

# AUCKLAND AIRPORT - CONDITIONS OF USE

## EFFECTIVE FROM 30 OCTOBER 2022

### 1. CONDITIONS

- 1.1. The publication of these Conditions constitutes an offer by Auckland International Airport Limited to permit the use of the Facilities and Services on the terms set out herein. The use of any Facilities and Services at the Airport whether airside or landside other than as a passenger constitutes acceptance of these Conditions. It is intended that these Conditions of Use constitute a contract as between Auckland International Airport Limited and you.
- 1.2. Subject to any Applicable Law, we may change, replace or waive these Conditions or any of them if this is required for: (i) safety or security reasons or to ensure compliance with regulatory requirements; or (ii) the purposes of management, expansion or redevelopment at the Airport, provided we have used our reasonable endeavours to consult with you at least 90 days before the change is to be effective, (except in case of emergency when the period of consultation may be shortened as required).

### 2. INFORMATION WE REQUIRE BEFORE YOU USE OUR FACILITIES AND SERVICES

- 2.1. Before you use our Facilities and Services, you must provide to us:
  - (a) confirmation of your ground handling arrangements for operating crew, passengers and cargo;
  - (b) confirmation that you have a safety management system approved by your regulator, together with contact details for the person in your organisation for us to contact for any health, safety and wellbeing concerns or incidents requiring investigation;
  - (c) provide the details of the arrangements and/or agreements for the removal of disabled aircraft from the aerodrome that you have in place pursuant to clause 8.1;
  - (d) provide evidence that you have arranged insurance pursuant to clause 7; and
  - (e) the bank guarantee or deposit pursuant to clause 11 (if applicable),

provided that a failure to comply with your obligations under this clause 2.1 will not limit your agreement to be bound by these Conditions as set out in clause 1.1.

- 2.2. You must promptly, and in any event within 20 days, provide us with the details of any changes to the information described in clause 2.1, and if requested by us provide us with an update of any information described in clause 2.1.

### 3. OTHER INFORMATION WE REQUIRE

- 3.1. If you use our Facilities and Services, even if you have used the Airport before, you must provide, or direct others to provide to us, the information detailed on our website at [www.aucklandairport.co.nz/CoU](http://www.aucklandairport.co.nz/CoU), within the timeframes and in the format specified. We will give you at least 60 days advance written notice of any changes that we request to the information required. In the event that you deem such information confidential to your business we will work with you in good faith to find a resolution to same.
- 3.2. If we have been provided with information under clause 3.1 and you detect or become aware of an error in that information, then you must promptly provide us with the correct information.

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You must, at the same time, provide us with a satisfactory explanation of why the original information was incorrect.

- 3.3. Subject to clause 3.4, you acknowledge that we may use the relevant information provided to us under clauses 2, 3.1 and 3.2 for the purpose of calculating the Charges payable by you for using our Facilities and Services. For the avoidance of doubt, we reserve the right to use data provided by the New Zealand Customs, Immigration Services and Airways New Zealand to calculate or confirm the Charges payable.
- 3.4. If you do not comply with clause 3.1, then you agree that we may, if we are relying on being provided with information under clause 3.1 to calculate Charges due by you, charge you for use of our Facilities and Services on the basis that each seat on the aircraft operated by you during the relevant period was in fact occupied by a passenger.
- 3.5. If:
- (a) we have charged you in accordance with clauses 3.3 and 3.4;
  - (b) you have paid to us those Charges; and
  - (c) we subsequently believe that we have been overpaid,

then we will provide to you a refund (without interest) of any amount we calculate to have been overpaid.

- 3.6. You acknowledge that from time to time we may verify information you have provided to us by any means, including:
- (a) reference to data collected by the New Zealand Customs Service, the Civil Aviation Authority of New Zealand and Immigration New Zealand; and
  - (b) counting passengers embarking or disembarking aircraft operated by you.

You will co-operate with us (on a reasonable basis) to assist us to identify the reason for any differences between the information provided by you under clauses 3.1 and 3.2 and the information collected by us under this clause 3.6.

- 3.7. If, after the end of a Financial Year, we ask you to do so, you must give us certified statements from your then regularly-engaged independent auditors verifying, for the Financial Year just expired, the accuracy of the information you have previously given to us under this clause 3. You must give us the certified statements within 90 days of the date of our request. Your independent auditors who give us the certified statements must be members of or affiliated with an internationally-recognised, independent accounting firm.
- 3.8. If we become aware of a possible material inconsistency between the information you provide to us under this clause 3 or have given us under any previous conditions governing the relationship between you and us and the actual data that information relates to, you may advise us of that inconsistency and give us a reasonable period (being not less than 14 days) to provide you with any further information that you require in order to ascertain the reason for that inconsistency. If you fail to provide that information within the prescribed time frame you must permit us (or our agents or accountants), on reasonable notice and at reasonable times, to

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audit, at our expense, your records and systems which relate to the information you must give us under this clause 3, or have given us under any previous conditions governing the relationship between you and us.

3.9. If:

- (a) the certified statements provided under clause 3.7; or
- (b) an audit by us under clause 3.8,

discloses any error in the information we have been provided with under clauses 3.1 and 3.2, or

- (c) you and we agree that the information we have been provided with under clauses 3.1 and 3.2 was in error after we verify under clause 3.6,

we will invoice or credit you as applicable for the difference between the Charges actually paid to us and the Charges which you should have paid to us but for the error. We will issue our invoice, and you must pay it, in accordance with clause 4. No interest will be paid on any amount refunded by us under this clause 3.9.

3.10. If the extent of the error is more than five per cent, positive or negative, of the information actually given to us, then you must promptly reimburse us for the cost of our audit under clause 3.8.

3.11. We will maintain the confidentiality of information provided to us under these Conditions that you advise us is commercially sensitive, provided that we may:

- (a) use and disclose that information for the purpose of satisfying any of our obligations under Applicable Law;
- (b) use the information for planning, capacity, forecasting and operational purposes including activities directly related to improving the passenger experience at the Airport; and
- (c) use or disclose the information on a consolidated or aggregated basis (including into the public domain for the purposes of providing public information about aircraft movements and passenger numbers), provided we do so in a manner which does not identify any particular airline or passenger individually and cannot be used to do so.

We shall notify you in writing of any proposed disclosure of such information that is to be made to any third party (including any government entity or authority), provided that giving such notice does not cause us to contravene any Applicable Law.

## 4. CHARGES AND BILLING

4.1. You must pay us Charges for using our Facilities and Services as calculated in accordance with our Schedule of Charges notified by us in writing from time to time. Subject to Applicable Law, we may alter our Charges from time to time but in any event no more than once per year and upon giving at least ninety (90) days advance written notice of the changes. Our current Schedule of Charges, together with the Terms of Payment of those charges, is available on our

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website at <https://corporate.aucklandairport.co.nz/investors/regulation> within our Schedule of Standard Aeronautical Charges & Payment Policy.

- 4.2. You will pay all Charges, fees, expenses and other amounts due to us from time to time by the due date stated on the relevant tax invoices we provide to you. The Charges do not include any GST. In addition to the Charges, you will pay us the amount of all GST chargeable on any taxable supply by us pursuant to these Conditions. For greater certainty, where applicable under the GST law, we shall be responsible for charging, collecting and remitting the payment of GST to the appropriate taxing authority on the supply of goods and services provided to you under these Conditions. If the Conditions set forth therein require us to incur a reimbursable expense, any such expenses made by us shall only be reimbursable by you at cost price.
- 4.3. If any payment received or recovered by us, or any other person on our behalf, under these Conditions or any other agreement or arrangement between you and us is or may be avoided by law, then:
- (a) such payment will be deemed not to have affected or discharged the liability of you to us or any security given by you in favour of us and each of you and us will be restored to the position in which each would have been if such payment had not been received or recovered; and
  - (b) we will be entitled to exercise all of our rights under these Conditions or any other agreement or arrangement between you and us which we would have been entitled to exercise if such payment had not been received or recovered.
- 4.4. If you wish to raise any Dispute regarding the Charges, the Dispute must be initiated by you within 12 months from the date of the relevant invoice. After 12 months, Disputes raised by you will not be considered.
- 4.5. In respect of any other service provided by us to you from time to time that are not subject to specific Charges, you agree to pay us the fees or charges usually payable by operators to us for such service, as notified by us from time to time.

## 5. USING OUR FACILITIES AND SERVICES

- 5.1. You will at all times comply with:
- (a) these Conditions;
  - (b) all Applicable Law; and
  - (c) all other current Airport rules, policies, procedures, instructions and regulations notified by us from time to time in writing, including:
    - (i) any requirement to obtain a slot before landing at the Airport;
    - (ii) any applicable protocols relating to the planning and allocation of slots and adherence to allocated slot times; and
    - (iii) our rules relating to use of the Airport. The current version of these rules is available on our website at [Downloads | Auckland Airport](#).

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5.2. You acknowledge that we are entitled to, at all times:

- (a) make and amend rules and regulations relating to the safety, security, public health, biosecurity, operation and cleanliness of the Airport, including rules to control traffic and persons at the Airport by way of regulating vehicular access, driving, the parking and the movement of vehicles, equipment, aircraft and persons;
- (b) make and amend equitable rules for access and use of common areas at the Airport, including in relation to the allocation of such common areas, and in relation to signage and other materials displayed or positioned by you at the Airport;
- (c) investigate all incidents that could result in serious injury or damage or near-misses that occur in the Airport in conjunction with you and all other relevant companies and/or persons;
- (d) monitor your compliance with our requirements, rules, regulations, and all of our other requirements under these Conditions; and
- (e) audit your security, public health, biosecurity, health, safety and wellbeing procedures and environmental procedures that are relevant to your use of the Facilities and Services.

5.3. You accept that:

- (a) access to and use of our Facilities and Services is subject to constraints of Applicable Law, the demands of other users of the Airport and other external events or circumstances, including adverse weather or environmental conditions, industrial action or security threats;
- (b) we will exercise due care and skill and will endeavour to keep our Facilities and Services available for you to use, subject to reasonable requirements for operational purposes, maintenance, and developments or events beyond our reasonable control, but our liability for failure to do so is limited to:
  - (i) in the case of goods, any one or more of the following:
    - the replacement of the goods or the supply of equivalent goods;
    - the repair of the goods;
    - the payment of the cost of replacing the goods or acquiring equivalent goods;
    - the payment of the cost of having the goods repaired; or
  - (ii) in the case of services:
    - the supplying of the services again; or
    - the payment of the cost of having the services supplied again.
- (c) if a representation or warranty is stated or implied by Applicable Law in connection with the provision of the Facilities and Services and it impedes our ability to ensure the safety, care, operation or cleanliness of the Airport, or any of them, and Services and it

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can be excluded, we exclude it to the maximum extent possible and if we cannot exclude it, then our liability for that breach of warranty or condition is limited to:

- (i) in the case of goods, any one or more of the following:
    - the replacement of the goods or the supply of equivalent goods;
    - the repair of the goods;
    - the payment of the cost of replacing the goods or acquiring equivalent goods;
    - the payment of the cost of having the goods repaired; or
  - (ii) in the case of services:
    - the supplying of the services again; or
    - the payment of the cost of having the services supplied again;
  - (d) we may change the layout and design of the Airport for business or operational reasons; and
  - (e) if the Airport is permanently closed or abandoned as a facility serving scheduled civilian airlines, we may completely cease to provide the Facilities and Services.
- 5.4. If you ask us in writing, subject to any express or implied confidentiality arrangements we may have with third parties (including the Crown) or other need for confidentiality, we will provide information about:
- (a) our Airport security policies and programme(s), and other security arrangements that may apply from time to time;
  - (b) Airport emergency procedures;
  - (c) Airport Biosecurity procedures and rules;
  - (d) Airport public health or pandemic procedures;
  - (e) Airport insurance policies; and
  - (f) which of our Facilities and Services are available for you to use.
- 5.5. We will ensure that all our documents, policies, manuals, publications and information relevant to your use of the Facilities and Services will be available for you to view and download from our website. If you request hard copies of these from us, we may charge you the reasonable costs incurred by us in meeting this request.
- 5.6. You acknowledge that we promote a culture of continuous improvement and positive contribution to the local environment and community at the Airport. You agree to co-operate with and facilitate any reasonable request made by us from time to time (including making your personnel available and sharing internal policies) to engage with us, and other parties with a relevant interest at the Airport, for the purpose of:
- (a) improving the passenger experience at the Airport, including, by identifying and implementing specific operational, processing and procedural improvements; and

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- (b) ensuring that appropriate risk management and business continuity management capabilities are in place; and
  - (c) promoting and enhancing environment and sustainability principles and working with us to address relevant risks such as modern slavery by participating in discussions as required by us from time to time.
- 5.7. You acknowledge that if you operate and/or park any general or business aviation, or whole plane cargo services, at the Airport without first obtaining a valid landing and/or parking slot during periods of peak congestion, as have been notified in Auckland Airport's declared slot parameter declarations, AIP and/or a subsequent supplement, then you may be prohibited by us from operating during such periods of peak congestion for a minimum period of 30 days, unless in our opinion the aircraft was required to land at the airport because of an emergency or other circumstance beyond your control.
- 5.8. You agree, subject to requirements under Applicable Law or mandatory international safety or security obligations imposed on relevant aircraft operations, not to prohibit or unreasonably limit embarking passengers from carrying duty free and/or other items purchased at the Airport on to your aircraft. This condition shall not be interpreted to limit your discretion to require such items to be stored in the baggage hold of an aircraft.
- 5.9. You agree to take all necessary steps to comply with your obligations under the Health and Safety at Work Act 2015 and associated regulations that are relevant to your use of the Facilities and Services. You must at all times:
- (a) comply with any Airport safety policies in place from time to time communicated in writing to you;
  - (b) comply with all:
    - (i) occupational health and safety audits or inspections undertaken or required by the Airport, WorkSafe New Zealand, Civil Aviation Authority or any other Authority; and
    - (ii) lawful directions and notices of the Airport, WorkSafe New Zealand, Civil Aviation Authority and any Authority in relation to occupational health and safety, relating to your use of our Facilities and Services;
  - (c) comply, and permit the Airport to itself comply, with all Applicable Laws relating to occupational health and safety which are applicable to you or your use of our Facilities and Services;
  - (d) notify WorkSafe New Zealand, the Civil Aviation Authority and the Airport immediately if you become aware of an event, occurrence, accident, incident or injury which obliges the Airport or you to notify WorkSafe New Zealand, the Civil Aviation Authority or any other Authority;
  - (e) provide to the Airport copies of any notices or directions issued by WorkSafe New Zealand, the Civil Aviation Authority or other Authority in respect of your use of our Facilities and Services;

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- (f) give all reasonable assistance to the Airport to enable us to monitor the identification, assessment and management by you of risks relating to you or your use of our Facilities and Services;
  - (g) at its expense and as reasonably requested by the Airport, implement systems to identify, assess and eliminate or control risks in respect of your activities, and your use of our Facilities and Services;
  - (h) keep all occupational health and safety data confidential and obtain the written consent of the Airport prior to releasing any data (relating to occupational health and safety), about our Facilities and Services or any part of the Airport except where required by Applicable Law; and
  - (i) provide the Airport with all reasonable access and any required occupational health and safety data as may be required to ensure that we have the necessary access and data to meet its obligation to comply with all Applicable Laws, policies and procedures or any directions issued in relation to occupational health and safety so far as they relate to our Facilities and Services, or your use of the Facilities.
- 5.10. We agree to take all necessary steps to comply with our obligations under the Health and Safety at Work Act 2015 and regulations associated with that Act that are relevant to your use of the Facilities and Services.
- 5.11. If we request you do so, you must provide us with a certificate (not more than twice a year) confirming that you have in place a safety management system to ensure the health, safety and welfare of all persons who may be affected by your operations at the Airport (including procedures in relation to emergencies, hazard identification, the preparation of risk assessments and safe work method statements, incident reporting and the safety induction, training and supervision of staff).
- 5.12. You must not do anything which puts us in breach of any Applicable Law, and you must reasonably co-operate with us in our provision of the Facilities and Services (including complying with our reasonable directions arising out of the use of our Facilities and Services). If our request for your co-operation results in significantly increased costs to you, then we will meet with you in good faith in an attempt to resolve the issue.
- 5.13. Without limiting the foregoing provisions of this clause 5, nothing in these Conditions will be taken to confer a right for you to use the Airport without our consent and we reserve the right to withdraw such consent where you have breached these Conditions.

## **6. GROUND HANDLING AND COUNTERS**

- 6.1. You are required to either self handle, or appoint third party ground handling agents.
- 6.2. At the Airport all ground handlers are required to be issued with a licence to operate. This licence contains mandatory requirements to which the ground handlers must adhere. Further information on ground handling licences is available from us. If you wish to provide handling services yourself, rather than engaging an independent handler that provides ground handling services at the Airport, you must obtain our prior written consent to do so and obtain a licence from us.

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6.3. If you use our common use terminal facilities for checking in passengers, you must comply with our current arrangements for using these. If you are using our international common use terminal facilities for checking in passengers then you, or your appointed third party ground handling agent, must enter into our current licence for using these. If you are using our domestic common use terminal facilities for checking in passengers then you, or your appointed third party ground handling agent, must comply with our current notified terms of use for these.

### 7. INSURANCE

7.1. Without limiting the requirement for you to maintain insurance under any other agreement between you and us (for example, a lease of premises at the Airport) or any other rules and regulations relating to operations at the Airport (for example, relating to vehicles operating Airside), you will continuously maintain an aircraft third party, passenger, passenger baggage, premises, hangar keepers and products liability policy (including liability for motor vehicles and mobile plant airside), including war third party liability (AVN52E or G), in respect of yourself, all of your Related Companies and all persons under your control that:

- (a) is for an amount not less than:
- i. for fixed wing aircraft:

Maximum Take-off Weight	Level of Cover
10,000kg or less	US\$30M
Exceeding 10,001kg but not exceeding 28,000kg	US\$60M
Exceeding 28,001kg but not exceeding 100,000kg	US\$200M
Exceeding 100,001kg but not exceeding 170,000kg	US\$500M
Exceeding 170,000kg	US\$1.0B

- ii. otherwise, US\$30 million,

being the amount which may be paid out arising out of any one single accident or event but in the aggregate in respect of products liability or such higher amount as we may from time to time reasonably require;

- (b) names us as an additional insured;
- (c) includes a cross liability clause;
- (d) does not exclude Airside or on Airport; and
- (e) is placed with insurers with a claims paying rating of not less than A- by Standard & Poor's (or similar rating agency).

7.2. On or before the date you commence using our Facilities and Services (or the date of these Conditions if you are already doing so), and on each renewal of the insurance policy, you must

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provide us with a signed certificate of insurance, in a form acceptable to us, from your insurance company or broker.

- 7.3. If you do not insure as required by clause 7.1, we may effect the insurance and the premium paid will be a debt due to us by you and may be sued for and recovered by us as a liquidated demand in any court of competent jurisdiction. Any such action by us will not relieve you of any obligations under these Conditions or limit any of our other rights or remedies.
- 7.4. You will ensure that neither you nor any person under your control will do or permit to be done anything:
- (a) whereby any insurance effected by us or by you may be rendered void or voidable; or
  - (b) (except with our prior written approval) as a result or consequence of which the premium payable on any such insurance will be liable to increase (and you will, on demand, pay to us all extra premiums payable by us on account of extra risk caused by your conduct or operations and any person under your control).

### **8. MOVING AIRCRAFT**

- 8.1. At all times whilst using the Facilities and Services you must have in place suitable arrangements and/or agreements for the removal of disabled aircraft from the aerodrome, including for an aircraft that is incapable of being towed. For example purposes only, this may include membership of the International Airlines Technical Pool and/or agreement(s) with other airline(s) for disabled aircraft recovery.
- 8.2. Notwithstanding clause 8.1 above, we may, without prejudice to any obligations you may have or rights we may have under your Removal Plan and subject to air traffic clearances and any operational guidelines issued by us for the use of our Facilities and Services, order you to:
- (a) move an aircraft to another position at the Airport; or
  - (b) remove an aircraft from the Airport,
- at your cost and within a specified time, being a period that we consider, in all the circumstances, to be reasonable.
- 8.3. If you do not comply with the order referred to in clause 8.2 within the specified time, you will be liable to a special charge, equivalent to eight times the standard Charges for parking aircraft, for every hour or part of an hour during which the aircraft remains in position after the period specified in the order has expired. If you do not comply with our order within the period specified, as a measure of last resort, we may move or remove the aircraft in accordance with our applicable procedures and:
- (a) you must pay our reasonable costs of having the aircraft moved or removed and any costs incurred by us as a result of having the aircraft moved or removed; and
  - (b) you are liable for and indemnify us, and each Airport Person against any personal injury, death, loss or damage caused or contributed to by your failure to comply with the order

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referred to in this clause 8.3, or which is suffered or incurred by us as a result of any action taken by us under this clause 8.

Our current procedures for moving or removing aircraft can be viewed on our website at <https://corporate.aucklandairport.co.nz/aeronautical-operations/conditions-for-use-of-auckland-airport>

### 9. RELEASE AND INDEMNITY

- 9.1. Unless and then only to the extent caused by the Airport Person's wilful act, omission, neglect, breach or default, no Airport Person, shall be liable for any loss of or damage to property, loss of life or personal injury or other loss at the Airport that you, all of your Related Companies and every person under your control may sustain or suffer as a consequence of your access to and use of the Airport, including the Facilities and Services or any loss suffered because the Airport or any part of it, including the Facilities and Services, is unavailable or is altered, or we make any other change or impose any other requirement, in each case for any operational reason, that impacts your operations at the Airport.
- 9.2. Neither we nor any Airport Person will be liable to you for any loss of profits, or any consequential, indirect or special loss or damages suffered by you as a consequence of your access to and use of the Airport, including the Facilities and Services and anything referred to in 9.1, or any act or omission by us or by any Airport Person.
- 9.3. You will not make or commence to threaten to make or commence any claim, action, cause of action, proceeding or demand which is subject to and covered by the release set out in clauses 9.1 and 9.2.
- 9.4. You are liable for and unconditionally and irrevocably indemnify us and keep each Airport Person indemnified from and against all costs, losses and other liabilities (including legal expenses on a full indemnity basis and GST and similar taxes thereon) that any Airport Person may at any time suffer or incur, directly or indirectly, in relation to, arising out of, or as a consequence of:
- (a) any failure by you to comply with any obligation imposed on you;
  - (b) any loss of or damage to property, loss of life or personal injury or other loss at the Airport that is caused or contributed to by any negligent act or omission, breach or default on your part, or on the part of any person under your control;
  - (c) your use of any materials, substances or processes in or upon the Airport in such a way as to cause, directly or indirectly, the discharge of a "contaminant" as that term is defined in section 2 of the Resource Management Act 1991 into the environment, or release of a "hazardous substance" or "new organism" as those terms are defined in the Hazardous Substances and New Organisms Act 1996, except in accordance with those Acts;
  - (d) possession or use by you of equipment in the Airport but only to the extent that the loss or damage is attributable to any intentional act or omission or the negligence on your part, or on the part of any person under your control; and/or

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- (e) any other occurrence whatsoever in any way relating to your operations that is attributable to any negligent, reckless or wilful act or omission, any breach of these Conditions, or negligence on your part, or on the part of any person under your control,

provided that the indemnity in this clause 9.4 will not apply in favour of any Airport Person to the extent that any such costs, losses or other liabilities were caused by the intentional act, omission, neglect, breach or default of that Airport Person.

- 9.5. You will pay any money owing under clause 9.4 to us immediately upon demand by us. Any payments made under this clause shall in no way prejudice your legal rights or ability to dispute the claim.
- 9.6. For the purposes of the Contract and Commercial Law Act 2017, this clause 9 is intended to confer benefits enforceable at the suit of any Airport Person, notwithstanding that such person may not be a party to these Conditions.

### **10. SERVICES WE DO NOT PROVIDE**

10.1. To be clear, we do not provide:

- (a) border control services (including health facilities and/or medical testing, biosecurity inspections, clearances or treatments);
- (b) meteorological services;
- (c) air navigation services;
- (d) quarantine waste disposal; or
- (e) apron and ground handling services (other than allocating aircraft parking bays and services and facilities directly related to such allocation),

and our Charges do not include fees for these services or fees for anything we provide outside the scope of these Conditions.

### **11. BANK GUARANTEE / CASH DEPOSIT**

- 11.1. All operators to the Airport are required to lodge either a bank guarantee issued by a New Zealand registered bank or a cash deposit equivalent to 3 months of operations by you (based on anticipated numbers and type of flight planned). When you cease to operate any flights from the Airport for more than two consecutive seasons the deposit will be refunded subject to our right (which is hereby reserved) to set off against any such deposit any appropriate charges that have not been settled in accordance with the Conditions. In exceptional cases, we may at our discretion waive the requirement for the 3-month deposit.
- 11.2. If you are in default of your obligations to us under these Conditions of Use and have not rectified the default within ten (10) days of receiving written notice from us to do so, then we may, at any time, set-off against, and deduct from, the bank guarantee or cash deposit all moneys owing to us by you, without limiting any of our other rights or remedies.

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### 12. DEFAULT

12.1. If you fail to comply with any of your obligations under these Conditions, we may:

- (a) issue a written notice ("**Compliance Notice**") to you, which will set out the relevant failure, specify the remedy required by us, a reasonable timeframe for you to remedy such failure and any other relevant matters;
- (b) if you fail to comply with the Compliance Notice, do anything to remedy the default (including, but not limited to, making any payment and contracting any other person to carry out the act), and you will pay us, on demand, all of our costs and other liabilities in respect of remedying that default;
- (c) exercise any other specific rights referred to in these Conditions or in any applicable Airport rules, policies, procedures, instructions and regulations in relation to the failure to comply; and/or
- (d) at our discretion withdraw or suspend your use of the Facilities and Services (either totally or on such restricted basis as we may determine).

Upon the receipt of a Compliance Notice under clause 12.1(a), you will either comply with the requirements of the notice or advise us in writing that you are unable to comply, setting out the reasons why you are unable to do so. An inability to comply includes circumstances where you reasonably consider that the matters referred to in the Compliance Notice do not amount to a failure to comply with these Conditions.

12.2. If you do not comply with a Compliance Notice in the time frame required, and, in our reasonable opinion, any explanation given by you does not justify that non-compliance, we may, at our discretion, exercise our rights pursuant to clause 12.1(d). For clarity, we will not exercise our rights pursuant to clause 12.1(d) without having first given a Compliance Notice to you and you have failed to remedy the failure identified in the Compliance Notice within the reasonable time frame.

12.3. However, if you do not comply with any safety, biosecurity, public health or security requirements, we may give you notice to comply immediately. We may stop you from using the Facilities and Services if you do not comply with our notice.

### 13. DISPUTE RESOLUTION

13.1. If a difference or dispute between you and us arises in connection with these Conditions ("**Dispute**"), either you or we may give written notice ("**Dispute Notice**") to the other party, stating the subject matter and details of the Dispute.

13.2. If a Dispute Notice is given you and we must, within 14 days after the Dispute Notice is given or such other time period as the parties may agree, each appoint a representative to meet and discuss the matters raised in the Dispute Notice and endeavour to resolve the Dispute

13.3. If agreement in respect of the Dispute has not been reached within 21 days after the giving of the Dispute Notice, or such other time as we may agree, either you or we may, by notice to the other, refer the Dispute to be resolved by a sole arbitrator under the Arbitration Act 1996. The arbitrator will be agreed between you and us or, if not agreed within 14 days of the service of

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the notice requiring the Dispute to be resolved by an arbitrator, appointed at the request of a party by the president or vice president for the time being of the New Zealand Law Society, or the nominee of such president or vice president.

- 13.4. The place of any mediation or arbitration will be Auckland, and any arbitrator will decide the Dispute in accordance with the law of New Zealand.
- 13.5. Pending resolution of any Dispute, the parties will continue to perform their respective obligations pursuant to the provisions of these Conditions.
- 13.6. Nothing in this section 13 will prejudice the right of you or us to institute proceedings to enforce payment due under these Conditions or any other agreement, or to seek urgent injunctive or declaratory relief.

### 14. MISCELLANEOUS

- 14.1. These Conditions are governed by New Zealand law, and you submit to the exclusive jurisdiction of the courts of New Zealand. Where you are resident outside New Zealand, you will provide us with the name and address of an agent resident in New Zealand authorised to accept service of documents, including legal process, on your behalf. Any notification of an agent under this clause 14.1 will be irrevocable unless replaced by another agent resident in New Zealand and notified to us in writing. Nothing in this clause 14.1 limits our right to serve process in any other jurisdiction. You will immediately appoint a replacement agent in circumstances where an appointed agent is no longer able to act or is no longer resident in New Zealand.
- 14.2. Every notice or other communication ("**Notice**") for the purposes of these Conditions will be in writing and delivered in accordance with this clause 14.2. A Notice may be given by:
  - (a) delivery to the physical address of the relevant party or its agent under clause 14.1; or
  - (b) posting it by pre-paid first class registered post to the postal address of the relevant party or its agent under clause 14.1; or
  - (c) sending it by email to the email address of the relevant party, so long as clause 14.4 is complied with.
- 14.3. A Notice given in the manner:
  - (a) specified in clause 14.2(a) is deemed received at the time of delivery;
  - (b) specified in clause 14.2(b) is deemed received five days after (but exclusive of) the date of posting;
  - (c) specified in clause 14.2(c) is deemed (subject to clause 14.4) received:
    - (i) if sent between the hours of 9.00am and 5.00pm on a working day, at the time of transmission; or
    - (ii) if subclause (i) does not apply, at 9.00am on the working day most immediately after the time of sending.

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- 14.4. A notice given by email, is not deemed received unless (if receipt is disputed) the party giving Notice produces a printed copy of the email which evidences that the email was sent to the email address of the party given Notice.
- 14.5. You acknowledge that you have not relied upon any representation, warranty, assurance, covenant, indemnity, undertaking or commitment which is not expressly set out in these Conditions or the documentation provided to you by us or set out on our website.
- 14.6. Unless otherwise expressly agreed in writing, these Conditions will be deemed to replace any agreement or other documentation relating to the subject matter of these Conditions currently in force between us or otherwise applying to you and such existing agreement or documentation will hereby be deemed to be at an end.
- 14.7. You may not assign or transfer any of your rights or interests under these Conditions without our prior written consent (to be given or withheld in our sole discretion).
- 14.8. The invalidity of any part or provision of these Conditions will not affect the enforceability of any other part or provision of these Conditions.
- 14.9. Where our consent or approval is required pursuant to any provision of these Conditions, such consent or approval will be required for each separate occasion, notwithstanding any prior consent or approval obtained for the like purpose on any prior occasion.
- 14.10. Any of our rights, remedies or powers under these Conditions are in addition to and will not be prejudiced by the exercise of our other rights, remedies or powers whether under these Conditions, by law, or otherwise.
- 14.11. No waiver or failure on our part to act in respect of any one or more breaches by you of any of your obligations imposed under these Conditions will operate as a waiver of another breach of any of such obligation.
- 14.12. Except and to the extent provided in clauses 8.3(b) and clause 9 which confer benefits on Airport Persons, nothing in these Conditions confers any benefit enforceable by any person other than you or us. These conditions may be amended by us without the consent of any other Airport Person.
- 14.13. You may suspend your operations at the Airport on a seasonable basis or arising from a strike and it shall not be deemed to be a termination of these Conditions of Use unless you expressly give us notice of termination in writing. In the event that you intend to cease operations at the Airport, you must terminate these Conditions of Use upon giving us thirty (30) days advance notice in writing.
- 14.14. Notwithstanding the foregoing, nothing in these Conditions of Use precludes you from ceasing operations at the Airport at any time and no Charges shall apply after such time other than those that accrued prior to the date that is thirty (30) days after we received your written notice.

## 15. INTERPRETATION

- 15.1. In these Conditions the following words will mean:

**Airport** means the airport owned and operated by us and located at Mangere, Auckland, New Zealand.

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**Airport Person** means us and our directors, employees, agents, contractors and every other person concerned in the management of the Airport.

**Airside** or **Airside Area** means that part of the Airport used for the surface movement of aircraft including (but not limited to) those areas used for takeoff, landing and taxiing of aircraft, and the apron area used for the purpose of loading and unloading of passengers and cargo and refuelling, parking and carrying out of maintenance of aircraft, being declared a "Security Area" by the Director of Civil Aviation pursuant to section 84(1) of the Civil Aviation Act 1990.

**Applicable Law** means all relevant laws and regulations, rules, orders, bylaws, ordinances and any other orders, standards, conditions or directions of any government or statutory body relevant generally or specifically to the Airport or aircraft using it, including the Airport Authorities Act 1966, Commerce Act 1986, Resource Management Act 1991, the Health and Safety at Work Act 2015, the Hazardous Substances and New Organisms Act 1996, the Civil Aviation Act 1990, the Health Act 1956, the International Health Regulations (2005), the Biosecurity Act 1993, the Customs and Excise Act 2018, the Immigration Act 2009, s70 Health Act and any procedure statement issued thereunder.

**Authority** means any local body, Government or other authority having jurisdiction over the Airport, the Airside Area, or the use or occupation of either of them.

**Charges** means the charges for using our Facilities and Services notified by us from time to time.

**Companies Act** means the Companies Act 1993 (New Zealand).

**Conditions** means these terms and conditions (as may be amended by us from time to time).

**Crown** means His Majesty the King acting in right of New Zealand.

**DCS** means departure control systems.

**Default Rate** means the rate that is the aggregate of 5% per annum and our commercial overdraft rate at that time.

**Dispute** has the meaning given to that term in 13.1.

**Facilities and Services** means the aircraft movement, passenger processing and other general facilities and services provided by us to you at the Airport, except to the extent that those facilities and services are provided to you under a separate contract, lease, licence or other authority from us.

**Financial Year** means our financial year, which is currently from 1 July in one year to 30 June in the following year.

**General Aviation** means any air service other than a Regular Public Transport Operation.

**GST** means goods and services tax chargeable under the Goods and Services Tax Act 1985.

**MCTOW** means maximum certified take-off weight.

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**persons under your control** includes your employees, agents and contractors and all other persons in or about the Airport at any time at your request or invitation or any other persons under your control or direction.

**Regular Public Transport Operations** or **RPT** 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.

**Related Company** has the meaning given to that term in section 2(3) of the Companies Act, read as if a reference to a company in that section included any body corporate, wherever incorporated.

**Removal Plan** means the plan which our current procedures require all airlines operating at the Airport to establish and coordinate with us for the efficient, prompt and safe removal of aircraft or other property (or part thereof), which becomes disabled or otherwise obstructs safe and efficient operations at the Airport.

**Transit Passenger** means a passenger arriving from outside New Zealand at the Airport on a through flight and subsequently leaving the Airport, without clearing customs and immigration, on the same aircraft or on a replacement aircraft (used following a breakdown of the former) for a destination outside New Zealand.

**we** or **us** or **ours** means Auckland International Airport Limited (New Zealand company number 380357) and includes our successors and assigns.

**you** or **your** means in the case of RPT aircraft, the holder of the Air Operator's Certificate at the time our Facilities and Services are used or in the case of General or Business Aviation and other non-regular public transport operations aircraft, the person who is identified as "Owner" in the Notification of Aircraft Details form or, if no one is so identified, the holder of the Certificate of Registration at the time our Facilities and Services are used, and includes your executors, administrators, successors and assigns.

15.2 Unless specifically stated otherwise:

- (a) headings are to be ignored in construing these Conditions;
- (b) references to money are to New Zealand dollars;
- (c) "including" and similar words do not imply any limitation;
- (d) where an obligation or other requirement is imposed on you under these Conditions you must ensure that every person under your control also complies with that obligation or requirement;
- (e) the singular includes the plural and vice versa.