which may allow a claim or affect rights under an insurance policy in connection with you or your use of the Airport.

13.2 Noting interests on insurance policies

The insurance policies under these clauses must be effected in the names of and note the respective rights and interests of you and us and any other person with an insurable interest.

13.3 Our insurance

We must take out an appropriate Airport Owners and Airlines Liability insurance policy with a reputable insurer in respect of the Airport.

14. Indemnities and release

14.1 Risk

You use the Airport at your own risk.

14.2 Indemnity

Subject to clause 14.3, each party (**Indemnifying Party**) indemnifies and keeps indemnified the other party (and its Associates) (**Indemnified Party**) on demand, from and against all Claims, including in respect of or arising from any loss, damage or injury to property or persons, caused by or to the extent contributed to by:

- (1) an act, negligence or default of the Indemnifying Party or its Associates;
- (2) some danger created by the Indemnifying Party or its Associates (whether or not the existence of that danger was or should have been known to it);
- (3) the operation of any equipment, machinery or thing by any person by or on behalf of the Indemnifying Party or its Associates; or
- (4) any other act or thing by or on behalf of the Indemnifying Party or its Associates which may arise from or in relation to its use or operation of the Airport,

except to the extent caused or contributed to by the default or negligence of the Indemnified Party (or its Associates).

14.3 Consequential Loss

Neither party is liable to the other, whether under the law of contract, in tort (including negligence), for breach of statutory duty or otherwise in respect of any Claim for Consequential Loss in connection with these Conditions of Use or the use of the Airport.

14.4 Release

To the extent permitted by Law, you release us from all Claims, whether under the law of contract, in tort (including in negligence), for breach of statutory duty or otherwise for:

- (1) loss or damage caused for any reason to your Aircraft, its equipment, its load or the property of its crew or Passengers at the Airport;
- (2) personal injury caused for any reason to the crew or Passengers of, or persons servicing, an aircraft at the Airport;
- (3) any loss you suffer for any reason because the Airport or any part of it is closed (including following evacuation) or any Aviation Services at the Airport are unavailable;
- (4) any loss you suffer, or any third party claiming through you suffers, for any reason because of delays in the movement or scheduling of your Aircraft;
- (5) any malfunction, defect, breakdown or interruption of the services or our plant, machinery and equipment at the Airport; or
- (6) any loss arising as a consequence of a Force Majeure,

except to the extent caused or contributed to by our default or negligence.

14.5 Survival of indemnities

The indemnities and releases in these Conditions of Use are a continuing obligation, separate and independent from the other obligations of the parties and survive termination of these Conditions of Use for whatever reason.

14.6 Enforcement of indemnities

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

14.7 No warranty

We do not make any representations or warranties in connection with the Airport, Aviation Services or Government Mandated Services.

15. No guarantee of trade

- (1) Each party acknowledges that neither party has made any representation, express or implied, to the other as to the volume of trade which might be anticipated by the other party in the conduct of the use of the Airport or the provision of the Aviation Services.
- (2) We will not be liable to you for any Claim or loss of profit or diminution in your business at or from the Airport resulting from any maintenance, relocation, extension or redesign of the Airport or from any interruption to aircraft or passenger movements.

16. Variations

16.1 Variation by us

We may amend, vary or replace these Conditions of Use at any time whenever we consider it necessary to do so.

16.2 Variation becomes effective

Any amendment, variation or replacement of these Conditions of Use will become effective and become binding on you and us fourteen days after the earlier of:

- (1) notice in writing is given to you in accordance with these Conditions of Use including the varied, amended or replaced Conditions of Use; or
- (2) publication of the varied, amended or replaced Conditions of Use by us on our Website.

17. GST

- (1) In this clause, the expressions 'adjustment note', 'consideration', 'GST', 'input tax credit', 'supply', 'tax invoice', 'recipient' and 'taxable supply' have the meanings given to those expressions in the *A New Tax System (Supply Items and Supply Items Tax) Act 1999* (Cth).
- (2) Unless expressly stated otherwise in these Conditions of Use, all prices, amounts payable or consideration to be provided under these Conditions of Use are exclusive of GST.
- (3) If GST is payable by a supplier under these Conditions of Use, the recipient must pay to the supplier an amount equal to the GST payable on the supply by the supplier at the same time that the consideration for the supply is to be paid. However the recipient need not pay the additional amount until the supplier provides a valid tax invoice or adjustment note.
- (4) If these Conditions of Use require a party to reimburse any other party for any expense, loss or outgoing (reimbursable expense) incurred by another party, the amount required to be reimbursed by the first party will be the sum of:
 - (a) the amount of the reimbursable expense net of input tax credits (if any) to which the other party is entitled in respect of the reimbursable expense; and
 - (b) if the other party's recovery from the first party is a taxable supply, any GST payable in respect of that supply and for the avoidance of doubt, if the supply is a taxable supply, clause 17(3) will apply.
- (5) If a GST inclusive price is changed or varied under these Conditions of Use, the supplier must provide the recipient of the supply a valid tax invoice or adjustment note at or before the time of payment or variation.
- (6) If the amount of GST paid or payable by the supplier on any supply made under these Conditions of Use differs from the amount of GST paid by the recipient, because the Commissioner of Taxation lawfully adjusts the value of the taxable supply for the purpose of calculating GST or for any other reason, then the amount of GST paid by the recipient will be adjusted accordingly by a further payment by the recipient to the supplier or the supplier to the recipient as the case requires.

18. Confidential Information

18.1 Acknowledgment

Each party acknowledges that all Confidential Information of the other party is and will remain the sole exclusive property of the other party.

18.2 Obligation of confidentiality

Each party undertakes to the other to keep confidential each other's Confidential Information. Each party must use their best efforts to prevent third parties from gaining access to each other's Confidential Information, other than as permitted under these Conditions of Use.

Each party must not, without the other party's prior written consent:

- (1) 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 of Use;
- (2) permit unauthorised persons to have access to places where the other party's Confidential Information is displayed, reproduced or stored; or
- (3) 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 the officers, servants, agents, contractors or sub-contractors of any party.

18.3 Permitted disclosure

Subject to clause 18.4, any party may disclose the other party's Confidential Information to its advisers, employees, officers, agents, contractors or Related Entities on a need to know basis in relation to its rights under these Conditions of Use. Nothing in these Conditions of Use prohibits the use or disclosure of Confidential Information to the extent that:

- (1) 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;
- (2) it is required by law or a stock exchange;
- (3) it is strictly and necessarily required in connection with legal proceedings relating to these Conditions of Use; or
- (4) the Confidential Information is generally and publically available other than as a result of a breach of confidence by the person receiving the information.

18.4 Conditions of Permitted Disclosure to Representatives

Each party must ensure that its advisers, employees, officers, contractors, agents, Related Entities and all other persons under its control or direction will comply with obligations similar to, the obligations imposed on it under this clause 18.

18.5 Notification of breach

If either party's employees, officers, contractors or agents breach the confidentiality obligations contained in these Conditions of Use it must immediately notify the other party in writing of this and, subject to this clause 18, indemnify the other party for any direct loss or damage caused by the breach.

18.6 Remedies

Each party acknowledges that a breach of this clause 18 may cause the other party irreparable damage and that monetary damages may not be an adequate remedy. In addition to other remedies available, each party may seek and obtain injunctive relief against a breach or threatened breach.

18.7 Survival

The obligations under this clause 18 survive expiry and termination of these Conditions of Use.

19. Default

19.1 Events of Default

An Event of Default occurs if:

- (1) you fail to pay to us any money payable in accordance with these Conditions of Use; or

- (2) you omit or fail to observe or perform any term, condition or obligation of these Conditions of Use other than an inconsequential term, condition or obligation required to be observed or performed by you,

19.2 Default notice

We must not exercise our rights under clause 19.3 unless you have failed to remedy the Event of Default within 14 days of us giving you notice to do so.

19.3 Consequences of an Event of Default

Subject to resolution of a dispute under clause 20, if an Event of Default occurs and you have failed to comply with a notice under clause 19.2, we may do any or all of the following:

- (1) cease to supply or suspend the Aviation Services to you;
- (2) terminate these Conditions of Use by giving notice to you; and
- (3) prevent your use of the Airport or any part of it,

but without prejudice to any Claim which we may have against you in respect of any breach of these Conditions of Use.

19.4 Termination on Insolvency

Either party may terminate these Conditions of Use:

- (1) by written agreement with the other party; or
- (2) unless prohibited by Law, by notice in writing to the other party,

on or during the continuance of an Insolvency Event occurring to the other party.

19.5 Consequences of termination

If these Conditions of Use are terminated in accordance with this clause 19 or any other provision of these Conditions of Use then you:

- (1) must immediately cease operations at the Airport; and
- (2) acknowledge that you no longer have the right to use the Airport but if we allow you to use the Airport (such as in the case of emergency), you must pay on demand all charges reasonably determined by us at the time.

20. Dispute Resolution

20.1 Procedure

If a party considers that a dispute has arisen in connection with these Conditions of Use (**Issue**), then the parties must follow the procedure set out in these Conditions of Use to resolve the issue.

20.2 Notice of an Issue

If a party considers there is an Issue, that party must give the other party notice of that issue. The parties must then attempt to resolve the Issue in good faith.

20.3 Authorised Officers to meet

If the Issue remains unresolved for 14 days after a party receives the other party's notice of the Issue, then an Authorised Officer from each party must meet at least two times at our office (or at another agreed location) to discuss and attempt to resolve the Issue in good faith. The meetings must take place between the Authorised Officers within 14 days following the issue being referred to the Authorised Officers.

20.4 Failure to agree

If the Issue remains unresolved for 60 days after the Issue was referred to the Authorised Officers or such longer period as the parties may agree, either party may refer the Issue to an Expert.

20.5 Referral to Expert

If the parties cannot promptly resolve the dispute in accordance with clause 20.4, either party may refer the dispute to a person agreed between the parties, or failing agreement within 7 days:

- (1) if the dispute is over the construction of these Conditions of Use, to a Queen's Counsel or Senior Counsel practising in Perth of not less than 5 years standing appointed by the President of the Law Society of Western Australia or his/her nominee; or

- (2) if the dispute is over any other matter, to a professional with qualifications appropriate to the matter under dispute appointed by the Chapter Chairperson of the Resolution Institute (Western Australian Chapter) or the Chairperson's nominee.

20.6 Expert's decision final and binding

Subject to clause 20.11 and in the absence of manifest error the Expert's decision is final and binding on you and us.

20.7 Expert to provide opinion

The Expert must provide an opinion in writing within 7 days of the dispute being referred to them, or a longer period to which both parties agree, acting reasonably.

20.8 Conduct of proceedings

- (1) The Expert may make investigations and conduct the proceedings in any way the Expert thinks fit.
- (2) The Expert may investigate, call witnesses and take the advice of other experts that the Expert, at their sole discretion, deems necessary or appropriate.
- (3) The parties must give the Expert all assistance and provide documents and make submissions as required by the Expert.
- (4) At any hearing conducted by the Expert each party may appear personally, or be represented by any person including a qualified legal practitioner.

20.9 Costs

The cost of referring a dispute to an Expert, and the Expert's costs are to be shared equally by you and us.

20.10 Continuing obligations

The existence or referral of a dispute does not affect either party's obligation to perform its obligations under these Conditions of Use (including an obligation to pay).

20.11 Legal Proceedings

Either party may commence legal proceedings over any matter arising out of these Conditions of Use if:

- (1) the matter arising has been referred to, and determined by, an Expert, and the legal proceedings arise from an error of Law, corruption, fraud, partiality, bias or a breach of the rules of natural justice by the Expert; or
- (2) urgent interlocutory relief is sought.

21. Notices

21.1 Form of notice

Any notice, demand, consent or other communication (**Notice**) given or made under these Conditions of Use must:

- (1) be in writing, in the English language and signed by the sender or a person duly authorised by the sender (or in the case of email, set out the full name and position or title of the sender or person duly authorised by the sender); and
- (2) be delivered to the intended recipient by prepaid post (or if posted to an address in another country, by registered airmail) or by hand, fax or email to the address, fax number or email address in clause 21.2 or the address, fax number or email address last notified by the intended recipient to the sender.

21.2 Address for notices

The address for notices are as follows:

- (1) if to us:

Address:	2 Southern Drive, Busselton WA 6280
Postal:	Locked Bag 1, Busselton WA 6280
Email:	airport@busselton.wa.gov.au
Attention:	Chief Executive Officer

- (2) if to you the address, fax or email supplied by you under clause 3.1.

21.3 Delivery of notices

Unless expressly stated otherwise in these Conditions of Use delivery will be conclusively taken to be duly given or made and received on the first of the following to occur:

- (1) in the case of delivery in person, when delivered;
- (2) in the case of delivery by express post, to an address in the same country, 2 Business Days after the date of posting;
- (3) in the case of delivery by any other method of post, 6 Business Days after the date of posting (if posted to an address in the same country) or 10 Business Days after the date of posting (if posted to an address in another country);
- (4) in the case of fax, on receipt by the sender of a transmission control report from the despatching machine showing the relevant number of pages and the correct destination fax number or name of recipient and indicating that the transmission has been made without error; and
- (5) in the case of email, at the earliest of:
 - (a) the time that the sender receives an automated message from the intended recipient's information system confirming delivery of the email;
 - (b) the time that the intended recipient confirms receipt of the email by reply email; and
 - (c) 3 hours after the time the email is sent (as recorded on the device from which the sender sent the email) unless the sender receives, within that 3 hour period, an automated message that the email has not been delivered,

but if the result is that a Notice would be taken to be given or made and received:

- (6) in the case of delivery by hand, post, email or fax, at a time that is later than 5pm; or
- (7) on a day that is not a Business Day,

it will be conclusively taken to have been duly given or made and received at 9am on the next Business Day in that place.

22. Special Events

22.1 Special Events

We may allow Special Events to occur at the Airport from time to time.

22.2 Restrictions

- (1) During Special Events, a number of restrictions may be imposed by us on flying and ground manoeuvring operations.
- (2) Your use of the Airport during Special Events is subject to any restrictions and requirements specified by us.
- (3) Restrictions may include:
 - (a) the closure of taxiways;
 - (b) restrictions on the availability of the runway;
 - (c) restrictions on access to the Airport;
 - (d) restrictions on the availability of Aircraft parking and apron space;
 - (e) the unavailability of some navigational aids; and
 - (f) changes to airspace.

22.3 Notification

We will notify you of any restrictions relating to Special Events by means including:

- (1) notice to airmen (NOTAM);
- (2) supplements to the Aeronautical Information Publication published by Airservices Australia from time to time; and
- (3) notices and updates on our Website.

23. Miscellaneous

23.1 Publicity

The parties must consult with respect to any press release, statement or media announcement proposed to be made by either party which involves the commercial interests or reputation of the other party and directly relates to these Conditions of Use.

23.2 Force Majeure

Our obligations under these Conditions of Use are subject to Force Majeure. If an event of Force Majeure occurs, our obligations under these Conditions of Use are suspended and we can respond to and deal with the event of Force Majeure in any way we consider appropriate (in our absolute discretion).

23.3 Further assurances

Each party must promptly execute all documents and do all things that any other party from time to time reasonably requires of it to effect, perfect or complete the provisions of these Conditions of Use and any transaction contemplated by it.

23.4 Rights cumulative

Subject to any express provision in these Conditions of Use to the contrary, the rights of a party under these Conditions of Use are cumulative and are in addition to any other rights of that party.

23.5 Waiver

The failure, delay, relaxation or indulgence on the part of any party in exercising any power or right conferred upon that party by these Conditions of Use 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 power or right under these Conditions of Use.

23.6 Entire agreement

These Conditions of Use embody the entire understanding and agreement between the parties with respect to their subject matter. All previous negotiations, understandings, representations, warranties, memoranda or commitments in relation to, or in any way affecting, the subject matter of these Conditions of Use are merged in and superseded by these Conditions of Use and will be of no force or effect whatever and no party will be liable to any other party in respect of those matters. No oral explanation or information provided by any party to another will affect the meaning or interpretation of these Conditions of Use or constitute any collateral agreement, warranty or understanding between any of the parties.

23.7 Severability

If any provision of these Conditions of Use is invalid and not enforceable in accordance with its terms, other provisions which are self-sustaining and capable of separate enforcement with regard to the invalid provision, are and continue to be valid and enforceable in accordance with their terms.

23.8 No partnership

These Conditions of Use do not create a partnership, joint venture or principal and agent relationship between the parties. Unless otherwise expressly stated, a party does not have the authority to bind any other party or act as agent for any other party.

23.9 Legal costs

Subject to any express provision in these Conditions of Use to the contrary, each party must bear its own legal and other costs relating directly or indirectly to its performance of the obligations in these Conditions of Use.

23.10 Fair and reasonable terms and conditions

You agree that the terms and conditions of these Conditions of Use are fair and reasonable.

23.11 Governing Law

These Conditions of Use are governed by and construed in accordance with the laws of the Commonwealth of Australia and of Western Australia and the parties submit to the non-exclusive jurisdiction of the courts of Western Australia.

24. Definitions and Interpretation

24.1 Definitions

Word	Meaning
Aerodrome Emergency Plan	means the plan developed by us from time to time to coordinate all agencies dealing with an Airport emergency.
Aerodrome Manual	means a manual required under the <i>Civil Aviation Regulations 1988</i> (Cth) in respect of a licensed airport setting out, in the approved form, particulars of and operating procedures for the Airport.
Air Traffic Control	means any service provided by Airservices Australia air traffic control which includes a traffic advisory service, traffic avoidance service, and traffic information.
Aircraft	includes directly and remotely piloted fixed wing aircraft (powered or unpowered), rotary-wing aircraft, powered or unpowered balloons and their parts, accessories, equipment and stores.
Airport	means the physical site and all improvements on the land known as Busselton Margaret River Airport.
Airport Exercises	means mandatory exercises required to be done from time to time to amongst other things test the ability of us, you and any other parties to react an emergency situation at the Airport.
Airport Manager	means the person appointed by us as manager of the Airport from time to time.
Airport Operating Procedures	means the detailed conditions and procedures to support the safe, secure, efficient and legally compliant operation of the Airport, as amended from time to time by us.
Airside Drivers' Handbook	means the document for airside driving at the Airport published by us as amended from time to time.
Alternate Airport	means an airport specified in the flight plan for a Flight to which the Flight may proceed if it becomes inadvisable to land at the airport of intended landing or as otherwise defined in the Australian Aeronautical Information Publication
Approval	includes any permit, licence, consent, grant, certificate, authorisation or other approval, which must be obtained from a Relevant Authority.
ASA	means an aeronautical services agreement which governs your use of the Aviation Services (or any part of them).
ASIC	means an Airport Security Identification Card.
Associate	means a party's officers, employees, agents, contractors (and their sub-contractors) and invitees.
Authorised Officer	means an individual with the appropriate authorisation from a party to bind that party to agreed obligations.
Aviation Charges	means the charges specified in the City of Busselton Fees and Charges published on the Website for the Aviation Services.
Aviation Services	means the aircraft movement services and facilities and passenger processing services and facilities and includes those set out in Schedule 1.
Bank Guarantee	means an irrevocable and unconditional undertaking by an Australian bank on terms acceptable to us to pay the amount of the bank guarantee on demand. The Bank Guarantee must be in a form acceptable to us and must not specify any termination or expiry date.
BHS	means the physical baggage handling system which transports baggage from Counters along conveyor belts but does not include the transport of baggage to an Aircraft.
Business Day	means a day, which is not a Saturday, Sunday or public or bank holiday, in Perth.
CASA	means the Civil Aviation Safety Authority or any other statutory authority responsible for the safety regulation of civil air operations in Australia.

Charges	means collectively the charges for the Aviation Services (Aviation Charges) and for the use of the Government Mandated Services (Government Mandated Charges).
Claim	includes any claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding, right of action, claim for compensation or any other liability whether at Law, in equity, under statute or otherwise.
Common Conditions	User means the conditions for the use of terminal facilities set out in Schedule 2.
Common Facilities	User includes the BHS, the Counters, the FIDS, Our Equipment and the PA System, which form part of the facilities and services provided by us
Conditions of Use	means these Conditions of Use (as amended from time to time).
Confidential Information	means all information relating to or developed in connection with or in support of either party's business disclosed or otherwise provided by one party to the other or otherwise obtained by either party which: (a) is not trivial in character; or (b) is not generally available to the public; or (c) is clearly marked as confidential.
Consequential Loss	means any loss of revenue, time, goodwill, data, anticipated savings or opportunity, loss of production or loss of profits and any indirect, economic, special or consequential loss or damage.
Cost	includes, subject to clause 14.3, any cost, charge, expense, outgoing, payment or other expenditure of any nature (whether direct, indirect or consequential and whether accrued or paid), including where appropriate all legal fees (including in-house lawyers charged at their usual rates) on a full indemnity basis or a solicitor/client basis, whichever is the greater and fees of other experts and consultants.
Counter	means those counters in the Airport terminal including the check in, service and sale counters for use by you and your customers.
Counter Equipment	means the equipment at each Counter which is not owned by Us.
Department	means the Department of Infrastructure and Regional Development or any other Commonwealth Government department that has responsibility for the regulation of airports in Australia from time to time.
Event of Default	has the meaning given to it in clause 19.1.
FIDS	means flight information display systems.
Flight	has the same meaning as is given to that term in the <i>Civil Aviation Act 1988</i> (Cth).
Force Majeure	means any: (a) accident, weather, fire, flood, act of God, act of war, insurrection, sabotage, act of terrorism, industrial disturbance, act of vandalism; (b) failure of electrical or telecommunications networks; (c) substantial damage or destruction to the Airport or the Terminal Area; (d) legally binding judgment, injunction, or action of a court or other Relevant Authority; (e) changes in Legislation or regulations of any government; (f) emergency and unplanned repairs and maintenance that are not the result of any act, neglect or default by either party, whether under these Conditions of Use or otherwise; (g) failure of supply by a third party; or (h) other event beyond the reasonable direct or indirect control of a party, which prevents, restricts or limits the performance of obligations by us pursuant to these Conditions of Use and which could not have been prevented, overcome or remedied by us acting prudently.
General Services	Airport means those services and facilities that we provide to Airport users that are not Aviation Services or Government Mandated Services and include those services

	which are generally provided to airlines and aircraft operators at airports such as airline offices, landside storage areas, staff car parking, leased sites for ancillary services
Government Mandated Charges	means those Charges levied by us and payable by you in accordance with these Conditions of Use, in accordance with Commonwealth Government, ministerial or Commonwealth Department direction, and Legislation.
Government Mandated Costs	means the costs incurred by us for providing to you the Government Mandated Services that are permitted to be passed through to Airport users pursuant to a direction by the relevant Commonwealth Minister.
Government Mandated Services	means the services we provide to you which are mandated by the Commonwealth Government or are provided by the Commonwealth Government and to which any charge, levy or fee relates (in applicable Legislation and ministerial or Commonwealth Department directions) or other lawful authority and includes the services set out in clause 6.1.
Ground Handling Services	includes the provision of any the following: <ul style="list-style-type: none"> (a) passenger check-in (b) baggage handling; (c) aircraft cleaning and catering; (d) aircraft maintenance; and (e) aircraft engineering.
Handling Agent	means any person, firm or company that provides Ground Handling Services.
Insolvency Event	means, in respect of a party, the occurrence of any of the following: <ul style="list-style-type: none"> (a) that party disposes of the whole or substantial part of its assets, operations or business other than in the ordinary course of business; (b) that party ceases to be able to pay its debts as they become due, which will be deemed to have occurred if that party notifies the other party in writing or creditors generally that the notifying party is insolvent; (c) a mortgagee takes possession or disposes of the whole or substantial part of that party's assets, operations or business; (d) a party entering into a scheme of arrangement or composition with its creditors (other than for the purposes of a solvent reconstruction); (e) a receiver, a receiver and manager, a trustee in bankruptcy, a provisional liquidator, a liquidator, an administrator or other like person is appointed over the whole or part of that party's assets, operations or business; or (f) something having a substantially similar effect to the circumstances described in (a) to (e) above under the Laws of any jurisdiction.
Interest Rate	means the rate per annum that is 2% higher than the rate charged by the Commonwealth Bank of Australia on overdraft accounts of more than \$100,000.
Issue	has the meaning given to it in clause 20.1(1).
Law	means any statute, regulation, order, rule, subordinate legislation, standard or other document enforceable under any statute, regulation, order, rule or subordinate legislation.
Legislation	includes all Commonwealth and Western Australian Acts of Parliament, regulations, rules, orders, by-laws, ordinances and any other orders or directions of any government or statutory body relevant generally or specifically to the Airport or any person or aircraft using it.
Major User	Means any airline or aircraft operators that, at the relevant time, represents at least 10% of the total Passenger numbers at the Airport.
MTOW	means the maximum take-off weight certified for each aircraft operated by you at the Airport.
Noise Management Plan	means the Busselton Margaret River Airport Noise Management Plan as amended from to time.
Operating Policy	means each of the:

	<p>(a) Aerodrome Manual;</p> <p>(b) Wildlife Hazard Management Plan;</p> <p>(c) Aerodrome Emergency Plan;</p> <p>(d) Airside Drivers' Handbook; and</p> <p>(e) Any other document which we specify on our website from time to time as being an operating policy for the purpose of these Conditions of Use.</p>
Other Agreement	means any agreement in writing, other than these Conditions of Use, between us and you.
Our Equipment	means any equipment (including without limitation the Counters) supplied by us under these Conditions of Use but does not include any Counter Equipment or the terminal equipment supplied by you
PA System	means our public address system.
Passenger	means all persons on board an aircraft including persons travelling on point's redemption bookings through frequent flyer programmes, transit travellers, and airline staff travelling on concessional fares, but excludes non-revenue travellers such as crew and infants.
Regular Public Transport 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 our Airport.
Related Entity	has the same meaning as is given to that term in the in section 9 of the <i>Corporations Act 2001</i> (Cth).
Relevant Authority	means us (in the exercise of statutory or regulatory powers or responsibilities) and any government, municipal, statutory, public or other authority or body having authority or jurisdiction in relation to you or the Airport.
Security Restricted Area	means all areas which are airside of security fences at the Airport.
Schedule	means a Schedule to these Conditions of Use.
Special Events	means events at the Airport and Includes the biennial Aerofest held at the Airport.
Start Date	means the date on the front cover of these Conditions of Use.
Transfer Passenger	means a Passenger who arrives at the Airport on an Aircraft and who, without leaving the Airport, departs from the Airport on another Aircraft.
Transit Passenger	means a Passenger who arrives at the Airport on an Aircraft and who, without leaving the Airport, departs from the Airport on that Aircraft.
Transport Security Program	means a program, required under the <i>Aviation Transport Security Act 2004</i> (Cth), of measures adopted by an Airport to safeguard civil aviation against acts of unlawful interference.
We, us or our	means City of Busselton (ABN 87 285 608 991).
Website	means www.busseltonmargaretriverairport.com.au
Wildlife Hazard Management Plan	means the document published by us for the management of wildlife hazards at the Airport.
You or your	<p>means any of the following persons:</p> <p>(a) the person operating an aircraft;</p> <p>(b) the holder of the aircraft operators certificate for an aircraft; or</p> <p>(c) the registered owner of an aircraft.</p> <p>Where a liquidator, provisional liquidator, receiver, administrator, trustee in bankruptcy or executor (administrator) is appointed in respect of a person liable for Charges the administrator is jointly and individually liable with that person or that person's estate for all Charges in respect of each use which occurs during the period of the administrator's appointment.</p>

24.2 Interpretation

In these Conditions of Use, unless the contrary intention appears:

- (1) a party includes the party's successors and assigns;
- (2) any thing includes part of that thing;
- (3) persons include companies, associations, firms, authorities and bodies corporate;
- (4) gender includes all other genders;
- (5) a reference to a document includes the document as changed or replaced from time to time;
- (6) currencies mean Australian currencies;
- (7) a party, where the party is more than one person, means all of them together and each of them separately;
- (8) a clause or schedule or recital or appendix refers to a clause or schedule or recital or appendix in these Conditions of Use, unless otherwise specified;
- (9) statute, regulation, code or standard includes a reference to it as amended or replaced from time to time; and
- (10) a day refers to the period commencing at midnight and ending 24 hours later;
- (11) invalidity of any provision of the Conditions of Use must not affect the validity of any other provision except to the extent made necessary by the invalidity;
- (12) the singular includes the plural and the other way around;
- (13) headings do not affect the meaning of these Conditions of Use;
- (14) if a word or phrase is defined, any variation of that word or phrase has the same meaning to the extent possible;
- (15) a reference to 'a party' or 'parties' is a reference to a party or the parties to this Contract;
- (16) if anything to be done under the Conditions of Use falls on a day which is not a Business Day, then it must be done on the next Business Day;
- (17) where examples of a general term are given (whether or not using words such as 'includes' or 'including'), the use of the examples is without limitation to the general term and otherwise 'includes' or 'including' means includes or including without limitation;
- (18) time is to local time in Perth, Western Australia.

Schedule 1 – Aviation Services

1. Aircraft-related services and facilities

Including the provision, maintenance and repair of:

- airside grounds, runways, taxiways and aprons;
- airfield lighting, airside roads and airside lighting;
- airside safety;
- aircraft parking;
- visual navigation aids.

2. Passenger related services and facilities

Including the provision, maintenance and repair of:

- forward airline support area services;
- check-in and service desks;
- departure lounges and holding lounges;
- public areas in terminal including public amenities;
- toilets for passengers and staff;
- boarding gate desks;
- suitable access between aircraft apron and terminal buildings;
- security systems and services (CCTV);
- directional signage;
- flight information systems;
- emergency and public address systems;
- inwards and outwards baggage system including baggage make up areas and reclaim facilities.

Schedule 2 – Common User Conditions

3. CHECK-IN, SERVICE AND OTHER COUNTERS

3.1. Counters

- (a) The check-in Counter area at the Airport terminal is equipped with:
 - (i) weighing scales; and
 - (ii) PA System.
- (b) We will allocate the Counter to you in accordance with any allocation rules as specified and defined in our licence agreements with each operator.
- (c) When you are occupying any check-in Counter, you may also occupy a service Counter.

3.2. User of Counters

Cleanliness of Counters

You must leave each allocated Counter and the immediate area surrounding it in a tidy condition. You must remove your own equipment or stationery at the end of a period of use. Rubbish (including bag tags, used bag tags and bag tag backing paper) must be put into the bins provided and must not be dropped or left on conveyor belts. If you do not comply with these requirements to our reasonable satisfaction, we will clean the Counter and surrounding area at your cost.

Security of Counter

You must take all reasonable precautions when using each allocated Counter to prevent unauthorised entry into the Counter area and the BHS.

Leaving a Counter

When leaving an allocated Counter, whether temporarily or at the end of your use, you must leave each Counter in a secure condition. Your last employee or agent at a Counter must ensure that the baggage system is switched off, that all your Counters are logged off, and that security barriers over the weigh scale and between the Counters are closed.

3.3. Ownership of Counter Position Equipment

Owner of Counter Equipment

The Counter Equipment, other than Our Equipment and other equipment we own, remains the property of the owner of that equipment or the person entitled to ownership of that equipment under any agreement to the contrary between the airline and the supplier.

Other Equipment We Own

The Counters and other equipment provided by us remain our property.

No Parting with Possession of Equipment We Own

You must not part with possession or control of Our Equipment unless we ask you to in writing.

4. BAGGAGE HANDLING SYSTEM (BHS) CONDITIONS

4.1. BHS Equipment

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.

5. DEPARTURE GATE COUNTER CONDITIONS

5.1. 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.

5.2. Use of Departure/Arrival Equipment

Care of Departure/Arrival Equipment

You must take proper care of the Departure/Arrival Equipment and follow our reasonable directions for its use.

Training of Your Personnel

You must ensure that your staff operating the Departure/Arrival Equipment are trained to operate it safely and in a manner to avoid damage to it, to other property and to persons.

Damage to Departure/Arrival Equipment

Except where there is a malfunction in the Departure/Arrival Equipment caused by our negligent act (and only to that extent), you indemnify us for any damage to the Departure/Arrival Equipment caused by your negligent act or omission in operating the Departure/Arrival Equipment or in conducting your activities at the Airport.

Cleaning of Departure/Arrival Equipment Areas

You must leave the area surrounding the Departure/Arrival Equipment in a tidy condition. If you do not, we will clean the area at your cost.

6. FIDS AND PA SYSTEM CONDITIONS

6.1. FIDS

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.

6.2. FIDS Information

Accurate Information on FIDS

You must ensure that the information displayed on FIDS is current and accurate.

FIDS Information is Confidential

The information on FIDS is confidential information. You must not give any other airlines information on FIDS to anyone else without our prior written consent, other than information displayed in the public area.

Your Warranty in Relation to FIDS Information

- (a) The necessary data to generate your logo and other material in FIDS remains your property.
- (b) You warrant that you hold copyright in that logo and that your use of the logo and other material, does not breach anyone else's copyright or other intellectual property right.
- (c) We must not give that logo to anyone else without your written consent.

6.3. Provision of Additional Aids

We may install additional FIDS display panels to private areas nominated by you provided you pay an agreed amount to cover the cost of installing the connection and the cost of the display devices.

6.4. PA System

Providing a PA System

We will provide a PA system throughout the Airport terminal. You must comply with our reasonable directions concerning the Use of the PA system.

Your Use of the PA System

You must act reasonably in the use of the PA system and, without limitation, you must restrict your announcements to whatever is operationally required.

7. GENERAL COMMON USER CONDITIONS

7.1. Repair and Maintenance

Your Obligations

You must pay us for any repairs to, and maintenance of, the Common User Facilities or any other property

caused by the neglect, misuse or damage by you, your employees, agents or contractors.

Our Obligations

We must repair and maintain the Common User Facilities at our own expense in circumstances other than set out in Common User Condition 5.2 above.

Responsibility for Employees and Agents

You are responsible for the conduct of your employees and agents. You must ensure they observe these Common User Conditions and the Conditions of Use generally.

7.2. Use of Our Equipment

Proper Care

You must take proper care of Our Equipment and follow our reasonable directions for its use.

Repair of Our Equipment

You must tell us immediately if any of Our Equipment is not working or has been damaged. We will repair Our Equipment as quickly as practicable. You must not allow any person except our employees, contractors or agents to repair Our Equipment.

Access to Carry Out Repairs

You must give us reasonable access to inspect and to repair Our Equipment.

7.3. Termination of Your Right to Use Counters and BHS

- (a) We may terminate your right to use the Counters and the BHS immediately:
 - (i) by giving you written notice if you omit or fail to observe any of the Common User Conditions, and you do not remedy the breach within 14 days of receiving a written notice from us to do so; or
 - (ii) when you cease to conduct or provide regular passenger air services at our Airport.
- (b) If your right to use Counters and the BHS ceases, or if we have terminated your right, you must immediately pay to us any amounts outstanding for Charges payable under the Conditions of Use, which includes Charges payable under the Common User Conditions.

7.4. Handling Agents

No Inconsistent Agreements with Handling Agents

Where you have an agreement with a handling agent, the terms of that agreement must not be inconsistent with any of the Common User Conditions.

Handling agent to know about these Conditions

You must inform the handling agent of your obligations under the Common User Conditions.

Invoicing the Charges

We may send our invoices for the Charges payable under these Common User Conditions or the Conditions of Use generally directly to your handling agent. You acknowledge that despite this you are the person responsible for payment of the Charges in accordance with the terms of our invoice.

7.5. Act, Regulations and Rules

No interference from you

You must ensure that your employees, contractors and agents do nothing to prevent us from observing our obligations under all laws and indemnify us against any claim if they fail to do so.

Our rules

- (a) You agree that we can make, amend or replace rules from time to time for the day to day operation of the Airport and that will bind you.
- (b) You and your Associates must comply with those rules at all times.

7.6. Air Navigation Regulations

You and we acknowledge that all carriers are required to operate in accordance with, without limitation, the Air Navigation Regulations and all other applicable Australian laws and International instruments.

7.7. Prohibition on Conduction of Unaccompanied Baggage Operations

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.