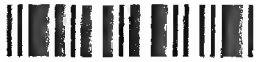


Dealing Number



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<b>1. Lessor</b> Sunshine Coast Regional Council ABN 37 876 973 913	<b>Lodger</b> (Name, address, E-mail & phone number) King & Wood Mallesons Level 33, 1 Eagle Street, Brisbane Qld 4000 E-mail: <a href="mailto:brregistration@au.kwm.com">brregistration@au.kwm.com</a> T +617 3244 8000 (Reference: RLJ/DAB)	<b>Lodger Code</b> 169A
--	---	----------------------------

<b>2. Lot on Plan Description</b> See Enlarged Panel	<b>Title Reference</b>
---	------------------------

<b>3. Lessee</b> Given names      Surname/Company name and number      (include tenancy if more than one)			
Sunshine Coast Gateway Pty Ltd (ACN 617 050 567) as trustee			

**4. Interest being leased**  
Fee simple

**5. Description of premises being leased**  
See Enlarged Panel

<b>6. Term of lease</b> Commencement date/event: 01 / 12 / 2017 Expiry date: 30 / 11 / 2116 and/or Event: #Options: Nil #Insert nil if no option or insert option period (eg 3 years or 2 x 3 years)	<b>7. Rental/Consideration</b> See Schedule
--	--

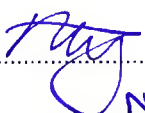
**8. Grant/Execution**

The Lessor leases the premises described in item 5 to the Lessee for the term stated in item 6 subject to the covenants and conditions contained in:- \*the attached schedule; ~~\*the attached schedule and document no. \_\_\_\_\_;~~

\*document no. \_\_\_\_\_; \*Option in registered Lease no. \_\_\_\_\_ has not been exercised.

\* delete if not applicable

**Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994**

  
..... signature  
NICOLE EMMA WIERINGA full name  
SOLICITOR qualification

**Witnessing Officer**

(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

Execution Date

Lessor's Signature

01 / 12 / 2017 Sunshine Coast Regional Council

  
.....  
Chief Executive Officer

**9. Acceptance**

The Lessee accepts the lease and acknowledges the amount payable or other considerations for the lease.

..... signature  
..... full name  
..... qualification

**Witnessing Officer**

(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

/ /  
Execution Date

See Enlarged Panel

Lessee's Signature

Title Reference 50957069

This is the Enlarged Panel referred to in the form 7 lease

2. Lot on Plan Description	Title Reference
Lot 699 on SP 261024	50957069
Lot 898 on Plan CG4782	16900160
Lot 98 on SP 176239	50613479
Lot 4 on RP 113269	14057173
Lot 8 on RP 113269	14057177
Lot 13 on RP 113269	14057178
Lot 14 on RP 113269	14057179
Lot 15 on RP 113269	14057180
Lot 16 on RP 113269	14057181
Lot 21 on RP 113269	14057182
Lot 22 on RP 113269	14057183
Lot 23 on RP 113269	14057184
Lot 28 on RP 113269	14057185
Lot 29 on RP 113269	14057186
Lot 30 on RP 113269	14057187
Lot 2 on SP 202100	50706484
Lot 3 on SP 202100	50706485
Lot 37 on RP 863231	18736196
Lot 38 on RP 863231	18736195
Lot 5 on SP 261026	50934084
Lot 6 on SP 261026	50934085
Lot 7 on SP 261026	50934086
Lot 101 on CP883235	50124426
Lot 857 on CG4403	16187236
Lot 53 on SP298053	51101937
Lot 1 on SP269581	51023742
Lot 1 on RP133655	14864051
Lot 54 on SP298053	51101938
Lot 1105 on SP206553	51089691
Lot 51 on SP298053	51101935
Lot 52 on SP298053	51101936
Lot 1106 on SP206556	50752412

5. Description of premises being leased

The whole of the Land concurrent with Lease No. 714002397, Lease No. 713405296, Lease No. 714713641  
Lease No. 714713638, Lease No. 716609998, Lease No. 717438944, Lease No. 717042614, Lease No. 717404598,  
Lease No. 717349809, Lease No. 717081143, Lease No. 716808742, Lease No. 717285573, Lease No. 717285603,  
Lease No. 703115230, Lease No. 707659871, Lease No. 700886542, Lease No. 715120070, Lease No. 702441218,  
Lease No. 707659861, Lease No. 700610540, Lease No. 714938535, Lease No. 714938512, Lease No. 700637493,  
Lease No. 709999546, Lease No. 716685928, Lease No. 713827235, Lease No. 713827353, Lease No. 703610537,  
Lease No. 705729657, Lease No. 710786660, Lease No. 708119920, Lease No. 716960133, Lease No. 706007478,  
Lease No. 710464317, Lease No. 710522544, Lease No. 709932180, Lease No. 715115139, Lease No. 710464323,  
Lease No. 715737084, Lease No. 712906073, Lease No. 715890064, Lease No. 717493029, Lease No. 717493032  
and Lease No. 712302147

Title Reference 50957069

This is the Enlarged Panel referred to in the form 7 lease

**9. Acceptance**

The Lessee accepts the lease and acknowledges the amount payable or other considerations for the lease.



signature

BENJAMIN JAMES MALONE

full name

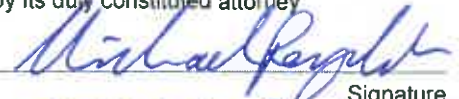
LEGAL PRACTITIONER

qualification

**Witnessing Officer**

(Witnessing officer must be in accordance with Schedule 1  
of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

Sunshine Coast Gateway Pty Ltd (ACN  
617 050 567) as trustee of the Sunshine  
Coast Gateway Trust  
by its duly constituted attorney



Signature

MICHAEL REYNOLDS

Print Name

under power of attorney no

1 / 12 / 2017

Execution Date

Lessee's Signature

**Title Reference 50957069**

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## Details

Item 1	<b>Airport Lessor</b>	
	Name:	Sunshine Coast Regional Council
	ABN:	37 876 973 913
	Address:	Corner of Currie and Bury Streets, Nambour QLD 4560
	Email:	Greg.Lavery@sunshinecoast.qld.gov.au
	Attention:	Greg Lavery
Item 2	<b>Airport Lessee</b>	
	Name:	Sunshine Coast Gateway Pty Ltd as trustee for the Sunshine Coast Gateway Trust
	ABN:	88 412 833 854
	Address:	C/- Palisade Investment Partners Limited
	Email:	Mike.Reynolds@palisadepartners.com.au
	Attention:	Mike Reynolds
Item 3	<b>Leased Area</b>	
		The land described in Item 2 of the form 7 lease form
Item 4	<b>Term</b>	
		99 years
Item 5	<b>Commencement Date</b>	
		1 December 2017
Item 6	<b>Expiry Date</b>	
		30 November 2116
Item 7	<b>Rent</b>	
		\$1.00 (including GST)
	<b>Additional Rent</b>	
		5% of the Gross Revenue for each Financial Year
Item 8	<b>Day on which Rent is payable</b>	
		The first day of each year in the Term (if demanded)

**Title Reference** 50957069

**Item 9**

**Runway Site**

<b>Lot on Plan Description</b>	<b>Title Reference</b>
Part of Lot 699 on SP261024	50957069
Lot 898 on CG4782	16900160
Lot 101 on CP883235	50124426
Lot 857 on CG4403	16187236
Lot 53 on SP298053	51101937
Lot 1 on SP269581	51023742
Lot 1 on RP133655	14864051
Lot 54 on SP298053	51101938
Lot 1105 on SP206553	51089691
Lot 51 on SP298053	51101935
Lot 52 on SP298053	51101936
Lot 1106 on SP206556	50752412

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## 1 Defined terms and interpretation

### 1.1 Defined terms in SCA Framework Agreement

Unless otherwise defined in this document, the definitions set out in clause 1.1 of the SCA Framework Agreement are incorporated by reference into this document.

### 1.2 Definitions

Unless the contrary intention appears, these meanings apply. Other words are defined in the Details.

**AAL Call Option** means the option that the Airport Lessee grants to the Airport Lessor under clause 20.2 ("Grant of AAL Call Option").

**AAL Call Option Fee** means \$1.00 (including GST).

**AAL Call Option Period** means the period:

- (a) starting on the date land becomes Additional Airport Land; and
- (b) ending on the expiration or sooner determination of the last of the SCA Tenure Documents.

**AAL Completion Date** means the date which is 60 Business Days after the date of exercise of the AAL Call Option.

**Additional Airport Land** means land (other than the Leased Area or Runway Site) to be used in the management and operation of the Airport as an airport in which the Airport Lessee, Airport Manager or an Affiliate of the Airport Lessee or Airport Manager is the registered owner or a lessee under a lease of a term exceeding 5 years (including any such land which the Airport Lessee or the Airport Manager has an option to acquire under an Existing Airport Lease or any other document where such land is used or is intended to be used for the Airport). For the avoidance of doubt, land (other than the Leased Area or Runway Site) used by the Airport Lessee, Airport Manager or an Affiliate of the Airport Lessee or Airport Manager:

- (a) for runways, aprons, hangars, airport terminals, other similar specific airport or aeronautical improvements, or for retail and food precincts connected to the use, management or operation of, the Airport as an airport will be Additional Airport Land; and
- (b) for a commercial, retail or industrial purpose unconnected to the use, management or operation of the Airport as an airport will not be Additional Airport Land.

**Additional Rent** means the amount for each Financial Year calculated in accordance with Item 7 of the Details.

**Affiliate** means:

- (a) in respect of the Airport Lessee:
  - (i) in relation to an entity that is not a natural person:
    - (A) each of that entity's Related Bodies Corporate; and
    - (B) each person who has a relevant interest (as that term is defined in the Corporations Act) in that entity; and
    - (C) each other entity in which that entity has a relevant interest (as that term is defined in the Corporations Act) in that other entity as if that other entity were a 'company' as defined in the Corporations Act and its securities were shares; and
    - (D) each other entity that Controls that entity; and

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- (E) each other entity that is Controlled by that entity; and
- (F) each trust of which the entity or a person or entity described in paragraphs (a)(i)(A), (B), (C), (D) or (E) is a trustee; and
- (G) each trust under which that entity holds voting rights in respect of voting securities as if that trust were a 'company' as defined in the Corporations Act and its securities were shares,

except that, for the purposes of this document a relevant interest (as that term is defined in the Corporations Act) that has arisen merely because the person is party to a shareholders' agreement, unitholders' agreement, consortium agreement or constitution, in respect of the entity that gives members pre-emptive rights on the transfer of securities if all members have pre-emptive rights on the same terms, will be disregarded; and

- (ii) in relation to a natural person, any:
  - (A) spouse; and
  - (B) relative by blood or adoption of that person or that person's spouse; and
  - (C) trust of which that person or a person described in paragraphs (a)(ii)(A) or (B) is a trustee; and
  - (D) body corporate in which that person and Affiliates of that person hold voting shares; and
- (iii) the Airport Manager; and
- (b) in respect of the Airport Lessor, a corporation or company wholly owned by the Airport Lessor and a wholly owned subsidiary of a corporation or company wholly owned by the Airport Lessor (which includes any corporation or company wholly owned by any person or persons holding the relevant shares on behalf of the Airport Lessor).

**Airport** means the Sunshine Coast Airport operated on the Airport Land and Additional Airport Land which the Airport Lessor has purchased pursuant to clause 20.1 ("Alternative arrangements").

**Airport Facilities** means the facilities (including Improvements) at the Airport.

**Airport Group** means the Airport Lessee and the Airport Manager.

**Airport Land** means:

- (a) the land the subject of the SCA Tenure Documents at that relevant time (including any public roads and thoroughfares within the area subject to the SCA Tenure Documents and any Additional Airport Land); or
- (b) where the SCA Tenure Documents have been terminated, surrendered or have expired, the land (including any Additional Airport Land) that was the subject of the SCA Tenure Documents at the time of termination, surrender or expiry.

**Airport Licence** means the licence of the Licence Site under the SCA Council Freehold Sublease.

**Airport Manager** means the "Airport Manager" under the SCA Framework Agreement or any other person appointed under clause 18.2 ("Airport Manager").

**Airport Objectives** means developing, operating, maintaining and managing the Airport to:

- (a) maximise the economic benefit to the parties and the Sunshine Coast region; and
- (b) maximise revenue opportunities for the Airport; and

Title Reference 50957069

- (c) increase the capacity and develop and expand the operations of the Airport where Feasible through:
- (i) developing the Airport as an inter-modal Cargo, passenger and logistics centre for the Sunshine Coast region; and
  - (ii) developing associated infrastructure on the Leased Area that supports the Airport (including roads, transport systems and other public infrastructure that add value to the Airport); and
  - (iii) expanding domestic and international passenger routes (including through existing routes and the development of new routes); and
  - (iv) enhancing the user experience of the Airport; and
  - (v) ensuring that the Airport is maintained and operated in accordance with Good Aviation Industry Practice.

**Airport Regulator** means any Government Agency or service provider that regulates the operation of the Airport or the Airport Land as an airport (such as the Civil Aviation Safety Authority, the Office of Airspace Regulation, Airservices Australia and the Australian Transport Safety Bureau), including in relation to:

- (a) the use or operation of Airport Facilities; or
- (b) safety or security in relation to the Leased Area; or
- (c) activities on or within the Leased Area; or
- (d) the operation of the Airport; or
- (e) movement of passengers within, into or out of Australia; or
- (f) the import or export of Cargo and other goods within, into or out of Australia.

**Airport Sublease** means a sublease, sub-sublease, licence, franchise, concession or other agreement parting with possession of any part of the Airport Land or the Improvements by the Airport Lessee or the Airport Manager, but excluding the SCA Freehold Sublease.

**Airport Tenants** means the Existing Airport Tenants and the New Airport Tenants.

**Airport Tenant's Improvements** means all fixtures (including buildings, structures and other Improvements of whatever nature) affixed to the Leased Area, whether constructed before or after the grant of this document, which are owned by an Airport Tenant or which an Airport Tenant has a right (or obligation) to remove or demolish at the end of its lease or other occupancy.

**Airport User** means a user of the Airport, the Airport Facilities or services at the Airport or persons operating or working on or within the Airport or the Airport Facilities.

**Airservices Australia** means Airservices Australia ABN 59 698 720 886.

**Anti Money Laundering Regulations** means all Laws and Requirements of any Government Agency, including laws and requirements of places outside Australia, for the prevention of money laundering and financial crime.

**Applicable Laws** means any statute, regulation, order, rule, subordinate legislation or other instrument, standard, decision or principle enforceable under any statute, regulation, rule or subordinate legislation or by a court in respect of the Airport or the aviation industry, including:

- (a) the *Air Navigation Act 1920* (Cth); and
- (b) the *Civil Aviation Act 1988* (Cth) and the *Civil Aviation Safety Regulations 1998* (Cth); and

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- (c) the *Air Services Act 1995* (Cth); and
- (d) the *Aircraft Noise Levy Collection Act 1995* (Cth); and
- (e) the Liquor Act; and
- (f) the Retail Shop Leases Act; and
- (g) the *Aviation Transport Security Act 2004* (Cth); and
- (h) the *Airspace Act 2007* (Cth).

**Approval** means any permit, licence, consent, certificate, authority, registration, project approval, management plan, performance agreement, environmental audit program, compliance plan or other document or instrument obtained or required to be obtained, from a Government Agency and any conditions of them, including any approval under the *Civil Aviation Act 1988* (Cth).

**ASX** means ASX Limited ACN 008 624 691 or, if the context requires, the financial market operated by it.

**Authorised Officer** means:

- (a) in the case of the Airport Lessor, the mayor, the chief executive officer, the chief financial officer and any other officer of the Airport Lessor nominated by the Airport Lessor to act as an authorised officer for the purposes of this document; and
- (b) otherwise a director or secretary of a party or any other person nominated by that party to act as an authorised officer for the purposes of this document.

**Baseline Pre-Existing Contamination** means Contamination specifically identified in the Baseline Study as being present in the Leased Area at the date of the Baseline Study.

**Baseline Study** means the environmental reports prepared for the Airport Land setting out the results of the investigation of Contamination of the Airport Land (as at the Commencement Date) as updated by the subsequent baseline study to be provided by the Airport Lessor in accordance with clause 7.2(e)(viii)(C) of the SCA Runway Project Construction Framework Deed.

**Business Day** means a day on which banks are open for general banking business in Brisbane, Queensland (not being a Saturday, Sunday or public holiday in that place).

**Cargo** means all cargoes, freight, goods and commodities.

**Change of Control** means a change in a person who is able to Control an entity (and in respect of a trust, includes any change in the beneficiaries of the trust (including by the transfer or issue of units in the trust) or any change in the trust deed or instrument governing the trust), but does not include a situation where:

- (a) a person ceases to be able to Control an entity without another person acquiring the ability to Control that entity; or
- (b) the change is to a person who manages the entity (including, in the case of a fund, an investment manager of that fund) or who advises the entity (for the purposes of this definition, 'advises' means the provision of advice to an entity in relation to the making, monitoring or management, including in connection with any disposal of investments by that entity, other than in relation to actually making decisions to implement such advice, which, in the case of a fund, is substantially the same as the advisory services that would be provided by a manager of the fund, and such advisor effectively forms an integral part of the fund).

**Civil Emergency** has the meaning in clause 10.5 ("Civil Emergencies").

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**Claim** means any claim, Loss, suit, proceeding, action, cause of action, demand, notice, litigation, investigation, judgment, execution, liability or responsibility, including for any Damages or for any injury or death, whether present, unascertained, immediate, future or contingent, whether based in contract, tort (including negligence), statute or otherwise and whether involving a third party or a party to this document or any other Transaction Document.

**Claim Event** means an incident, event or other thing arising out of Pre-Existing Contamination in respect of which the Airport Lessee may make a Claim against the Airport Lessor.

**Clean Up** includes, in relation to Contamination or Environmental Harm:

- (a) action to prevent, minimise, remove, disperse, manage, destroy or mitigate any Contamination or Environmental Harm; and
- (b) ascertaining or investigating the nature and extent of existing Contamination or Environmental Harm and of any actual or likely resulting Contamination or Environmental Harm; and
- (c) eliminating or reducing any hazard to human health or the Environment arising from Contamination or Environmental Harm on, in or under the Leased Area; and
- (d) preparing and carrying out a remedial plan of action or remediation; and
- (e) action to remove, dispose of or store waste that has been disposed of unlawfully on the Leased Area.

**Commonwealth** means the Commonwealth of Australia, but does not include any Commonwealth bodies which are separate legal entities.

**Communications** has the meaning given in clause 36 ("Communications").

**Completed Works Payment** has the meaning given in clause 19.5(b) of the SCA Runway Project Construction Framework Deed.

**Consequential Loss** means the following losses, regardless of whether such losses arise in contract (including under this document), in tort (including in negligence), under statute, in equity, by way of indemnity or otherwise:

- (a) loss of profit or anticipated profit; and
- (b) loss of revenue or anticipated revenue; and
- (c) loss of production; and
- (d) loss of use; and
- (e) loss of business opportunity; and
- (f) loss of future contracts; and
- (g) loss of or damage to goodwill or reputation.

**Consumer Price Index** means the Brisbane (All Groups) index or the index officially substituted for it.

**Contamination** means the presence in, on or under land, air or water of a thing (whether a solid, liquid or gas) at a concentration above the concentration at which the thing is normally present in, on or under (respectively) land, air or water in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the Environment and fails to satisfy the relevant contamination criteria or standards published or adopted by the relevant Government Agency at the relevant time, or constitutes non-compliance or breach of any Environmental Law, and **Contaminant** has a corresponding meaning.

**Control** of an entity means the definition of 'Control' in section 50AA of the Corporations Act and:



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- (a) in the case of a corporation includes the power (whether it is legally enforceable or not) to control, whether directly or indirectly, the composition of the board of directors of that corporation or other governing body of that corporation, the voting rights of the majority of the voting shares of that corporation or the management of the affairs of the corporation or the business operated by the corporation; and
- (b) in the case of a trust, includes the power (whether it is legally enforceable or not) to control, whether directly or indirectly, the appointment or removal of the trustee of the trust (including by retirement), the composition of the board of directors of the trustee, the voting rights of the majority of the units of the trust or the management of the affairs of the trust or the business operated by the trust,

(as the case may be) and **Controlled** and **Controlling** have a corresponding meaning.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Costs** means all costs, expenses, losses, charges and payments including any fees payable to consultants, agents or contractors, legal fees (on a full indemnity basis) and any administration costs.

**Current CPI** means, in relation to clause 12.3(e), the Consumer Price Index number for the quarter ending immediately before the relevant anniversary of the Commencement Date.

**D&C Contractor** has the meaning given under the SCA Runway Project Construction Framework Deed.

**Date of Surrender** means the surrender date, or date of termination, of the SCA Council Freehold Sublease.

**Damages** means any Loss, Costs or damage whatsoever including, but not limited to, direct, indirect, incidental, consequential or special damages, damage to property, to land (including to the Leased Area or to the Environment) or the diminution in value of the Leased Area or any part of the Airport.

**Deal** means assign, transfer, sell, sublet, licence, part with possession of, mortgage, charge, surrender, dispose of, grant a trust over or otherwise deal with or permit any dealing with any property or legal or equitable interest and **Dealing** has a corresponding meaning.

**Defacto Assignment** means the grant of one or more Airport Subleases over the Leased Area:

- (a) with the intent or effect that an Existing Airport Tenant, a New Airport Tenant and/or any or all of its Affiliates will operate or manage or control the operation or management of 20% or more of the total land area of the Airport Land for or in place of the Airport Lessee or the Airport Manager; or
- (b) where any Airport Sublease relates to the development, control, management, operation or maintenance of the Airport as an airport and the Airport Sublease has a term (including any options to renew) of more than 25 years,

provided that any appointment of, or grant of the SCA Freehold Sublease or an Airport Sublease, or other grant of rights of possession in respect of the Leased Area, to an Airport Manager or as contemplated by clause 19 ("Security Interest"), will not constitute a Defacto Assignment.

**Default Event** means an event of default in clause 26.1 ("Default").

**Designated Obligations** has the meaning given in clause 23.2(a) ("Designated Obligations").

**Details** means the section of this document headed "Details".

**Environment** includes:

- (a) ecosystems and their constituent parts, including people and communities; and
- (b) natural and physical resources; and

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- (c) the qualities and characteristics of locations, places and areas; and
- (d) the social, economic, aesthetic and cultural aspects of a thing mentioned in paragraphs (a), (b) or (c) above,

and **Environmental** has a corresponding meaning.

**Environmental Harm** means any adverse effect, or potential adverse effect (whether temporary or permanent and of whatever magnitude, duration or frequency) on the Environment, and includes Environmental Nuisance, whether the harm is a direct or indirect result of an activity or whether the harm results from one activity or from the combined effects of an activity and other activities or factors.

**Environmental Law** means:

- (a) all Applicable Laws relating to the Environment, noise, development, construction of structures, health, offsets, nature conservation, Contamination, radiation, pollution, waste disposal, land management and Hazardous Materials; and
- (b) all conditions of all Approvals issued under any Applicable Law in paragraph (a) above; and
- (c) regulations and any lawful order, legally binding guideline, notice, direction or Requirement of any Government Agency in relation to these matters.

**Environmental Nuisance** means an unreasonable interference or likely interference with the Environment caused or contributed by:

- (a) aerosols, fumes, light, noise, odour, particles or smoke; or
- (b) an unhealthy, offensive or unsightly condition because of Contamination; or
- (c) another way prescribed by Applicable Laws.

**Environmental Offset Areas** means:

- (a) the areas, but only to the extent they form part of the Leased Area, shown on the plan in Schedule 2; and
- (b) any other areas (whether or not on the Leased Area) required for environmental offsets in respect of approvals subsequently sought and obtained by Airport Group in connection with the Airport, but excludes any area of land the subject of any Offsite Conditions.

**EOT Completion Date** has the same meaning as in the SCA Framework Agreement.

**EOT Option Assets** has the same meaning as in the SCA Framework Agreement.

**Essential Term** means any of the rights and obligations of the parties (including the Airport Manager) in the clauses of each relevant Transaction Document as set out in Schedule 3.

**Existing Airport Leases** means all the leases (registered or unregistered), licences, permits to occupy or other occupancy rights (written or oral) which exist in relation to the Leased Area or any part of it as at the Commencement Date, but excluding:

- (a) any such arrangements which exist between the Airport Lessor and the Airport Lessee or the Airport Manager, as the case may be; and
- (b) any Airport Sublease with the Airport Manager.

**Existing Airport Tenants** means the tenants, the licensees and any other occupants under the Existing Airport Leases.

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**Feasible** means it is feasible for any member of the Airport Group to develop the Airport or expand the capacity and the operations of the Airport if, as the context requires:

- (a) the Approvals for the development or expansion of the Airport exist or there is a reasonable prospect that they could be obtained by the relevant member of the Airport Group; and
- (b) the Airport Group has access to, or can reasonably obtain access to, adequate occupation rights required for the development or expansion of the Airport; and
- (c) the development or expansion of the Airport is consistent with growing trade, Cargo or passenger usage through the Airport in a sustainable manner; and
- (d) the development or expansion of the Airport is consistent with the obligations of each member of the Airport Group under the Applicable Laws and relevant Approvals; and
- (e) the Airport Group is able to obtain the necessary finance (if required) for the development or expansion of the Airport on reasonable terms having regard to the then market for debt and equity finance; and
- (f) the development or expansion of the Airport would provide the Airport Manager with a reasonable commercial return on any required investment having regard to:
  - (i) the risk associated with the development or expansion, including any material adverse impact on the use or proposed use of any existing asset; and
  - (ii) the duration of the investment and the life of the relevant asset.

**Financial Default** means:

- (a) a failure by the Airport Lessee, the Airport Manager or the Security Trustee to pay any money to the Airport Lessor that is due and payable and required to be paid under or in respect of this document or any other Transaction Document; and
- (b) the payment is not subject to a bona fide dispute between the Airport Lessee or Airport Manager and the Airport Lessor pursuant to:
  - (i) a dispute under the SCA Framework Agreement; or
  - (ii) the relevant Transaction Document (including this document) under which the money is payable.

**Financial Year** means a period of 12 consecutive calendar months ending on 30 June each year or on another day specified in a notice the Airport Lessor gives to the Airport Lessee.

**Force Majeure Cure Plan** has the same meaning as in the SCA Framework Agreement.

**Force Majeure Event** has the same meaning as in the SCA Framework Agreement.

**Good Aviation Industry Practice** means:

- (a) adherence to a standard of practice which includes the exercise of that degree of skill, diligence, due care, prudence and foresight which would reasonably be expected of an experienced, competent, prudent and qualified operator of a facility in Australia comparable to the Airport (where that standard and that degree are not to be read down or limited at any time based on the fact that the SCA Tenure Documents have a finite term); and
- (b) compliance with Applicable Laws and Approvals and any other directions, decisions, guidelines or Requirements of a relevant Airport Regulator or other Government Agency.

**Good Business Practice** means the good business practices expected of an operator of the Airport having regard to the duties and obligations of the Airport Lessee and the Airport Manager under the Transaction

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Documents including providing appropriate facilities for the ease of access, expeditious movement and efficient use of the Leased Area by aircraft, vehicles and other users of the Airport.

**Good Environmental Practice** means the implementation of all of those measures for:

- (a) the protection and/or enhancement of the Environment; and/or
- (b) the conservation and/or sustainability of natural resources,

which would reasonably be expected from a competent, experienced and qualified operator of a facility in Australia comparable to the Airport and which may include:

- (c) efficient waste and recycling management; and
- (d) maintenance of air quality; and
- (e) water conservation, use and management; and
- (f) minimisation of emissions; and
- (g) adoption of energy efficient practices; and
- (h) use of energy efficient Plant and Equipment; and
- (i) minimisation of energy use; and
- (j) minimisation of matters which may be hazardous or harmful to the Environment; and
- (k) management of eco-systems.

**Good Operating and Maintenance Practice** means, in the performance of any services or obligations, adherence to a standard of practice which includes the exercise of that degree of skill, diligence, prudence and foresight which would reasonably be expected from a competent, experienced and qualified operator of a facility in Australia comparable to the Airport.

**Government Agency** means any governmental, semi-governmental, administrative, fiscal, judicial or quasi-judicial body, department, commission, authority, tribunal, agency or entity and includes the Airport Lessor (in its capacity as a local government under the Local Government Act or any other statutory capacity), the Civil Aviation Safety Authority and Airservices Australia.

**Gross Revenue** means, for each Financial Year, the total of all money and the value in money of things payable by any person to the Airport Lessee, the Airport Manager, any Affiliate or Related Body Corporate of the Airport Lessee or the Airport Manager, any manager or agent appointed by the Airport Lessee, the Airport Manager or any other person (other than the Airport Lessor) in relation to the use, occupation, operation or development of the Airport or any part of it after the Commencement Date, including:

- (a) all landing and other aeronautical charges and fees; and
- (b) all rent, percentage rent, turnover rent and licence fees (including signage and storage licence fees) payable by Airport Tenants; and
- (c) all carparking fees and charges; and
- (d) compensation payable for any injurious affectation, disturbance or lost income,

but excluding:

- (e) any amounts payable by the Airport Manager to the Airport Lessee, and by the Airport Lessee to the Airport Manager (including rent payable by the Airport Manager under the SCA Freehold Sublease); or

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- (f) any charges reimbursing the Airport Lessee or the Airport Manager for electricity, gas, water and other utilities paid by any Airport Tenants or Airport Users; or
- (g) any mandated security-related charges collected from Airport Users by the Airport Lessee or the Airport Manager; or
- (h) any GST received in respect of those charges, fees, rent, licence fees and other money; or
- (i) the amount of discounts allowed to customers in the normal course of business; or
- (j) the amount of uncollected credit accounts that are written off; or
- (k) any payments by the Airport Tenants for outgoings or operating expenses; or
- (l) any receipt by the Airport Lessee or the Airport Manager from a third party that is capital or of a capital nature.

**GST** includes amounts defined as "GST" under the GST law and "GST equivalents" payments under the *GST and Related Matters Act 2000* (Qld) (or similar payments under corresponding legislation of any State or Territory).

**GST Amount** has the meaning given in clause 30.2(a).

**Handback Plan** means a plan prepared to address the issues relating to the handing back of the Airport to the Airport Lessor (including all Improvements, Airport Facilities, Plant and Equipment and other chattels and assets relating to the use and operation of the Airport under this document and the other Transaction Documents).

**Hazardous Materials** means any substance, gas, liquid, chemical, mineral or other physical or biological matter (including radiation, radioactivity and magnetic activity):

- (a) which, taking into account the existing and proposed use and development of the Leased Area or the Improvements as the case may be, is dangerous, harmful to the Environment or which may cause pollution, Contamination or any hazard or increase in toxicity in the Environment or may lead to, discharge or otherwise cause damage to any person, property or the Environment; or
- (b) that is a material or compound controlled, prohibited or regulated from time to time by any Environmental Law.

**Holding Company** has the meaning given to it in the Corporations Act.

**Improvements** means all fixtures, including buildings and other improvements of whatever nature, affixed to the Leased Area, whether constructed before or after the grant of this document and includes runways, taxiways, aprons, car parks, fuel storage depots, roads and hardstands on the Leased Area and any other structures and improvements to the Leased Area, but does not include Airport Tenant's Improvements (while the relevant Airport Sublease to the Airport Tenant remains in effect).

**Initial Insurance Policies** has the meaning given in clause 14.1 ("Insurance required at Commencement Date").

**Insolvency Event** means when:

- (a) an application is made for an order that a corporation be wound up and no application to dismiss that application is made within 20 Business Days or an order is made that a corporation be wound up; or
- (b) a corporation resolves that it be wound up; or
- (c) a corporation is deregistered or applies to be deregistered; or
- (d) a corporation ceases to carry on business; or

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- (e) a person is or admits that it is insolvent; or
- (f) a liquidator or provisional liquidator of a corporation is appointed and is not removed within 20 Business Days; or
- (g) an administrator of a corporation is appointed and is not removed within 20 Business Days; or
- (h) a person enters into, or resolves to enter into, a compromise, arrangement or deed of company arrangement with all or any of its creditors, except to reconstruct or amalgamate while solvent on terms approved by the Airport Lessor, acting reasonably; or
- (i) a Receiver or a controller of a person or of any material assets or undertaking of a person is appointed and is not removed within 20 Business Days; or
- (j) anything analogous or having a substantially similar effect to any of the events specified above happens under the Law of any applicable jurisdiction.

**Intellectual Property Rights** means all intellectual property rights including current and future registered and unregistered rights in respect of copyright, designs, circuit layouts, trademarks, trade secrets, know-how, confidential information, patents, invention and discoveries and all other intellectual property rights as defined in article 2 of the *Convention Establishing the World Intellectual Property Organisation 1967*.

**Interface Schedule** has the meaning given to it in the SCA Runway Project Construction Framework Deed.

**Invitees** means:

- (a) in relation to the Airport Lessee, each of:
  - (i) the Airport Lessee's officers, employees, servants, agents, licensees and contractors; and
  - (ii) the Airport Manager; and
  - (iii) the Airport Tenants; and
  - (iv) any other invitee of the Airport Lessee, Airport Manager or an Airport Tenant; and
- (b) in relation to the Airport Manager, each of:
  - (i) the Airport Manager's officers, employees, servants, agents, licensees and contractors; and
  - (ii) the Airport Lessee; and
  - (iii) the Airport Tenants; and
  - (iv) any other invitee of the Airport Lessee, Airport Manager or an Airport Tenant,

but does not include, for either of the Airport Lessee or the Airport Manager:

- (c) the Airport Lessor; or
- (d) officers, employees, servants, agents and contractors, licensees of the Airport Lessor.

**Land Price** means the sum of \$10.00 (including GST).

**Land Sale Contract** means a contract under which the Airport Lessee agrees to:

- (a) transfer, or procure to transfer, to the Airport Lessor:

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- (i) the relevant lease, free of any Security Interest, if the Additional Airport Land is leased to the Airport Lessee, the Airport Manager or an Affiliate of the Airport Lessee or the Airport Manager; or
  - (ii) otherwise, ownership of Additional Airport Land, free of any Security Interest; and
- (b) provide the Transfer Forms to the Airport Lessor by the AAL Completion Date,
- in exchange for the Land Price and the Leaseback and which contract is (unless the parties agree otherwise):
- (c) in the form of the standard commercial land contract approved by the Queensland Law Society as at the Commencement Date or such replacement contract approved by the Queensland Law Society; and
  - (d) completed with the description of the Additional Airport Land where needed to be inserted.

**Law** means any statute, regulation, rule, proclamation, ordinance, by-law or code principles of law established by decisions of courts, Approvals and Requirements (including any conditions or requirements under them).

**Lease Guarantee** means a security given to the Airport Lessor with respect to an Existing Airport Tenant's obligations under an Existing Airport Lease and includes:

- (a) a guarantee or guarantee and indemnity given by a person; and
- (b) a bank guarantee; and
- (c) a bond.

**Lease Premium** means the premium payable by the Airport Lessee for the grant of the lease under clause 3.1 (and paid under and upon the terms of the SCA Share Sale and Purchase Agreement).

**Lease Run Out Period** means the last 10 year period in the Term ending on the Expiry Date.

**Leaseback** has the meaning given to it in clause 20.2 ("Grant of AAL Call Option").

**Leaseback Document** means the lease or sublease document to give effect to the Leaseback.

**Leased Area** means the land described in Item 2 of the Form 7 of this document (including the Improvements on the land).

**Liabilities** includes all liabilities and Costs, direct or indirect, however arising, whether present, unascertained, immediate, future or contingent, whether based in contract, tort (including negligence), statute or otherwise including where arising under any Claim.

**Licence Site** has the same meaning as in the SCA Runway Project Construction Framework Deed.

**Liquor Act** means *the Liquor Act 1992* (Qld).

**Liquor Licence** means a licence or permit for the Airport (or any part of the Airport) issued under the Liquor Act.

**Local Government Act** means the *Local Government Act 2009* (Qld).

**Loss** means, in relation to any person, any loss (including loss of reputation), Liability, Damages, Cost, fine or penalty incurred by the person however arising and whether present or future, fixed or unascertained, actual or contingent whether based in contract, tort (including negligence), statute or otherwise including where arising under any Claim.

**Native Title** has the meaning given in section 223 of the NTA.

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**Native Title Claim** means any Claim or application in respect of Native Title, including a native title determination application and a compensation application, as provided for under section 61 of the NTA.

**New Airport Tenant** means a person (other than an Airport Manager) who subleases any part of the Leased Area from the Airport Lessee, the Airport Manager or another Airport Tenant.

**New Lease Guarantee** means a security given or transferred to the Airport Lessee with respect to an Existing Airport Tenant's obligations under an Existing Airport Lease or with respect to a New Airport Tenant's obligations under a sublease and includes:

- (a) a guarantee or guarantee and indemnity given by a person; and
- (b) a bank guarantee; and
- (c) a bond.

**New Runway Construction Payment** has the meaning given in the SCA Runway Project Construction Framework Deed.

**NTA** means the *Native Title Act 1993* (Cth).

**Offsite Conditions** has the meaning given to it in the SCA Framework Agreement.

**Operating and Management Activities** has the meaning given in the SCA Framework Agreement.

**Other Airport Assets** means the Airport Lessee's interest in:

- (a) all tangible personal property used by the Airport Lessee in connection with the management, operation or maintenance of the Airport; and
- (b) any motor vehicle; and
- (c) any computer programs, computer software and equipment or Intellectual Property Rights used in connection with the management, operation or maintenance of the Airport; and
- (d) any domain name used in connection with the management, operation or maintenance of the Airport; and
- (e) any application, permit, licence, approval, certification or accreditation that is capable of transfer made or used in connection with the management, operation or maintenance of the Airport.

**Permitted Change of Control** means:

- (a) a Change of Control where there is a change to the trustee of any trust but no change in beneficial ownership of securities and the new trustee of that trust is under a legal obligation to exercise that capacity for the benefit of the beneficial owners of the securities only; or
- (b) any transfer of securities (and as if references to securities extended to units in a unit trust) in the Airport Lessee pursuant to which any Affiliate (whether individually or together with other Affiliates) acquires Control of the Airport Lessee; or
- (c) a Change of Control arising as a result of any transfer of securities (including any units in a unit trust) between entities in respect of which Palisade Investment Partners Limited (ACN 124 326 361) or any of its Affiliates act as investment manager; or
- (d) a Change of Control where the proposed transferee, its Holding Company, its Ultimate Holding Company or other proposed new Controlling entity (including any trust or superannuation or other fund or other investment vehicle), or any trustee or manager of such an entity, has:



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- (i) minimum asset holdings or assets under management of \$300 million or more; or
- (ii) net tangible assets of \$100 million or more,

and the Airport Lessor is satisfied, acting reasonably, that the transferee and the entity that has the required assets (if different) is a Sophisticated Infrastructure Investor, and the amounts referred to in this paragraph (d) are indexed by dividing the Consumer Price Index for the quarterly review period immediately prior to the proposed Change of Control, by the Consumer Price Index for the quarterly review period immediately prior to the Commencement Date, and multiplying the amount by the resulting number.

**Personnel** means any officer, employee, agent, contractor or subcontractor of a party.

**Planning Scheme** means the Sunshine Coast Planning Scheme in force as at the Commencement Date (as amended from time to time) and any renewals, updates, variations or replacements of that document.

**Plant and Equipment** means all non-fixed plant and equipment, vehicles, machinery, appliances, furniture, office equipment, computer systems, computer programs, technology, tools and spare parts used or owned by the Airport Lessee, the Airport Manager or any member of the Airport Group in the performance of its obligations under this document or the Transaction Documents.

**Post-Commencement Activity** means:

- (a) any activity by any person in, on, under or over the Leased Area occurring on or after the Commencement Date, including any disturbance or release of any Contaminant or Contamination by an act occurring on or after the Commencement Date; and
- (b) any failure to act by any person in, on, under or over the Leased Area occurring on or after the Commencement Date which causes or contributes to the disturbance or release of any Contaminant or Contamination occurring on or after the Commencement Date,

that is not:

- (c) migrating Pre-Existing Contamination on land; or
- (d) activity conducted by the Airport Lessor, an Airport Regulator, a Government Agency or by their employees or contractors (other than the Airport Lessee or the Airport Manager); or
- (e) activity occurring after the Commencement Date conducted by or on behalf of Airport Lessee or Airport Manager that is conducted in response to a lawful notice, order or direction in respect of Pre-Existing Contamination given to Airport Lessee or Airport Manager by a Government Agency (excluding the Airport Lessor), to the extent that (and only to the extent that) it affects Pre-Existing Contamination.

**PPSA** means the *Personal Property Securities Act 2009* (Cth).

**Pre-Existing Contamination** means Contamination which was present in the Leased Area at the Commencement Date, being Baseline Pre-Existing Contamination and Proven Pre-Existing Contamination.

**Previous CPI** means, for the purposes of clause 12.3(e), the Consumer Price Index number for the quarter ending immediately before the previous anniversary of the Commencement Date before the relevant anniversary of the Commencement Date (or, if there has not been one, the Commencement Date).

**Prohibited Entity** means:

- (a) any person or entity which is a "terrorist organisation" as defined in Part 5.3 of the *Criminal Code Act 1995* (Cth); or
- (b) any person or entity which has a connection with certain countries or named individuals or entities subject to international sanctions, or is associated with terrorism, including:

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- (i) the persons or entities listed by the Minister for Foreign Affairs in the Government Gazette pursuant to Part 4 of the *Charter of the United Nations Act 1945* (Cth) (which list, as at the date of this document, is available from the website of the Australian Department of Foreign Affairs and Trade); and
- (ii) any other person or entity on any other list of terrorists or terrorist organisations maintained under the rules and regulations of the Australian Department of Foreign Affairs and Trade or under any Law; or
- (c) any person or entity listed by the Minister for Foreign Affairs, or prescribed by regulation made by the Governor General of Australia, under the *Charter of the United Nations Act 1945* (Cth); or
- (d) a person that the Reserve Bank of Australia has made a direction in relation to under the *Banking (Foreign Exchange) Regulations 1959* (Cth).

**Proven Pre-Existing Contamination** means Contamination that the Airport Lessee demonstrates to the Airport Lessor by reasonable evidence and on the balance of probabilities was present in the Leased Area at the Commencement Date.

**Rates and Taxes** means the total of all amounts paid or payable in respect of the Leased Area whether levied against the Airport Lessor or the Airport Lessee, for:

- (a) rates, charges, assessments, duties and levies (including water rates and sewerage rates) imposed by any Government Agency (irrespective of whether the land is rateable land under the Local Government Act); and
- (b) land and other Taxes, fees and penalties of whatsoever nature imposed by any Government Agency; and
- (c) all other amounts, Costs or expenses levied or imposed at Law on the Airport Lessor or the Airport Lessee because of:
  - (i) the particular use or occupation of the Leased Area by the Airport Lessee or the Airport Manager; or
  - (ii) the ownership of the Leased Area by or on behalf of the Airport Lessor; or
  - (iii) the existence of the Improvements or Airport Tenant's Improvements on the Leased Area,

but does not include Taxes on the income or capital gains of the Airport Lessor.

**Receiver** includes a receiver or receiver and manager.

**Related Body Corporate** has the meaning it has in the Corporations Act.

**Requirement** means any notice, order, direction, requirement, ordinance, proclamation order, work order, requisition, regulation, scheme, permit, by-law, obligation to notify or register, rule or other regulatory requirement, present or future, of or given by any Government Agency under any Law (including any Environmental Law) irrespective of whether the Requirement is addressed to the Airport Lessor, the Airport Lessee or any other person, but does not include any notice of an actual or proposed resumption, reservation for public purposes or compulsory acquisition.

**Residual Occupancy Arrangements** means any licences, permits to occupy or other occupancy rights which exist in relation to the Leased Area.

**Responsible Party** means each of the Airport Tenants, the Airport Users and the Airport Manager.

**Retail Shop Leases Act** means the *Retail Shop Leases Act 1994* (Qld).

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**Runway Project** means the project to design, construct, test and commission the new runway on the Runway Site in accordance with the SCA Runway Project Construction Framework Deed.

**Runway Site** means the land in Item 9 of the Details.

**SCA Council Freehold Sublease** means the sublease that may be granted by Airport Manager to Airport Lessor in respect of the Runway Site pursuant to the terms of the SCA Runway Project Construction Offer Deed.

**SCA Financier Tripartite Deed** means the agreement entitled "SCA Financier Tripartite Deed" between the Airport Lessor, the Airport Group and the Security Trustee.

**SCA Framework Agreement** means the agreement entitled "SCA Framework Agreement" between the Airport Lessor, the Airport Lessee and the Airport Manager.

**SCA Freehold Sublease** means the sublease to be granted by the Airport Lessee to the Airport Manager over the Leased Area.

**SCA Runway Project Construction Offer Deed** means the document to be entered into between the Airport Group and the Airport Lessor on or about the date of this document granting the relevant parties a call offer and a put offer (as applicable) to enter into the SCA Runway Project Construction Framework Deed and the SCA Council Freehold Sublease.

**SCA Runway Project Construction Framework Deed** means the agreement to undertake the Works that may be entered into between the Airport Lessor, the Airport Lessee and the Airport Manager pursuant to the terms of the SCA Runway Project Construction Offer Deed.

**SCA Share Sale and Purchase Agreement** means the share sale and purchase agreement entered into between SCRC and Buyer for the sale and purchase of shares in Airport Manager.

**SCA Tenure Documents** means the following documents (but only after they commence):

- (a) this document; and
- (b) the SCA Freehold Sublease; and
- (c) the SCA Council Freehold Sublease; and
- (d) any lease or sublease of Additional Airport Land entered into pursuant to clause 20 ("Additional Airport Land"); and
- (e) any document which the Airport Lessor and the Airport Lessee agree in writing is a SCA Tenure Document for the purposes of this definition; and
- (f) any document entered into for the purposes of varying, replacing, or novating any of the above.

**Security Interest** includes:

- (a) a 'security interest' as defined in the PPSA but does not include a deemed security interest under section 12(3) of the PPSA which does not secure payment or performance of an obligation; and
- (b) security for payment of money, performance of obligations or protection against default (including a mortgage, bill of sale, charge, lien, pledge, trust, power or title retention arrangement, right of set-off, assignment of income, garnishee order or monetary Claim and flawed deposit arrangements); and
- (c) a thing or preferential interest or arrangement of any kind giving a person priority or preference over Claims of other persons or creditors with respect to any property or asset,

and includes any agreement to create any of them or allow them to exist.

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**Security Trustee** has the meaning given to that term in the SCA Financier Tripartite Deed.

**Separable Portion** has the meaning given to that term in the SCA Runway Project Construction Framework Deed.

**Site Conditions** means any condition affecting or potentially affecting the Leased Area, including:

- (a) ground water, ground water hydrology and the effects of any de-watering; and
- (b) physical conditions on, above or below the surface of land; and
- (c) demography of land surface and sub-surface conditions and geology including rock or other materials encountered on land; and
- (d) climatic and weather conditions, rain surface water run-off and drainage, water seepage, wind, wind-blown dust and sand in seasons; and
- (e) all existing systems and Utility Services above or below the surface of the land and the location of all facilities with which such systems and Utility Services are connected; and
- (f) all other physical conditions and characteristics of land on, above or below the surface (including Improvements),

and also the availability and condition of roads and all Utility Services servicing, or required to provide a Utility Service to, the Leased Area.

**Sophisticated Infrastructure Investor** means any of the following:

- (a) a body regulated by the Australian Prudential Regulation Authority, other than a trustee of a superannuation fund, approved deposit fund, a pooled superannuation trust or public sector superannuation scheme (each within the meaning of the *Superannuation Industry (Supervision) Act 1993* (Cth)); or
- (b) a trustee of a superannuation fund, approved deposit fund, a pooled superannuation trust or public sector superannuation scheme (each within the meaning of the *Superannuation Industry (Supervision) Act 1993* (Cth)) where membership is widely held; or
- (c) an exempt public authority (as that term is defined in the Corporations Act); or
- (d) a body corporate, or an unincorporated body that:
  - (i) carries on a business of investment in financial products, interests in land or other investments; and
  - (ii) for those purposes, invests funds received (directly or indirectly) following an offer or invitation to the public, within the meaning of section 82 of the Corporations Act, the terms of which provided for the funds subscribed to be invested for those purposes; or
- (e) a trustee or manager of a managed investment scheme (within the meaning of the Corporations Act) where the membership of the managed investment scheme is widely held, or all of the membership are Sophisticated Infrastructure Investors; or
- (f) a foreign entity that, if established or incorporated in Australia, would be covered by paragraphs (a), (b) or (d), including without limitation the trustee of a foreign government superannuation fund.

**Standards Association of Australia** means Standards Australia Limited ABN 85 087 326 690.

**Step-in Terms** means any of Airport Group's rights and obligations in the clauses set out in Part B of Schedule 5 of the SCA Framework Agreement.

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**Stewardship Covenants** means the covenants and obligations of the Airport Lessee in clause 9.3 (“Stewardship Covenants”).

**Structural Work** includes:

- (a) all maintenance, repairs and replacement of external and internal load bearing structures necessary to maintain the stability or strength of the Improvements including foundations, columns, walls, floors and beams or the external fabric of the Improvements; and
- (b) all maintenance, major repairs and replacements of a capital nature necessary to keep the Improvements structurally sound and in a weatherproof condition; and
- (c) all major repairs and replacement of any of the Utility Services necessary to ensure the Utility Services are properly functioning and available in the Leased Area (to the extent within the control of the Airport Group and that the obligation to do so is not vested in any Government Agency); and
- (d) major repairs and resurfacing of hardstands, pavements, roads and car parks at the Airport to ensure that the relevant surfaces are maintained in good repair and condition.

**Tax** or **Taxes** means taxes, levies, imposts, charges and duties (including stamp and transaction duties) paid, payable or assessed as being payable by any Government Agency, together with any fines, penalties and interest in connection with them.

**Transaction Documents** means (once these documents come into effect):

- (a) this document; and
- (b) the SCA Freehold Sublease; and
- (c) if the SCA Council Freehold Sublease becomes binding pursuant to the terms of the SCA Runway Project Construction Offer Deed, the SCA Council Freehold Sublease; and
- (d) the SCA Framework Agreement; and
- (e) if the SCA Runway Project Construction Framework Deed becomes binding pursuant to the terms of the SCA Runway Project Construction Offer Deed, the SCA Runway Project Construction Framework Deed; and
- (f) the SCA Runway Project Construction Offer Deed; and
- (g) the SCA Specific Security Deed; and
- (h) the SCA Financier Tripartite Deed; and
- (i) any other SCA Tenure Document; and
- (j) any document which the Airport Lessor and the Airport Lessee agree in writing is a Transaction Document for the purposes of this definition; and
- (k) any document entered into for the purposes of varying, replacing, or novating any of the above.

**Transfer Forms** means all forms, declarations, notices, directions, transfers and other documents required to transfer ownership of the Additional Airport Land or assign the relevant lease (as the case may be), free of any Security Interest, to Airport Lessor, in accordance with the Land Sale Contract in a form, where relevant, capable of registration following due execution and stamping (if required) and otherwise satisfactory to the Airport Lessor.

**Trust** has the meaning given to it in clause 34(a).

**Trustee** has the meaning given to it in clause 34(a).

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**Ultimate Holding Company** has the meaning given to it in the Corporations Act.

**Utility Services** means a utility service or services to, from or on the Airport Land (including water, electricity, gas, information and communication technology, air conditioning, lifts and fire services) and any plant, equipment or other items relating to such service or services.

**Works** has the meaning given to that term in the SCA Runway Project Construction Framework Deed.

### **1.3 General interpretation**

The provisions set out in clause 1.2 ("General interpretation") of the SCA Framework Agreement are incorporated by reference into this document.

### **1.4 Order of precedence**

(a) This document consists of the following parts forming the agreement between the Airport Lessor and the Airport Lessee:

- (i) these agreed terms in the body of this document; and
- (ii) the Schedules,

and, unless the context requires otherwise, any discrepancy, inconsistency or ambiguity between a part of this document and any other part, will be resolved and interpreted in the above order of precedence.

(b) To the extent that clause 1.4(a) does not resolve the discrepancy, inconsistency or ambiguity, the Airport Lessor shall, in its absolute discretion, determine the interpretation to be followed.

### **1.5 Inconsistency of documents**

If a provision of this document is inconsistent with a provision of the SCA Framework Agreement, the provisions of this document prevail to the extent of the inconsistency.

### **1.6 When this document binds the Airport Lessor**

This document only binds the Airport Lessor during any period that the Airport Lessor is entitled to receive the Rent and the Additional Rent in accordance with this document.

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## **2 Consideration**

Each party acknowledges entering into this document and incurring obligations and giving rights under this document for valuable consideration received from each other party.

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## **3 Demise**

### **3.1 Lease**

In consideration of the Lease Premium (which is not refundable in any circumstances), the Airport Lessor grants to the Airport Lessee a lease of the Leased Area for the Term.

### **3.2 Concurrent lease**

- (a) This document is concurrent with the Existing Airport Leases that relate to the Leased Area.
- (b) Subject to the SCA Freehold Sublease, the Airport Lessee:

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- (i) covenants to perform the obligations imposed on the Airport Lessor which arise during the Term in connection with the Existing Airport Leases (including in respect of the exercise of an option by a tenant under an Existing Airport Lease) in favour of the Existing Airport Tenants and their respective successors and assignees; and
- (ii) assumes all Liabilities of the Airport Lessor which arise during the Term, but only to the extent that they arise in connection with the Existing Airport Leases as if the Airport Lessee was itself the lessor under the Existing Airport Leases; and
- (iii) subject to any assignment of the Residual Occupancy Arrangements to the Airport Manager as at the Commencement Date and to this document, may enforce all rights, powers and remedies of the Airport Lessor under the Existing Airport Leases to the exclusion of the Airport Lessor (including to collect rent and other payments arising under the Existing Airport Leases after the Commencement Date); and
- (iv) subject to any assignment of the Residual Occupancy Arrangements to the Airport Manager as at the Commencement Date, is entitled to all rent and other money paid or payable to the Airport Lessor under the Existing Airport Leases during the Term; and
- (v) must inform the Airport Lessor promptly upon becoming aware of any actual or prospective Loss or Claim relating to the Existing Airport Leases. If the Airport Lessee gives such notification, the Airport Lessee may at its cost prosecute, defend or otherwise deal with any such Loss or Claim on behalf of the Airport Lessor and the Airport Lessor must provide such cooperation as is reasonable in this regard at the cost of the Airport Lessee.

### **3.3 Existing Airport Leases**

- (a) To the extent that this document does not have the legal effect of putting the Airport Lessee in the same position as the Airport Lessor in terms of enforcing all covenants, rights, powers and remedies of the Airport Lessor under the Existing Airport Leases (other than the Residual Occupancy Arrangements), then:
  - (i) subject to clause 3.3(a)(ii), the Airport Lessor assigns to the Airport Lessee with effect from the Commencement Date:
    - (A) the Airport Lessor's interest in the Existing Airport Leases; and
    - (B) the benefit of the covenants by the Existing Airport Tenants under the Existing Airport Leases,and the Airport Lessee accepts the assignment and assumes all Liabilities of the Airport Lessor which arise during the Term in respect of the Existing Airport Leases; and
  - (ii) if the benefit of any covenant under an Existing Airport Lease is not assignable or the consent to assignment has not been obtained, then it is not assigned to the Airport Lessee, and during the Term the Airport Lessor holds the benefit of the relevant lease covenant for the benefit of the Airport Lessee, and if directed by the Airport Lessee, the Airport Lessor must enforce the covenant for and at the cost of the Airport Lessee.
- (b) The Airport Lessor will use reasonable endeavours at the Cost of the Airport Lessee to procure that Existing Airport Tenants which are obliged under their Existing Airport Leases to take out insurance policies which name or note the interests of the Airport Lessor, or which must include the Airport Lessor as a co-insured, amend such policies to include the Airport Lessee and the Airport Manager as named, noted or co-insured parties (as the case may be).

### **3.4 Residual Occupancy Agreements**

Subject to any assignment of the Residual Occupancy Arrangements to the Airport Manager as at the Commencement Date:

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- (a) to the extent the Existing Airport Leases comprise Residual Occupancy Arrangements; and
  - (b) this document does not have the legal effect of putting the Airport Lessee in the same position as the Airport Lessor in terms of enforcing all covenants, rights, powers and remedies of the Airport Lessor under the Residual Occupancy Arrangements,
- then:
- (c) subject to clause 3.4(d), the Airport Lessor assigns to the Airport Lessee with effect from the Commencement Date:
    - (i) the Airport Lessor's interest in the Residual Occupancy Arrangements; and
    - (ii) the benefit of the covenants by the Existing Airport Tenants under the Residual Occupancy Arrangements,and the Airport Lessee accepts the assignment and assumes all Liabilities of the Airport Lessor which arise during the Term in respect of the Residual Occupancy Arrangements; and
  - (d) if the benefit of any covenant under a Residual Occupancy Arrangement is not assignable, then it is not assigned to the Airport Lessee, and during the Term the Airport Lessor holds the benefit of the covenant for the benefit of the Airport Lessee, and if directed by the Airport Lessee, the Airport Lessor must enforce the covenant for and at the cost of the Airport Lessee.

**3.5 Dealing with Existing Airport Leases**

- (a) Subject to clause 3.5(b), the Airport Lessee may:
  - (i) amend or vary any Existing Airport Lease; or
  - (ii) accept a surrender of all or any part of an Existing Airport Lease; or
  - (iii) agree to an Existing Airport Tenant holding over under an Existing Airport Lease; or
  - (iv) terminate an Existing Airport Lease in accordance with its terms.
- (b) Without the prior written consent of the Airport Lessor (such consent must not be unreasonably withheld or delayed), the Airport Lessee must not amend any Existing Airport Lease in a manner that:
  - (i) requires the Airport Lessor to pay or incur any Cost or Liability; or
  - (ii) imposes any additional or more onerous obligation or Liability on the Airport Lessor; or
  - (iii) releases the Existing Airport Tenant from any obligation to carry out capital works or make good its leased premises at the end of its lease term.
- (c) Pursuant to an agreement made with the Airport Lessee or the Airport Manager and on a request from the Airport Lessee, the Airport Lessor must promptly execute an instrument which amends, varies, surrenders or terminates an Existing Airport Lease if an Existing Airport Tenant executes the instrument and the instrument complies with clause 3.5(b).
- (d) The Airport Lessee must pay any duty in respect of any such instrument other than where paid by the Existing Airport Tenant.
- (e) Nothing in this clause 3.5 prevents the Airport Lessee from providing or agreeing to provide any right or benefit to an Existing Airport Tenant (for example, in a separate agreement between the Airport Lessee and an Existing Airport Tenant that is not an amendment or variation of an Existing Airport Lease) where the amendment or variation complies with clause 3.5(b).



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### **3.6 No dealings by Airport Lessor with Existing Airport Leases**

Without the Airport Lessee's prior written consent (such consent must not be unreasonably withheld or delayed) or as contemplated by this document, the Airport Lessor must not:

- (a) amend or vary any Existing Airport Lease; or
- (b) accept a surrender of all or any part of an Existing Airport Lease; or
- (c) terminate an Existing Airport Lease; or
- (d) purport to enforce or exercise any rights, powers or remedies of the Airport Lessor under an Existing Airport Lease.

### **3.7 Notices from Existing Airport Tenants**

If the Airport Lessee receives a notice from an Existing Airport Tenant or any other third party in respect of an Existing Airport Lease and that notice requires the Airport Lessor to do some act or thing which the Airport Lessee cannot do on the Airport Lessor's behalf in accordance with the Airport Lessee's obligations under clause 3.2 ("Concurrent lease"), the Airport Lessee must promptly provide a copy of the notice to the Airport Lessor and, upon request from the Airport Lessor, provide reasonable assistance to the Airport Lessor in satisfying the requirements of the notice.

### **3.8 Assignment of Lease Guarantees**

- (a) Subject to clause 3.9 ("Lease Guarantees that are not assignable"), on the Commencement Date, the Airport Lessor assigns its interest in assignable Lease Guarantees to the Airport Lessee.
- (b) Despite clause 3.8(a), the Airport Lessor does not warrant that the Lease Guarantees are valid, enforceable or assignable to the Airport Lessee.

### **3.9 Lease Guarantees that are not assignable**

If the Airport Lessor holds a Lease Guarantee for an Existing Airport Lease and the Lease Guarantee is not assignable, then:

- (a) the Airport Lessor's interest in the Lease Guarantee is not assigned to the Airport Lessee; and
- (b) from the Commencement Date, the Airport Lessor holds its interest under the Lease Guarantee for the benefit of the Airport Lessee; and
- (c) if directed by the Airport Lessee, the Airport Lessor must at the Cost of the Airport Lessee:
  - (i) return the Lease Guarantee to the issuer of the Lease Guarantee; or
  - (ii) return the Lease Guarantee to the Airport Tenant on whose behalf the Lease Guarantee is issued; or
  - (iii) use reasonable endeavours to claim under the Lease Guarantee and pay the money received to the Airport Lessee.

### **3.10 Registration**

- (a) The Airport Lessor must use its best endeavours to attend to registration of this document in the relevant land register as soon as practicable after the Commencement Date.
- (b) The Airport Lessee must provide all reasonable assistance to enable the Airport Lessor to register this document.

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## **4 As is where is**

### **4.1 Condition of Airport**

Subject to clause 12 ("Environmental Liability"), the Leased Area is leased to the Airport Lessee in an 'as is where is' condition with all faults and defects. No representation or warranty is given by the Airport Lessor (and the Airport Lessee acknowledges that it has made its own enquiries) as to:

- (a) the state or condition of the Leased Area or the Improvements; and
- (b) the status of compliance with the Requirements and the Approvals applicable to the Leased Area or the Improvements.

### **4.2 Notices**

The Airport Lessee acknowledges that:

- (a) no representation or warranty is given by the Airport Lessor in relation to outstanding Requirements of any Government Agency having jurisdiction in respect of the Leased Area or the Improvements; and
- (b) except as otherwise provided in clause 12 ("Environmental Liability"), the Airport Lessee leases the Leased Area subject to:
  - (i) all and any outstanding Requirements which apply at the Commencement Date; and
  - (ii) any Requirements which may apply following the Commencement Date.

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## **5 Airport Lessee has made own enquiries**

### **5.1 Acknowledgment**

The Airport Lessee acknowledges that prior to the Commencement Date it completed its own enquiries, investigations and analysis of the Airport, including the status of compliance with the Requirements applicable to the Leased Area and the Improvements and other outstanding Requirements of any Government Agency.

### **5.2 No representation or warranty**

No representation or warranty is given by the Airport Lessor as to:

- (a) the use to which the Leased Area or the Improvements may be put during the Term; and
- (b) the adequacy and suitability of the Leased Area or the Improvements for any purpose; and
- (c) Site Conditions; and
- (d) any financial return (including tax deductions) in respect of:
  - (i) the Airport or the Airport Facilities; and
  - (ii) the Leased Area; and
  - (iii) the Existing Airport Leases.

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## **6 Premium and Rent**

### **6.1 Payment of Lease Premium**

The Airport Lessee must pay the Lease Premium to the Airport Lessor on or before the dates agreed for any such payment under the SCA Share Sale and Purchase Agreement, including pursuant to clause 4.4 of the SCA Share Sale and Purchase Agreement.

### **6.2 No repayment of Lease Premium**

Other than as provided in the SCA Financier Tripartite Deed, the Airport Lessee acknowledges and agrees that the Airport Lessor does not have any Liability in any circumstances (including the termination of this document or a SCA Tenure Document or Transaction Document before or after the Expiry Date) to:

- (a) repay or refund either the Lease Premium or any part of it; or
- (b) pay any amount, Damages or compensation in lieu of, or in connection with, the Lease Premium; or
- (c) pay any amount, Damages or compensation in consequence of, or in connection with the termination or expiry of this document (including for the value of any Improvements carried out at the expense of the Airport Lessee or the Airport Manager), except to the extent caused by the default of the Airport Lessor or as expressly provided in this document or the SCA Financier Tripartite Deed.

### **6.3 Payment of Rent**

If demanded, the Airport Lessee must pay the Rent in advance to the Airport Lessor on each anniversary of the Commencement Date.

### **6.4 Payment of Additional Rent**

- (a) The Airport Lessee must pay Additional Rent for each 6 months period in a Financial Year.
- (b) For the purposes of calculating the Gross Revenue, the parties acknowledge and agree that the Gross Revenue is determined for the whole of the Airport Land (and not only for the Leased Area).

### **6.5 Information for calculating Additional Rent**

The Airport Lessee must give the Airport Lessor in the form that the Airport Lessor reasonably requires:

- (a) a statement of the Gross Revenue for each 3 months period in a Financial Year, within 10 Business Days after the end of that 3 month period; and
- (b) a statement of the Gross Revenue for each 6 months period in a Financial Year, within 10 Business Days after the end of that 6 month period; and
- (c) a statement of the Gross Revenue for each Financial Year, within one month after the end of that Financial Year; and
- (d) a certificate by a registered company auditor (as defined in the Corporations Act) prepared in accordance with relevant principles and disclosure requirements of applicable Australian Accounting Standards and certifying the Gross Revenue for each Financial Year, within 3 months after the end of that Financial Year.

### **6.6 Rejection of auditor's certificate**

Unless the Airport Lessor gives a notice to the Airport Lessee rejecting the auditor's certificate on reasonable grounds within 2 months after receiving it, the amount shown in that certificate is taken to be the Gross Revenue for that Financial Year.

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## **6.7 Airport Lessor may calculate Gross Revenue**

- (a) Subject to clause 6.7(b), if the Airport Lessee does not give the Airport Lessor the auditor's certificate on time, or if the Airport Lessor rejects the certificate, the Gross Revenue for the relevant Financial Year may be calculated by the Airport Lessor, acting reasonably and having regard to any statement of the Gross Revenue or any inspection or audit of the Gross Revenue carried out by the Airport Lessor under this clause 6.
- (b) For the avoidance of doubt, if the Airport Lessee disputes the Airport Lessor's calculation under clause 6.7(a), the Airport Lessee may deliver a Dispute Notice under clause 27.1 of the SCA Framework Agreement.

## **6.8 Notice and payment of Additional Rent**

- (a) Within 10 Business Days after the Airport Lessee gives a statement of the Gross Revenue for a 6 month period in a Financial Year under clause 6.5(b), the Airport Lessee agrees to pay the Airport Lessor an instalment of the Additional Rent for that 6 months period.
- (b) Within one month after the Airport Lessor accepts or calculates the Gross Revenue for a Financial Year, the Airport Lessor must give a notice to the Airport Lessee stating the Additional Rent for that Financial Year.
- (c) Within 15 Business Days after the date of the Airport Lessor's notice under clause 6.8(b), the Airport Lessee agrees to pay the Airport Lessor for any shortfall in the Airport Lessee's payments of the instalments of the Additional Rent for that Financial Year and the actual amount of the Additional Rent for that Financial Year. The Airport Lessor agrees to credit the Airport Lessee with any over payment.

## **6.9 Inaccurate information**

If anything is done under this clause 6 based on inaccurate information, then the parties agree to do everything necessary to correct the inaccuracy and the consequences of it as soon as possible after it is discovered.

## **6.10 Records of Gross Revenue**

- (a) The Airport Lessee must keep proper accounting records for all Gross Revenue for 6 years after the end of the Financial Year to which they relate.
- (b) On giving reasonable notice, the Airport Lessor may inspect, copy or audit those records. Within the period stated in the notice, the Airport Lessee must produce them for the Airport Lessor at a place the Airport Lessee specifies (acting reasonably).
- (c) If anything is done under this clause 6 based on inaccurate information, then the parties must do everything necessary to correct the inaccuracy and the consequences of it as soon as possible after it is discovered.

## **6.11 Costs of Gross Revenue audit**

Within 10 Business Days after the Airport Lessor's demand, the Airport Lessee must pay the Cost of:

- (a) any audit or inspection made because the Airport Lessee has not given an auditor's certificate on time; and
- (b) an audit or inspection which shows that the Gross Revenue has been understated by more than 3%.

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## **7 Rates and Taxes**

### **7.1 Rates and Taxes**

- (a) Subject to clause 7.3 ("Assessments of Rates and Taxes") and clause 7.5 of the SCA Framework Agreement, the Airport Lessee must:
  - (i) pay to each Government Agency on time; or
  - (ii) reimburse the Airport Lessor within 10 Business Days of a demand by the Airport Lessor, all Rates and Taxes without contribution from the Airport Lessor.
- (b) Nothing in this clause 7.1 derogates or limits the rights and entitlement of the Airport Lessor as a Local Government to levy and recover Rates and Taxes under the Local Government Act and any other Applicable Laws.

### **7.2 Payment for Utility Services**

The Airport Lessee must pay all Costs for the supply of all Utility Services separately metered or which are provided to the Leased Area:

- (a) by or on behalf of the Airport Lessor, within 10 Business Days after a demand by the Airport Lessor; and
- (b) by third party providers, on time,

except for those Utility Services which are separately metered to an Airport Tenant or to an Airport Regulator or the provider of emergency services in accordance with clauses 10.3 ("Access to Airport Regulators") and 10.4 ("Access to Emergency Utility Services").

### **7.3 Assessments of Rates and Taxes**

The Airport Lessor must promptly give to the Airport Lessee copies of all assessments of Rates and Taxes and all related correspondence received by the Airport Lessor during the Term. If the Airport Lessee (acting reasonably) wants to object to any assessment or to pursue any further appeal proceedings (for example, against a valuation), the Airport Lessee may do so in the name of the Airport Lessor, but for the benefit of (and at the Cost of) the Airport Lessee.

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## **8 Payments**

### **8.1 Manner of payment**

The Airport Lessee agrees to make payments under this document to the Airport Lessor (or to a person nominated by the Airport Lessor in a notice to the Airport Lessee) by the method the Airport Lessor reasonably requires without set-off or counterclaim and without deduction.

### **8.2 Adjustment of payments**

If the Airport Lessee pays an amount which is found later to be incorrect (even if the Airport Lessor has given the Airport Lessee a receipt), the Airport Lessee agrees to pay the Airport Lessor (or the Airport Lessor agrees to credit the Airport Lessee with) the difference between what the Airport Lessee has paid and what the Airport Lessee should have paid, within 15 Business Days after either the Airport Lessor or the Airport Lessee gives the other a notice about the mistake.

### **8.3 No demand necessary**

The Airport Lessor need not make demand for any amount payable by the Airport Lessee unless this document says that demand must be made.

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#### **8.4 Obligations not affected**

The expiry or ending of this document does not affect the Airport Lessee's obligations to make payments under this document for periods before that time.

#### **8.5 Interest on overdue amounts**

- (a) The Airport Lessee agrees to pay interest on any amount under this document which is not paid on the due date for payment by the Airport Lessee. Interest accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days.
- (b) The Airport Lessee agrees to pay interest under this clause 8 within 10 Business Days after a demand from the Airport Lessor.

#### **8.6 Rate of interest**

The rate of interest applying to each daily balance is the rate 4% per annum above the 60 day bank bill swap reference rate last published on or before that day in The Australian Financial Review (or if no such rate has been published, another rate set by the Airport Lessor in good faith).

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### **9 Use of Leased Area**

#### **9.1 Permitted uses**

- (a) Subject to the Airport Lessee complying with this clause 9 and clause 10 ("Access to the Airport"), the Airport Lessee may use or permit the use of the Leased Area for:
  - (i) arrival and departure of aircraft; and
  - (ii) housing, servicing, refuelling, maintenance and repair of aircraft; and
  - (iii) assembly and dispersal of passengers or goods on or from an aircraft; and
  - (iv) any ancillary activities directly servicing the needs of passengers and visitors to the Airport; and
  - (v) associated training and education facilities; and
  - (vi) aviation facilities, including navigation, communication and surveillance installations provided to assist in the safe and efficient movement of aircraft; and
  - (vii) any other use of the Leased Area that is permitted under the Planning Scheme.
- (b) Despite anything to the contrary in this document and the SCA Framework Agreement, the Airport Lessee cannot use the Runway Site for any other purpose:
  - (i) while the SCA Runway Project Construction Framework Deed and the SCA Council Freehold Lease are in operation; or
  - (ii) until the construction of the New Runway is completed for any purpose other than the construction of the New Runway by the Airport Lessee or the Airport Manager as the case may be.

#### **9.2 Prohibited uses**

During the Term, the Airport Lessee must not, except as otherwise approved by the Airport Lessor:

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- (a) use, or permit to be used, any part of the Airport Land for any development that is not permitted by Law on the Airport; or
- (b) do anything, or permit anything to be done, on the Leased Area that is inconsistent with the use, management, operation or maintenance of Improvements or the future development of the Leased Area as prescribed by the Planning Scheme; or
- (c) do anything, or permit anything to be done, on the Leased Area which is contrary to the Airport Objectives; or
- (d) use, or permit to be used, the Leased Area for any unlawful purpose or in breach of any Law; or
- (e) use, or permit to be used, the Leased Area for any purpose that is noxious or offensive to the Airport Lessor, Airport Users or other persons outside the Airport (having regard to the intended use of the Airport as an airport).

### **9.3 Stewardship Covenants**

Subject to clause 9.4 (“Limitations on Stewardship Covenants”) of this document and clause 27 (“Force Majeure”) of the SCA Framework Agreement and unless the Airport Lessor otherwise agrees in writing, the Airport Lessee must at all times:

- (a) operate the Airport, including the Operating and Management Activities, in accordance with Good Aviation Industry Practice; and
  - (b) provide for the use of the Leased Area as an airport, for airport-related purposes and otherwise consistent with clause 9.1 (“Permitted uses”); and
  - (c) provide for access to the Airport and the Leased Area in accordance with clause 10.1 (“Access to the Airport”); and
  - (d) carry out operations, repair and maintenance in accordance with Good Operating and Maintenance Practice; and
  - (e) comply with the Airport Objectives; and
  - (f) develop the Leased Area in accordance with clause 17 (“Development and Improvements”),
- (together, the “**Stewardship Covenants**”).

### **9.4 Limitations on Stewardship Covenants**

The Airport Lessee is not obliged to comply with the Stewardship Covenants to the extent that the compliance with the Stewardship Covenants would:

- (a) endanger the safety of any Airport Users, any commercial or recreational users of the Airport or the general public; or
- (b) breach any Applicable Law, including Laws relating to occupational health and safety, the Environment or competition; or
- (c) breach any Requirements of an Airport Regulator; or
- (d) be contrary to any contractual obligation of the Airport Lessee or the Airport Manager under an Existing Airport Lease so far as that contractual obligation existed on or before the Commencement Date; or
- (e) endanger in some material respect any aspect of the natural or built Environment of or surrounding the Airport; or

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- (f) require the Airport Lessee to develop the Leased Area where it is not Feasible; or
- (g) compromise the value or the integrity of the Environmental Offsets Area.

## **9.5 Adverse events**

The Airport Lessee must ensure that the Airport Lessor is notified, with reasonable details, on the Airport Lessee becoming aware of any event or circumstance which has or is likely to have a material adverse effect on:

- (a) the ability of the Airport Lessee to perform its obligations under this document; or
- (b) the assets, operations, condition (financial or otherwise) or business of the Airport Lessee or the Airport Manager.

## **9.6 Environmental Offset Areas**

The Airport Lessee must, at its own Cost, at all times maintain the Environmental Offset Areas in accordance with any Approval, all applicable Laws and any covenant or other dealing registered over the title to the relevant land relating to the Environmental Offset Areas.

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# **10 Access to the Airport**

## **10.1 Access to the Airport**

Unless the Airport Lessor otherwise agrees in writing and to the extent permitted by any Applicable Law, the Airport Lessee must at all times provide access to the Airport by:

- (a) intrastate, interstate and international airlines; and
- (b) intrastate, interstate and international air transport; and
- (c) general aviation (including freight transport); and
- (d) intrastate and interstate rail and road transport to facilitate the uses of the Airport in accordance with clause 9.1 ("Permitted uses"); and
- (e) all aircraft belonging to or employed in the service of the Australian Defence Forces; and
- (f) all commercial and recreational users of the Airport.

## **10.2 Valid refusal to give access**

The Airport Lessee will not be in default of its obligations to give access to the Airport if it refuses to give access to the Airport Facilities where the owner, operator or agent has failed to pay to the Airport Lessee after the due date any amount due to the Airport Lessee by the owner, operator or agent for the use of the Airport Facilities or the access cannot be facilitated at the relevant time by using the Improvements on the Leased Area existing at that time.

## **10.3 Access to Airport Regulators**

- (a) The Airport Lessee must provide to Airport Regulators such space within the Leased Area as the Airport Regulators reasonably require for:
  - (i) regulating the use and operation of the Airport as required by any Applicable Law; and
  - (ii) other Airport related activities and services that an Airport Regulator is required by any Applicable Law to provide.



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- (b) The obligations of the Airport Lessee under this clause 10.3 are subject to the Airport Lessee reaching agreement with the relevant Airport Regulator as to the commercial terms on which the Airport Regulator will occupy and use space within the Leased Area. The Airport Lessee must act reasonably in negotiating such terms with the relevant Airport Regulators.

**10.4 Access to Emergency Utility Services**

The Airport Lessee must give the providers of emergency services at the Airport such areas within the Leased Area (excluding commercial and retail office space) as the providers reasonably require for the continuous, safe and efficient provision of emergency services to the Airport (including areas for the storage, maintenance and repair of emergency vehicles and other emergency equipment) and the Airport Lessee cannot charge the providers for the use and occupation of the areas within the Leased Area while those areas are being used for those purposes.

**10.5 Civil Emergencies**

- (a) If required by the Airport Lessor or a Government Agency (including an Airport Regulator), the Airport Lessee must make the Airport available (without any fee or charge, other than the payment of Utility Services) during a Civil Emergency for use by the Airport Lessor, a Government Agency or by a body or bodies nominated by the Airport Lessor or a Government Agency.
- (b) A **Civil Emergency** is a Force Majeure Event that:
  - (i) adversely affects, or may adversely affect, the safety, security and amenity of persons; or
  - (ii) adversely affects, or may adversely affect, property within the Sunshine Coast region or a community or area within the Sunshine Coast region,and requires immediate governmental response to avert or minimise material harm, or to ameliorate its effects.
- (c) Specific examples of Civil Emergency are:
  - (i) natural disaster (for example, flood, bushfire, cyclone); and
  - (ii) broad-scale conflict (for example, war, terrorist action, rioting); and
  - (iii) small-scale conflict (for example, siege or sniper activity); and
  - (iv) transportation disaster (for example, aviation, maritime, or rail crash disaster).
- (d) During a Civil Emergency, the Airport Lessor, the Government Agency or the nominee body or bodies may use the Airport:
  - (i) to provide shelter or other relief to the displaced, the injured, or the endangered; and
  - (ii) as a storage, logistics, or communications facility; and
  - (iii) for any other emergency-response purpose for which the Airport is suitable (including, for example, a temporary mortuary).
- (e) The Airport Lessor must give the Airport Lessee reasonable prior notice that the Airport is required for use under this clause 10.5. The Airport Lessee acknowledges that short notice may be reasonable notice in the case of a Civil Emergency.

**10.6 Roads**

- (a) Subject to clause 10.6(b), the Airport Lessee must make access to any roads that form part of the Leased Area available to:

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- (i) the public users of the Airport; and
  - (ii) public utility providers and other providers of Utility Services; and
  - (iii) Airport Users and Airport Tenants; and
  - (iv) other users of the Airport Facilities.
- (b) The obligation to provide access under clause 10.6(a) does not apply:
  - (i) to any part of the Airport where access is restricted in accordance with Applicable Laws and the Requirements of Government Agencies (including secure airside areas); or
  - (ii) to any road, or part of a road, which is part of premises leased or licensed exclusively to an Airport Tenant; or
  - (iii) to any road, or part of a road or corridor, which is designed and constructed exclusively for the transport of Cargo within the Airport that is consistent with the Planning Scheme; or
  - (iv) when and to the extent it is necessary to temporarily restrict access for reasons of safety, security or emergency; or
  - (v) when and to the extent it is necessary to permanently restrict access for reasons of safety, security or emergency, provided the Airport Lessee makes a viable alternative road available within the Leased Area for access by the users referred to in clause 10.6(a) and complies with its obligations under clauses 10.3 ("Access to Airport Regulators") and 10.4 ("Access to Emergency Utility Services").
- (c) The Airport Lessee may remove a road from the Leased Area provided it makes a viable alternative road available within the Leased Area for access by the users referred to in clauses 10.3 ("Access to Airport Regulators"), 10.4 ("Access to Emergency Utility Services") and 10.6(a).

## **10.7 Limits on Airport activities**

For the purposes of clauses 9.3 ("Stewardship Covenants"), 10.1 ("Access to the Airport"), 10.6 ("Roads") and 17.1 ("Development"), the Airport Lessee is not required to:

- (a) prioritise any other Airport related operations above commercial passenger jet air transport operations; or
- (b) unless required by Law, agree to any arrangements with a third party on terms which the Airport Lessee (acting reasonably) considers are uncommercial and not in the interests of the Airport Group.

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## **11 Legislation and licences**

### **11.1 Legislation and notices**

- (a) The Airport Lessee must at its Cost comply with:
  - (i) all Applicable Laws (including Laws in respect of security and safety) from time to time relating to the Airport or to the use or occupation of the Leased Area; and
  - (ii) all applicable Requirements in notices and orders given or made in respect of the Leased Area (whether issued to the Airport Lessee, the Airport Manager or the Airport Lessor), including those given or made by an Airport Regulator, provided that the Airport Lessee is only obliged to comply with a notice or order issued solely to the Airport Lessor if the Airport Lessor has provided the Airport Lessee or the Airport Manager with a copy of that notice or order.

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- (b) The Airport Lessee must not contest a notice or order under clause 11.1(a)(ii) that is addressed to the Airport Lessor or the Airport Manager, without the Airport Lessor's prior written consent (which will not be unreasonably withheld or delayed).

**11.2 Compliance with Planning Scheme**

Without limiting clause 11.1 ("Legislation and notices"), the Airport Lessee must ensure that development of the Leased Area is in accordance with Applicable Laws (including the Planning Scheme).

**11.3 Compliance with Airport safety recommendations**

At the request of the Airport Lessor, the Airport Lessee will at its Cost undertake such works within the Leased Area as are necessary to comply with the orders or recommendations of any court, coroner or insurer of the Airport Lessee or to comply with the Requirement of an Airport Regulator in relation to Airport safety.

**11.4 Licences for Airport**

The Airport Lessee must:

- (a) obtain and maintain (or cause to be obtained and maintained) at its own Cost at all times all licences and Approvals required in relation to the Airport and the Leased Area or required for the Airport Lessee to meet its obligations under this document; and
- (b) when required by the Airport Lessor, produce proof of compliance by the Airport Lessee with its obligations under clause 11.4(a); and
- (c) promptly give the Airport Lessor copies of all notices (including infringement notices) and proceedings issued by any Government Agency in relation to the licences and Approvals.

**11.5 Airport Lessor's consent**

- (a) Subject to clauses 11.5(c) and 11.5(d), the Airport Lessor will consent to the lodgement of any application (including any development application by the Airport Lessee in accordance with the Planning Scheme) by the Airport Lessee, the Airport Manager or another person for a licence or Approval required in relation to the Airport or the Leased Area, which the Airport Lessee certifies to the Airport Lessor:
  - (i) complies with this document and all other Transaction Documents; and
  - (ii) is in accordance with all Applicable Laws, the Requirements of any Government Agency and the Stewardship Covenants.
- (b) The Airport Lessee must not cancel or amend any application that the Airport Lessor has consented to under clause 11.5(a), without the Airport Lessor's consent (which consent must not be withheld if the Airport Lessee provides a further certification to the Airport Lessor in relation to the cancellation or amendment that complies with the requirements set out in clause 11.5(a)).
- (c) The Airport Lessee must give the Airport Lessor a complete copy of the application (including all supporting material) that requires the consent of the Airport Lessor under clause 11.5(a) and the Airport Lessee must pay the reasonable Costs of the Airport Lessor in assessing any such application.
- (d) Despite clause 11.5(a), the Airport Lessor is not obliged to consent to any application or support any proposal by or on behalf of the Airport Lessee or the Airport Manager that would have the effect in any way of circumventing the application of the Planning Scheme to the Airport or the Leased Area (including the Airport Land), including:
  - (i) any designation of the Airport or the Leased Area (or any part of the Airport or the Leased Area) as community infrastructure under the *Sustainable Planning Act 2009* (Qld) or any similar designation or declaration under any Law; or

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- (ii) any declaration of the Airport or the Leased Area (or any part of the Airport or the Leased Area) as a priority development area under the *Economic Development Act 2012* (Qld) or any similar declaration or designation under any Law.

## 12 Environmental Liability

### 12.1 No representations about Environmental Liability

No representation or warranty is given by the Airport Lessor in relation to:

- (a) any activities on the Leased Area on or before the Commencement Date; and
- (b) the existence or extent of Contamination or Environmental Harm emanating from, on, in, under or over any Leased Area; and
- (c) the status of compliance with Environmental Laws applicable to the Leased Area on, before or after the Commencement Date; and
- (d) any Liability for any activity, Contamination or Environmental Harm with respect to the Leased Area on, before or after the Commencement Date; and
- (e) the extent to which the Leased Area is the subject or cause of any Contamination or Environmental Harm.

### 12.2 Airport Lessee's Environmental enquiries

- (a) The Airport Lessee acknowledges that it has made inspections and enquiries in relation to issues relating to the Environment in connection with the Leased Area and any activity on the Leased Area, the status of compliance with Environmental Laws and the condition of the Leased Area, including the existence and extent of Contamination or any Environmental Harm.
- (b) The Airport Lessee accepts the risk of Contamination of those parts of the Leased Area excluded from the Baseline Study, irrespective of when Contamination was caused and acknowledges that the Airport Lessor's Liability for Pre-Existing Contamination applies to the Leased Area only and to no other land.
- (c) The acknowledgments in this clause 12.2 do not preclude the Airport Lessee from exercising its rights under this document in relation to Pre-Existing Contamination or render the Airport Lessee or the Airport Manager liable to the Airport Lessor or any other person (under this document or otherwise) in respect of Pre-Existing Contamination.

### 12.3 Exceptions to and limitation of Airport Lessor's Liability

Despite anything contained in this document, the Airport Lessor's Liability to the Airport Lessee in connection with Pre-Existing Contamination is limited by the provisions set out in this clause 12.3:

- (a) **(Claim by Government Agency):** the Airport Lessor will only be liable where, and to the extent that, the Pre-Existing Contamination is the subject of a remediation or similar notice issued by a Government Agency under any Applicable Law, including the *Environmental Protection Act 1994* (Qld).
- (b) **(Post-Commencement Activity):** the Airport Lessee and the Airport Manager are not entitled to, and must not make, a Claim in respect of any Loss or Claim that arises in connection with a Post-Commencement Activity and any Claim in respect of any Loss or Claim will only apply to the extent that the Loss or Claim arises out of Pre-Existing Contamination.
- (c) **(Investigations and excessive works):** the Airport Lessee and the Airport Manager are not entitled to, and must not make, a Claim against the Airport Lessor to the extent that any Loss or Claim incurred or made by the Airport Lessee or the Airport Manager relates to:

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- (i) except as required by any Applicable Law, undertaking any investigation actions:
  - (A) to determine whether a duty to notify any Government Agency about Contamination of the Leased Area arises; or
  - (B) to demonstrate Proven Pre-Existing Contamination; or
  - (C) to assess whether, or how, to carry out any development or work in, under or over the Leased Area; or
- (ii) Clean Up, remediation, restoration or mitigation measures which:
  - (A) exceed those required by any Applicable Law; or
  - (B) exceed the minimum standards required by any relevant Government Agency for Clean Up, remediation, restoration or mitigation of the relevant Contamination and/or relate to future development of the Leased Area; or
  - (C) are not undertaken at minimum Cost.
- (d) **(Other recoveries):** the amount for which the Airport Lessor would otherwise be liable in respect of any Loss or Claim is reduced by any amount (net of costs) recovered by the Airport Lessee or the Airport Manager from any insurer or action taken in accordance with clause 12.3(c) in respect of that Loss or Claim.

To the extent that the Airport Lessee or the Airport Manager receives any such amount in respect of a Loss or Claim after the Airport Lessor has paid the Airport Lessee or the Airport Manager an amount in respect of that Loss or Claim, the Airport Lessee must promptly pay the Airport Lessor an amount equal to the lesser of the amount of the payment received by the Airport Lessee or the Airport Manager and the amount paid by the Airport Lessor to the Airport Lessee or the Airport Manager in respect of the relevant Loss or Claim.
- (e) **(Minimum Claim thresholds):** the Airport Lessee and the Airport Manager are not entitled to, and must not make a Claim in respect of any Loss or Claim unless:
  - (i) if the amount claimed is in respect of a single Claim Event, the amount claimed is more than:
    - (A) for the first year of the Term, \$100,000; and
    - (B) for the second and each subsequent year of the Term, the amount for the previous year multiplied by the Current CPI and divided by the Previous CPI; or
  - (ii) if the amount claimed is an aggregate Claim in respect of multiple Claim Events occurring in a single calendar year, the total amount claimed is more than:
    - (A) for the first year of the Term, \$250,000; and
    - (B) for the second and each subsequent year of the Term, the amount for the previous year multiplied by the Current CPI and divided by the Previous CPI.
- (f) **(Notice of Claim and time limits):** the Airport Lessee and the Airport Manager are not entitled to, and must not make, a Claim in respect of any Loss or Claim unless:
  - (i) the Airport Lessee gives the Airport Lessor notice of the Claim in accordance with this clause 12.3(f) not later than 20 years after the Commencement Date; and
  - (ii) the Airport Lessee has commenced and served legal proceedings on the Airport Lessor in respect of the Claim within 6 months after giving notice of the Claim (unless the matter has been settled by agreement of the Airport Lessee and the Airport Lessor in the meantime).

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- (g) **(Particulars of notice of Claim):** the Airport Lessee and the Airport Manager are not entitled to, and must not make a Claim in respect of any Loss or Claim unless the Airport Lessee gives notice of the Claim, including:
  - (i) particulars of any Claim including any scientific or expert reports obtained in relation to any Contamination; and
  - (ii) all correspondence, reports or file notes (other than any documents subject to legal professional privilege) between the Airport Lessee and any Government Agency or other person in relation to any Contamination related to the Claim.
- (h) **(Costs of unsuccessful Claim for alleged Proven Pre-Existing Contamination):** if the Airport Lessee or the Airport Manager makes a Claim in respect of alleged Proven Pre-Existing Contamination then the Airport Lessee agrees to pay the Airport Lessor for that portion of the Airport Lessor's reasonable Costs of defending the Claim that is reasonably attributable to the unsuccessful part of the Claim and the Airport Lessor agrees to pay the Airport Lessee for that portion of the Airport Lessee's reasonable Costs of defending the Claim that is reasonably attributable to the successful part of the Claim.
- (i) **(Wilful default or negligence):** any Claim by the Airport Lessee and the Airport Manager against the Airport Lessor does not apply to the extent that a Loss or Claim is caused or contributed to by the wilful default or negligence of the Airport Lessee, the Airport Manager or their respective Invitees.
- (j) **(Airport Lessee to mitigate):** any Claim by the Airport Lessee and the Airport Manager against the Airport Lessor is subject to clause 12.4 ("Airport Lessee to mitigate").
- (k) **(No settlement of Claims):** any Claim by the Airport Lessee and the Airport Manager against the Airport Lessor does not apply to the extent that the Airport Lessee has discontinued, settled or compromised any Claims referred to in clause 12.5 ("No compromises of Airport Lessee's rights").
- (l) **(Claim notice):** any Claim by the Airport Lessee and the Airport Manager against the Airport Lessor is subject to clause 12.6(c) ("Notice of third party Claims").

## 12.4 Airport Lessee to mitigate

- (a) The Airport Lessee and the Airport Manager are not entitled to, and must not make, a Claim against the Airport Lessor in respect of Pre-Existing Contamination unless and until the Airport Lessee and the Airport Manager have used their reasonable endeavours to mitigate the Loss or Claim that is, or may be, suffered or incurred by the Airport Lessee or the Airport Manager, and for which the Airport Lessee or the Airport Manager is indemnified.
- (b) Without limiting this clause 12.4, the reasonable endeavours of the Airport Lessee and the Airport Manager will include:
  - (i) undergoing a competitive procurement process before procuring any relevant works or services and obtaining the Airport Lessor's prior written approval to the scope and expected cost of the relevant works (with such approval not to be unreasonably withheld or delayed), provided that:
    - (A) to the extent that the Airport Lessee intends to procure any works which are in excess of the minimum works required in order to respond to the notice or Claim, the scope and expected cost of the minimum works must be stated separately to the scope and expected cost of the remainder of the works; and
    - (B) the Airport Lessee need not comply with the requirement to undertake a competitive procurement process to the extent that doing so would cause the Airport Lessee to be in material breach of any Environmental Law or in an emergency; and
  - (ii) taking all reasonable action at their cost to procure the enforcement of all rights, powers and remedies which the Airport Lessee or the Airport Manager may have against:

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- (A) an Airport Tenant, Airport User or other person who caused, contributed to or is responsible for the Pre-Existing Contamination; or
  - (B) the D&C Contractor, where the D&C Contractor caused, contributed to or is responsible for the Pre-Existing Contamination; or
  - (C) an insurer in respect of any Loss or Claim arising out of or in respect of Pre-Existing Contamination.
- (c) Within 20 Business Days of being directed by the Airport Lessor to do so, if the Airport Lessee fails to take all reasonable action at its cost to procure the enforcement of all rights, powers and remedies which the Airport Lessee or the Airport Manager may have against:
- (i) an Airport Tenant, Airport User or other person who caused, contributed to or is responsible for Pre-Existing Contamination; or
  - (ii) an insurer in respect of any Loss or Claim arising out of or in respect of Pre-Existing Contamination,

the Airport Lessor may take such action against such persons on behalf of and in the name of the Airport Lessee and recover its reasonable Costs from the Airport Lessee as a debt due and owing.

**12.5 No compromises of Airport Lessee's rights**

The Airport Lessee must not discontinue, settle or compromise any Claim or action that it has against:

- (a) an Airport Tenant, Airport User or other person who caused, contributed to or is responsible for Pre-Existing Contamination; or
  - (b) an insurer in respect of any Loss or Claim arising out of or in respect of Pre-Existing Contamination,
- without the Airport Lessor's prior written consent (such consent must not be unreasonably withheld or delayed).

**12.6 Notice of third party Claims**

- (a) Subject to clause 12.6(b), if the Airport Lessee becomes aware of a fact, matter or circumstance which is or may be reasonably likely to give rise to a Claim from a third party arising out of or by reason of any Pre-Existing Contamination, the Airport Lessee must give notice to the Airport Lessor within 10 Business Days after it has first come to the attention of the Airport Lessee, setting out details of the Claim in so far as they are available to the Airport Lessee.
- (b) Where the Loss or Claim suffered by the Airport Lessee is or may be recoverable under any policy of insurance, the Airport Lessee must also notify the relevant insurer within any time limits specified by the relevant policy and otherwise comply with the terms of the relevant policy.
- (c) If the Airport Lessee gives a Claim notice but does not give it within 10 Business Days after the relevant fact, matter or circumstance has first come to the attention of the Airport Lessee, the Claim notice will be valid but the Airport Lessor's Liability in respect of any Claim which is the subject of the Claim notice will be reduced or extinguished (as the case may be) to the extent that the Airport Lessor incurs, or is prejudiced in its mitigation of, any Liabilities as a result of the delay in providing the Claim notice.

**12.7 Conduct of third party Claims**

- (a) Where there is an actual or threatened Claim from a third party against the Airport Lessor arising out of or by reason of any Pre-Existing Contamination, the Airport Lessor is entitled to give notice to the Airport Lessee within 20 Business Days of being given a Claim notice electing to:
  - (i) take over the conduct of the Claim; and/or

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- (ii) take such actions as the Airport Lessor may decide about the Claim, including the right to negotiate, defend and/or settle the Claim and to recover costs incurred as a consequence of the Claim from any person.
- (b) Where the Airport Lessor takes over the conduct and/or defence of any Claim under this clause 12.7, the Airport Lessor must:
  - (i) give the Airport Lessee the opportunity to consult with the Airport Lessor on all matters of material significance to the goodwill of the Airport Lessee's or the Airport Manager's business at the Airport; and
  - (ii) at reasonable and regular intervals give written reports to the Airport Lessee concerning the conduct, negotiation, control, defence and/or outcome or settlement of the Claim; and
  - (iii) unless the settlement involves only payment of a monetary amount for which the Airport Lessor has accepted responsibility, not settle the Claim without the prior consent of the Airport Lessee (which consent must not be unreasonably withheld, conditioned or delayed); and
  - (iv) notify the Airport Lessee if it intends to cease the conduct and/or defence of any Claim under this clause 12.7 and from what date it intends that cessation to take effect; and
  - (v) notify the Airport Lessee when it has purported to or in fact ceased the conduct and/or defence of any Claim under this clause 12.7.
- (c) The Airport Lessee must, and must procure the Airport Manager to, provide the Airport Lessor with access to (with the right to take copies) and make available to the Airport Lessor all relevant Personnel, relevant documents, books and records reasonably required for the purpose of the conduct of any Claim under clause 12.7(a).

**12.8 Rights of Airport Lessor to Clean Up**

- (a) If as a result of a Claim from a third party in respect of any Pre-Existing Contamination, the Airport Lessee or the Airport Manager is required by any Applicable Law to take Clean Up, remediation, restoration or mitigation actions in relation to any Contamination:
  - (i) the Airport Lessee must give the Airport Lessor notice setting out particulars of any Requirement issued in relation to the Contamination; and
  - (ii) the Airport Lessor is entitled to elect by notice given to the Airport Lessee within 20 Business Days of receiving the notice to take over the conduct of the Clean Up, remediation, restoration or mitigation actions (unless this election would cause the Airport Lessee or the Airport Manager to be in material breach of any Environmental Law).
- (b) Where the Airport Lessor takes over the conduct of any actions under this clause 12.8, the Airport Lessor must conduct such action lawfully and provide the Airport Lessee with regular written reports concerning the status of those actions.
- (c) The Airport Lessee must, and must procure the Airport Manager to, provide the Airport Lessor with access to any required areas of the Leased Area and make available to the Airport Lessor all relevant Personnel, relevant documents, books and records reasonably required for the purpose of the conduct of any action under clause 12.8(a) (which the Airport Lessor may copy).

**12.9 Rights of Airport Lessee**

If the Airport Lessee notifies the Airport Lessor of a Claim from a third party arising out of or by reason of any Pre-Existing Contamination and the Airport Lessor does not elect to take over the control of the Claim under clause 12.7 ("Conduct of third party Claims"), the Airport Lessee may at its cost take such actions as the Airport Lessee may decide about the Claim, including the right to negotiate, defend and/or settle the Claim and to recover costs incurred as a consequence of the Claim from any person, provided that:



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- (a) the Airport Lessee at reasonable and regular intervals must provide the Airport Lessor with written reports concerning the conduct, negotiation, control, defence and/or settlement of the Claim; and
- (b) the Airport Lessee must not settle the Claim without the prior written approval of the Airport Lessor (which approval must not be unreasonably withheld, conditioned or delayed); and
- (c) the Airport Lessee gives the Airport Lessor reasonable opportunity to consult with the Airport Lessee on matters of significance in relation to the conduct, negotiation, defence and/or settlement of the Claim.

**12.10 Clean Up responsibility**

- (a) Subject to the Airport Lessor's Liability and obligations in relation to Pre-Existing Contamination, the Airport Lessee is responsible from the Commencement Date for all Clean Up, remediation, restoration and mitigation measures required under any Environmental Law in relation to Contamination or Environmental Harm emanating from, on, in, under or over the Leased Area irrespective of who caused such relevant condition or when such condition was caused.
- (b) In the case of Pre-Existing Contamination or Contamination arising from wilful default or negligence by the Airport Lessor in carrying out any of its functions in respect of the Leased Area after the Commencement Date, the Airport Lessee:
  - (i) will not be required to pursue Clean Up, remediation, restoration or mitigation measures in respect of the Leased Areas until it or the Airport Lessor is obliged by Environmental Law to do so; and
  - (ii) on being so required, must promptly commence, and use its reasonable efforts to diligently pursue, the appropriate remediation, Clean Up, restoration and mitigation measures; and
  - (iii) must keep the Airport Lessor reasonably informed about the status of relevant Clean Up, remediation, restoration or mitigation measures undertaken by the Airport Lessee.
- (c) Before pursuing any Clean Up, remediation, restoration or mitigation measure in respect of the Leased Area which may ultimately expose the Airport Lessor to any Liability, the Airport Lessee must obtain the Airport Lessor's prior written approval to the scope and cost of the relevant works (with such approval not to be unreasonably withheld or delayed).
- (d) The Airport Lessee's reasonable direct Costs of carrying out required Clean Up, remediation, restoration or mitigation works which relate to or arise from Pre-Existing Contamination, will be reimbursed by the Airport Lessor within 20 Business Days of presentation of a written Claim by the Airport Lessee to the Airport Lessor.
- (e) Each Claim for reasonable direct Costs referred to in clause 12.10(d) must contain the following details:
  - (i) the amount of the Claim; and
  - (ii) the relevant works which are the subject of the Claim; and
  - (iii) reasonable substantiation of the amount of the Claim.
- (f) If the Airport Lessor disputes a Claim under clause 12.10(d), the matter will be determined in accordance with clause 27 ("Dispute resolution by Expert") of the SCA Framework Agreement.
- (g) If the Airport Lessor pays any amounts to:
  - (i) the Airport Lessee under clause 12.10(d), any related Claim or subsequent related payment to the Airport Lessee or the Airport Manager will be reduced by the reimbursement amount; and

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- (ii) the Airport Lessee or the Airport Manager, any related Claim or subsequent related reimbursement made by Airport Lessor under clause 12.10(d) will be reduced by the indemnified amount.

## 12.11 General Environmental obligations

The Airport Lessee must at all times:

- (a) comply with all Environmental Laws which are applicable to the Leased Area or the management, control, use or occupation of the Leased Area (or any part of the Leased Area) by the Airport Lessee; and
- (b) permit the Airport Lessor to comply with, and use reasonable endeavours to ensure that all Responsible Parties comply with all Environmental Laws which are applicable to the Leased Area or the management, control, use or occupation of the Leased Area (or any part of the Leased Area) by the Airport Lessor or the relevant Responsible Parties; and
- (c) at a minimum, comply with the Environmental standards required or recommended in ISO14001 (or any equivalent standard issued in its place); and
- (d) promptly give written notice to the Airport Lessor on each occasion when the Airport Lessee becomes aware that a breach of an Environmental Law has occurred in respect of the Leased Area; and
- (e) promptly give written notice to the Airport Lessor if the Airport Lessee becomes aware of an event, occurrence or condition which obliges the Airport Lessee or any Responsible Party to notify a Government Agency that Environmental Harm has or may have occurred; and
- (f) if required by any Applicable Law, at its Cost decontaminate by appropriate treatment, removal or otherwise any Environmental Harm, Contamination or Hazardous Materials introduced, released, caused or permitted to occur to the Leased Area by the Airport Lessee or any Responsible Party during the Term; and
- (g) comply with any Approval given under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) relating to any Environmental Offsets Area; and
- (h) manage the Leased Area in accordance with Good Environmental Practice, all Applicable Laws and Environmental Approvals.

## 12.12 Notice of Environmental Harm

During the Term, the Airport Lessee must give notice to the Airport Lessor of any Contamination, Environmental Harm, breach of an Environmental Law or similar circumstance relating to the Leased Area that the Airport Lessee becomes aware of and that may give rise to an obligation or a duty of the Airport Lessor to notify any relevant Government Agency of such circumstance. The Airport Lessee may conduct any investigation actions, at its cost, to determine whether such obligation or duty to notify any Government Agency arises or whether a breach of an Environmental Law or Environmental Approval has occurred.

## 12.13 Airport Lessee not to cause Environmental Harm

Except where authorised pursuant to any Approval or Environmental Law, the Airport Lessee must not, and must procure that the Airport Manager does not, cause any Environmental Harm in conducting any activity on the Leased Area.

## 12.14 No prejudice

This clause 12 relates only to the sharing of Environmental responsibilities as between the Airport Lessor and Airport Lessee and does not prejudice or limit any rights of the Airport Lessee or the Airport Lessor to take action against any other person or to resist action taken by any other person or Government Agency.

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## 13 Heritage/Aboriginal cultural heritage

- (a) The Airport Lessee has made its own enquiries, investigations and analysis of the heritage issues (including Aboriginal cultural heritage issues) affecting the Leased Area. The Airport Lessor does not give or make any representation or warranty in relation to the heritage issues or Aboriginal cultural heritage issues affecting the Leased Area or the prospect of removing any thing which has heritage significance or Aboriginal cultural heritage values from the Leased Area.
- (b) The Airport Lessee must at its Cost discharge any obligations imposed on the Airport Lessor under the *Queensland Heritage Act 1992* (Qld) and the *Aboriginal Cultural Heritage Act 2003* (Qld) relating to the Leased Area or any Improvements and then promptly give written notice to the Airport Lessor of the discharge of the obligations.

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## 14 Insurance

### 14.1 Insurance required at Commencement Date

The Airport Lessee must ensure that the insurances described in Part A of Schedule 1 ("Insurance Policies") ("**Initial Insurance Policies**") are in place on the Commencement Date.

### 14.2 Requirements of insurance policies

Each Initial Insurance Policy must be on terms and conditions acceptable to the Airport Lessor (acting reasonably, having regard to usual insurance industry practice) and must, unless the Airport Lessor otherwise agrees (acting reasonably), be on the basis that:

- (a) where the Airport Lessor so requires, the Airport Lessor, the Airport Lessee and the Airport Manager must be named as insured; and
- (b) where relevant and to the extent commercially available, the insurance policies are to expressly provide that any breach of a policy term or condition or any non-disclosure or misrepresentation or any other act or omission by an insured or person whose interest is noted on the insurance policy will not invalidate the cover in respect of other insureds or persons whose interests are noted on the insurance policy; and
- (c) where relevant and to the extent commercially available, the insurance policies are arranged in such manner that the insurer shall not subrogate against the Airport Lessor or its servants, agents or contractors; and
- (d) where any insurance policies are governed by the Law of the Commonwealth, all such insurance policies shall contain a term that the insurer may only cancel a policy in the circumstances provided for in the *Insurance Contracts Act 1984* (Cth); and
- (e) where relevant and to the extent commercially available, such insurance policies are to expressly provide that the insurer may not cancel the insurance policies for non-payment of a premium without giving the Airport Lessor at least 30 Business Days' notice that the Airport Lessee has failed to make the payment; and
- (f) where any insurance policies are not governed by the Law of the Commonwealth, all such insurance policies must contain a term that the insurer may only cancel a policy in the following circumstances:
  - (i) failure by the insured to comply with the duty of utmost good faith; or
  - (ii) failure to comply with any statutory duty of disclosure; or
  - (iii) statutory misrepresentation at the time that the contract of insurance was entered into; or
  - (iv) non-payment of a premium; or

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- (v) the making of a fraudulent Claim under the relevant insurance policy; or
- (vi) the occurrence of an act or omission which is required to be notified by the insured to the insurer and is not so notified; or
- (vii) the occurrence of an act or omission which under the terms of the contract authorises the insurer to refuse to pay a Claim, either in whole or in part; or
- (viii) the insurer goes into liquidation.

**14.3 Subsequent insurance policies**

- (a) The Airport Lessee must from time to time:
  - (i) increase the insurance policy limit; or
  - (ii) change the deductibles of the Initial Insurance Policies; or
  - (iii) effect further insurance policies (including those insurance policies in Part B of Schedule 1 ("Insurance Policies")), whether in substitution for policies already in effect or new policies and whether to cover the same or other or additional risks,if:
  - (iv) such changes or further insurance policies would be regarded as appropriate by a reasonably prudent owner or operator of the Airport; or
  - (v) required to do so by the Airport Lessor (acting reasonably, where such insurance policies are available in the market at a reasonable Cost).
- (b) Without limiting clause 14.3(a)(iii), the further insurance policies in Part B of Schedule 1 ("Insurance Policies") will be effected when required during the Term.
- (c) Each further policy must:
  - (i) be on terms and conditions reasonably acceptable to the Airport Lessor including as to conditions, endorsements, exclusions, sublimits and deductibles; and
  - (ii) unless the Airport Lessor otherwise agrees in writing, be on the same basis as the Initial Insurance Policies as set out in clause 14.2 ("Requirements of insurance policies").

**14.4 Maintenance of insurance**

The Airport Lessee must maintain, renew and keep current each policy of insurance referred to in clause 14.1 ("Insurance required at Commencement Date") or effected pursuant to clauses 14.3 ("Subsequent insurance policies") or 14.6 ("Variation of insurance policies"), in each case:

- (a) on the terms and conditions approved in writing by the Airport Lessor; and
- (b) until the Airport Lessor provides written authority for the Airport Lessee to cancel, modify or not renew the same.

**14.5 Insurance coverage not available**

Despite this clause 14, if the cover effected under any policy of insurance referred to in clause 14.1 ("Insurance required at Commencement Date") becomes obsolete or is no longer available on reasonable commercial terms, the Airport Lessee must promptly obtain insurance providing for similar coverage which is satisfactory to the Airport Lessor acting reasonably. If no such similar cover is available then a mutually agreeable replacement for such cover is to be effected by the Airport Lessee and notified in writing to the Airport Lessor.

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#### **14.6 Variation of insurance policies**

The Airport Lessee must, as and when requested to do so by the Airport Lessor acting reasonably, take all reasonable steps to effect such changes to the terms and conditions of an existing policy of insurance (including as to conditions, endorsements, exclusions, sub-limits and deductibles) as the Airport Lessor may require, subject to the changes being available on reasonable commercial terms.

#### **14.7 Insurers**

- (a) All insurances must be effected with insurance companies approved in writing by the Airport Lessor, such approval not to be unreasonably withheld. The Airport Lessor is deemed to have approved the insurance companies who are providing insurance to the Airport Lessee at the Commencement Date, in respect of those insurances provided at that date.
- (b) Approval of an insurance company will be deemed to be automatically given if the insurance company has a long term credit rating of at least 'A' given by Standard & Poor's (or an equivalent rating by another similarly recognised and reputable ratings agency).
- (c) In approving an insurer in respect of which approval is not deemed to be automatically given under clause 14.7(b), the Airport Lessor is entitled to consider the financial stability and capability of the insurer as well as other matters that would normally be considered by a prudent landlord.
- (d) The Airport Lessor may withdraw its approval (including any deemed approval) of any insurer if the Airport Lessor reasonably considers that the long term credit rating or other financial capability of the insurer changes materially from what it was at the time the insurer was approved or deemed approved in which event the Airport Lessee must forthwith effect substitute insurances with an insurer approved in writing by the Airport Lessor.

#### **14.8 Changes to terms of insurance**

The Airport Lessee must not seek, make or allow any material changes to any policies unless the Airport Lessor approves such changes in writing, such approval not to be unreasonably withheld having regard to the Airport Lessee's obligations under clause 14.3 ("Subsequent insurance policies").

#### **14.9 Insurance for construction work**

- (a) Where the Airport Lessee or any other person performs construction work on the Leased Area, the Airport Lessee must itself take out (or ensure that any person who performs such works takes out) a policy of insurance for loss or damage caused by or to the construction works and the Airport Lessee must ensure that the Airport Lessor is noted as insured on such policy.
- (b) Such policy must remain in force until the last to expire of any defects liability periods stipulated in the relevant building contract for the construction works or, if earlier, the date on which equivalent cover under an insurance policy in respect of the completed construction works is put in place by the Airport Lessee or the relevant person referred to in clause 14.9(a).

#### **14.10 Duplicates to Airport Lessor**

- (a) Duplicate (or certified) copies of duly signed placing slips and endorsement slips or other evidence satisfactory to the Airport Lessor must be sent to the Airport Lessor not less than 5 Business Days (or such other period as the Airport Lessor may agree in writing) before the due date for renewal of insurance required by this document.
- (b) Duplicate (or certified) copies of all insurance policies and schedules and other evidence satisfactory to the Airport Lessor together with all renewal certificates must be sent to the Airport Lessor not less than 20 Business Days (or such other period as the Airport Lessor may agree in writing) after the due date for renewal of insurance required by this document.
- (c) The Airport Lessee must from time to time provide such evidence as the Airport Lessor may reasonably require that any policy is in full force and effect and as to the terms of the policy.

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#### **14.11 Proof of payment of insurance premium**

The Airport Lessee must, before the due date, pay all premiums and other moneys payable in respect of any insurance policy required under this clause 14 (including stamp duty) and must provide satisfactory proof of payment to the reasonable satisfaction of the Airport Lessor.

#### **14.12 Revaluation of Improvements**

In respect of any insurance relating to reinstatement or replacement, the Airport Lessee must:

- (a) cause each item covered by such insurance to be revalued every 3 years by a duly licensed and experienced valuer for the purpose of determining the current reinstatement or replacement value; and
- (b) have each relevant policy updated to reflect the current reinstatement or replacement value as determined under clause 14.12(a).

The Airport Lessee must as and when requested to do so by the Airport Lessor promptly provide a copy of any such valuation to the Airport Lessor.

#### **14.13 Preservation of insurance policies**

The Airport Lessee must not at any time during the Term do or omit to do or permit to be done or be omitted anything whereby any policy of insurance which the Airport Lessor or Airport Lessee has the benefit of as at the Commencement Date or during the Term may be cancelled, vitiated, rendered void or voidable, adversely affected or limited in any respect, subject to the prior written consent of the Airport Lessor.

#### **14.14 Airport Lessor's rights about insurance**

- (a) If:
  - (i) any insurance policy is cancelled or threatened to be cancelled; or
  - (ii) any insurance policy is refused to be renewed; or
  - (iii) the coverage under an insurance policy is refused or cancelled in any way; or
  - (iv) the Airport Lessee fails to comply with any of the requirements of this clause 14,the Airport Lessor may take any action it considers necessary or desirable to retain the benefit of the insurance policy and to fulfil the Airport Lessee's obligations (including effecting any policy or paying the premium or other money payable in respect of any policy).
- (b) The Airport Lessee must pay to the Airport Lessor on demand all reasonable Costs incurred by the Airport Lessor taking such action.
- (c) By the Airport Lessor taking such action the Airport Lessee will not be relieved of any of its obligations under this clause 14.
- (d) The Airport Lessor will give the Airport Lessee not less than 20 Business Days' notice of its intention to take action under clause 14.14(a) except where the Airport Lessor determines that urgent action is required to avoid the cancellation of any insurance policy or to put in place a new insurance policy, in which event no notice need be given by the Airport Lessor.

#### **14.15 Airport Lessee remains responsible**

Delivery to and examination by the Airport Lessor of any policy of insurance, certificate or other document relating to insurance shall in no way relieve the Airport Lessee of any of its obligations under this clause 14.

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#### **14.16 Proceeds of insurance**

All insurance proceeds received by the Airport Lessee in respect of damage or destruction to any part of the Leased Area must be used either for:

- (a) the re-building or re-instatement of those damaged or destroyed parts of the Leased Area (or to reimburse the Airport Lessee for its Costs incurred in doing this work); or
- (b) the construction of such other Improvements as the Airport Lessor approves in writing.

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### **15 Maintenance, repairs, alterations and additions**

#### **15.1 Repair and maintenance of Improvements**

- (a) The Airport Lessee must at all times maintain, service and keep the Improvements in good repair and condition in accordance with Good Operating and Maintenance Practice.
- (b) The Airport Lessee accepts the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Improvements during the Term.

#### **15.2 Specific obligations of repair and maintenance**

Without limiting clause 15.1 ("Repair and maintenance of Improvements") but unless otherwise approved in writing by the Airport Lessor, the Airport Lessee must at its Cost:

- (a) maintain, service and keep in good repair and condition in accordance with Good Operating and Maintenance Practice all parts of the Leased Area that are:
  - (i) owned or controlled by the Airport Lessee or the Airport Manager or leased or licensed to or occupied by, or constructed, managed, provided or maintained by the Airport Lessee or the Airport Manager; and
  - (ii) used or intended to be used in connection with the management, operation, development, maintenance of, or access to, the Airport; and
- (b) promptly make good in a workmanlike manner any damage to any part of the Leased Area, including damage arising as a result of the Airport Lessee, the Airport Manager or any Airport Tenant carrying out works; and
- (c) take all steps reasonably necessary to control any pest infestation occurring in the Leased Area; and
- (d) keep clean, clear and operative and maintain all waste pipes, drains, gutters, traps, sewerage, plumbing and other such facilities within or servicing the Leased Area; and
- (e) maintain and keep in good working order and condition any Plant and Equipment servicing the Leased Area (including any fire protection and safety equipment such as sprinklers, alarms, hoses, cocks, reels, extinguishers, detectors and any other emergency response equipment) to the higher of:
  - (i) the standards required or recommended by any Applicable Law; and
  - (ii) the standards required by the insurer of the Airport Lessee as a condition of continuation or renewal of any insurance; and
  - (iii) by the Standards Association of Australia; and
- (f) perform all Structural Work and all maintenance, repairs and replacements of a capital nature necessary to satisfy clause 15.1 ("Repair and maintenance of Improvements") and this clause 15.2; and

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- (g) as appropriate, repair or replace all broken or cracked glass and damaged or inoperative fittings or lighting, heating, electrical, communication and other equipment in any Improvements; and
- (h) as soon as reasonably practicable, repair or cause to be repaired, any major damage to Improvements or, if the Improvements are damaged beyond repair, replace those Improvements.

**15.3 Airport Lessee to give notice of defects**

The Airport Lessee must give written notice to the Airport Lessor as soon as reasonably practical after becoming aware of:

- (a) any major damage or loss occurring in the Leased Area or to the Airport or other Improvements; or
- (b) any material defect or material lack of repair in the Airport or other Improvements; or
- (c) any circumstance likely to cause material danger, damage or loss to or of the Leased Area, the Airport or other Improvements; or
- (d) any incident giving rise to a Claim or potential Claim under any policy of insurance effected pursuant to this document.

**15.4 Reconfiguration of Airport**

- (a) The Airport Lessee must not without obtaining the prior written consent of the Airport Lessor (such consent must not be unreasonably withheld or delayed), alter the configuration of the Airport if the alteration would result in types of aircraft not being able to land, discharge persons and/or Cargo and be serviced at the Airport if those types of aircraft were able to do so before the alteration.
- (b) Clause 15.4(a) does not apply to the extent that the alteration of the Airport arises as a result of the Runway Project.

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**16 Liquor Licence**

**16.1 Request for Airport Lessor Consent**

- (a) The Airport Lessee may request that the Airport Lessor consent to the Airport Lessee obtaining a Liquor Licence in relation to the Airport. If the Airport Lessee makes the request, the Airport Lessee must give the Airport Lessor:
  - (i) copies of the completed application and supporting documents it proposes to submit to the relevant Government Agency; and
  - (ii) any additional items of information and other material that the Airport Lessor requests to enable it to consider the request.
- (b) The Airport Lessor must not unreasonably refuse consent to the Airport Lessee obtaining a Liquor Licence in relation to the Airport.
- (c) The Airport Lessor agrees that the Airport Manager may apply for and hold the Liquor Licence in relation to the Airport and the Airport Lessor must not unreasonably refuse consent to the Airport Manager obtaining the Liquor Licence.

**16.2 Dealing with Liquor Licence**

When this document expires or terminates, the Airport Lessee must deliver promptly to the Airport Lessor the applications for transfer, the returns and any other forms that the Airport Lessor requests to facilitate:

- (a) the transfer of the Liquor Licence to the Airport Lessor or its nominee; or



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- (b) the issue of a new Liquor Licence enabling the Airport Lessor to conduct the licensed activity in whole or in part.

The Airport Lessee must do everything necessary and everything reasonable to enable the Airport Lessor, by itself or its nominee, to obtain the transfer or the new licence.

**16.3 Transfer of Liquor Licence**

The Airport Lessee must not transfer the Liquor Licence without the Airport Lessor's prior written consent, which consent must not be unreasonably withheld.

**16.4 Standards for licensed activity**

The Airport Lessee:

- (a) must conduct the licensed activity in a professional and businesslike manner during the hours and for the purposes customary for activities of that nature and permitted by the Liquor Licence; and
- (b) must not do, or permit to occur, on or about the Airport, anything that results or may result in the Liquor Licence being suspended or cancelled or the relevant Government Agency refusing to renew the Liquor Licence.

**16.5 Inspection of liquor records**

- (a) The Airport Lessee authorises the Airport Lessor to obtain any information about the Liquor Licence that the Airport Lessor requires from the relevant Government Agency or court.
- (b) Without limiting clause 16.5(a), the Airport Lessee authorises the Airport Lessor to obtain particulars and copies of all returns and assessments concerning the Liquor Licence for the Airport and details of charges or complaints against the Airport Lessee.

**16.6 Notice of adverse issues with Liquor Licence**

The Airport Lessee must promptly notify the Airport Lessor in writing if the Liquor Licence is suspended, cancelled, surrendered or is not renewed for any reason.

**16.7 Defence of liquor proceedings**

If a proceeding for a breach of the Liquor Act relating to the Airport is instituted against the Airport Lessee or its nominee, the Airport Lessor may elect to:

- (a) defend the proceedings, in whichever name it chooses; and/or
- (b) appear or be represented at the proceedings.

Any Costs that the Airport Lessor incurs or sustains as a result of those proceedings (irrespective of whether it appears or is represented at them) must be promptly paid or reimbursed by the Airport Lessee on demand by the Airport Lessor.

**16.8 Payment of liquor fees**

The Airport Lessee must ensure that all licence fees, imposts and levies assessed under the Liquor Act relating to the Airport or the licensed activity are paid when due. The Airport Lessee must give evidence of payment to the Airport Lessor on request by the Airport Lessor.

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## **17 Development and Improvements**

### **17.1 Development**

During the Term, the Airport Lessee must develop the Leased Area at its own Cost to the extent Feasible having regard to:

- (a) the actual and anticipated future growth in, and pattern of demand for, Airport Facilities and the obligations of the Airport Lessee under this document; and
- (b) the quality and efficiency standards reasonably expected of a regional airport in Australia; and
- (c) Good Business Practice and Good Operating and Maintenance Practice; and
- (d) the provisions of the Master Plan under the SCA Framework Agreement and the Approvals for the Airport; and
- (e) Applicable Laws and Requirements of Government Agencies; and
- (f) the Airport Objectives.

### **17.2 Limitations on development obligations**

Nothing in this document or the Planning Scheme imposes any obligation on the Airport Lessee or the Airport Manager to:

- (a) develop the Leased Area except as required under this document, the SCA Freehold Sublease and the SCA Framework Agreement; or
- (b) acquire any land or rights to land outside the Airport Land.

### **17.3 Airport Lessor to own all Improvements**

- (a) Subject to the rights of the Airport Lessee under clause 17.5 ("Dealing with Improvements"), all Improvements constructed, altered or added to by the Airport Lessee or the Airport Manager after the grant of this document vest absolutely in the Airport Lessor at the time they are constructed, altered or added to and form part of the Leased Area.
- (b) The Airport Lessee must do everything necessary, and must ensure that the Airport Manager does everything necessary, to give effect to a vesting under clause 17.3(a).
- (c) If the Airport Lessee becomes the owner of any Airport Tenant's Improvements after the grant of this document, the relevant Airport Tenant's Improvements will vest absolutely in the Airport Lessor immediately upon the Airport Lessee becoming the owner and will then form part of the Leased Area.
- (d) If the Airport Lessor becomes the owner of any Airport Tenant's Improvements after the grant of this document other than under clause 17.3(c), the relevant Airport Tenant's Improvements will form part of the Leased Area.
- (e) The parties acknowledge and agree that:
  - (i) as at the Commencement Date, certain Improvements may be considered to be owned or held by Airport Tenants as tenant's fixtures (although those Improvements may be fixtures and part of the Leased Area owned by the Airport Lessor); and
  - (ii) any Improvements constructed by Airport Tenants after the Commencement Date will be held by those Airport Tenants as tenant's fixtures, with a right to sever those Improvements in order to preserve the rights to claim allowances under Divisions 40 and 43 of the *Income Tax*

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*Assessment Act 1936* (Cth) (although those Improvements may be fixtures and part of the Leased Area owned by the Airport Lessor).

**17.4 No Security Interest**

The Airport Lessee must ensure that any new Improvements or Airport Tenant's Improvements that become the property of the Airport Lessor under clause 17.3 ("Airport Lessor to own all Improvements") are free and clear of any Security Interest, other than a Security Interest over:

- (a) this document granted in accordance with clause 19 ("Security Interest"); and
- (b) any Airport Tenant's Improvements existing at the time the Airport Lessee or the Airport Lessor (as the case may be) becomes the owner of that Airport Tenant's Improvement.

**17.5 Dealing with Improvements**

Subject to the Airport Lessee complying with the Stewardship Covenants and the SCA Framework Agreement and the Airport Lessee's obligations under clause 17.6 ("Improvements in the last 10 years"):

- (a) the Airport Lessee may construct, alter and/or add to the Improvements without the Airport Lessor's consent; and
- (b) the Airport Lessee may remove or demolish any Improvement or any part of an Improvement without the Airport Lessor's consent provided that, where the removed Improvement or part is required to be replaced for the effective, safe and efficient operation of the Airport or the effective, safe and efficient operation of the Improvements as a part of a fully functioning Airport, the removed or demolished Improvement is promptly replaced with another Improvement or part of an Improvement, accessory or other equipment which restores the condition of the Improvements to at least the condition they were in immediately before the need for replacement (assuming that the Improvements were operated and maintained in the manner required under this document at that time); and
- (c) the parties agree that any proceeds from the sale of Improvements removed by the Airport Lessee may be retained by the Airport Lessee.

**17.6 Improvements in the last 10 years**

Despite anything else in this document and without limiting clause 17.5(c), the Airport Lessee must:

- (a) not, nor may it permit or allow others to, demolish or remove any Improvements during the Lease Run Out Period without the prior written consent of the Airport Lessor; and
- (b) unless the Airport Lessor otherwise agrees in writing, rebuild at its Cost and with all due expedition any Improvements damaged or destroyed during the Lease Run Out Period to a standard agreed to by the Airport Lessor and, where agreement is not reached within 20 Business Days of such Improvements being destroyed or damaged, to such standard as is specified in writing by the Airport Lessor (acting reasonably).

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**18 Assignment and subletting**

**18.1 Restrictions on assignment and subletting**

- (a) Subject to this clause 18, the Airport Lessee must not directly or indirectly Deal (whether legal or equitable) with the Leased Area (or any part of it) or any interest in this document, except:
  - (i) as expressly permitted or required by this document; or

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- (ii) as required and only to the extent necessary to carry out any necessary testing, servicing, repairs, maintenance, alterations or modifications or replacement of or to the Leased Area or the Improvements.
- (b) Despite clause 18.1(a), the Airport Lessee may grant rights of possession in respect of the Leased Area to:
  - (i) a person approved or appointed in writing by the Airport Lessor under, or as contemplated by, clause 18.2 ("Airport Manager") under the SCA Freehold Sublease; and
  - (ii) any Airport Tenant under an Airport Sublease (where the Airport Sublease is not a Defacto Assignment), including the grant of an Airport Sublease to a New Airport Tenant; and
  - (iii) any contractor to the extent required to carry out any works.

The grant of such rights by the Airport Lessee under this clause 18.1(b) will not relieve the Airport Lessee of any of its obligations or Liabilities under this document.

- (c) A Dealing with the Leased Area (or any part of it) or any interest in the SCA Freehold Sublease or SCA Council Freehold Sublease by the Airport Manager in breach of the SCA Framework Agreement is taken to be a breach of this document by the Airport Lessee, but the Airport Lessee is not in breach of this clause because the Airport Lessee or the Airport Manager grants an Airport Sublease to an Airport Tenant.
- (d) The Airport Lessee must not delegate, sub-contract or outsource the management of the Airport except as permitted by this clause 18.1 or clause 18.2 ("Airport Manager").

## 18.2 Airport Manager

- (a) The Airport Lessee may appoint the Airport Manager or a person who satisfies the requirements in clause 18.2(b) to operate and manage all or part of the Airport. Unless otherwise agreed in writing by the Airport Lessor, the person must be granted the SCA Freehold Sublease in respect of the Leased Area.
- (b) The Airport Lessee may sublease its interest in this document to the Airport Manager or to a person which the Airport Lessee intends to appoint under clause 18.2(a) if, before it sublets or agrees to an assignment of the sublease, each of the following is satisfied:
  - (i) **(respectability)**: the Airport Lessee demonstrates to the Airport Lessor's reasonable satisfaction that the person is of good repute, of sound financial standing and financially and (either itself or through appropriately qualified contractors) technically capable of performing the Stewardship Covenants; and
  - (ii) **(Prohibited Entity)**: the Airport Lessee demonstrates to the Airport Lessor's reasonable satisfaction that the proposed subtenant is not a Prohibited Entity or that any Affiliate of the proposed subtenant is not a Prohibited Entity; and
  - (iii) **(use of the Airport)**: the Airport Lessee demonstrates to the Airport Lessor's reasonable satisfaction that the person will not cause any security or safety issue, loss of amenity to the Airport or loss in value of the Airport greater than that arising from the use and occupation of the Airport by the Airport Lessee; and
  - (iv) **(Approvals)**: the Airport Lessee demonstrates to the Airport Lessor's reasonable satisfaction that the person has obtained all Approvals required for the grant of the SCA Freehold Sublease to the person, including under the *Foreign Acquisitions and Takeovers Act 1975* (Cth); and
  - (v) **(SCA Framework Agreement)**: the person enters into the SCA Framework Agreement with the Airport Lessor or accedes to the SCA Framework Agreement, including (among other things) covenants that:

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- (A) the person assumes and will perform those Stewardship Covenants which the Airport Lessee intends the person to perform on its behalf; and
- (B) the person must not do anything that puts the Airport Lessee in breach of this document; and
- (C) the person agrees with and represents to the Airport Lessor that:
  - (aa) no promise, representation, warranty or undertaking has been given by or on behalf of the Airport Lessor regarding the fitness or suitability of the Leased Area for the conduct of the Airport or for any other use, otherwise than as expressly contained in this document; and
  - (ab) the person has not relied on or been materially induced to operate and manage the Airport (or any part thereof) by any promise, representation, undertaking or warranty given by or on behalf of the Airport Lessor; and
  - (ac) the person has reviewed this document, the other SCA Tenure Documents and the SCA Framework Agreement; and
  - (ad) the person has otherwise relied on its own judgment, expertise and experts in satisfying itself as to the fitness, suitability, physical condition and adequacy of the Leased Area and the utilities and services to the Improvements prior to accepting appointment as the operator and manager of the Airport (or any part thereof); and
- (vi) **(Transaction Documents)**: the person accedes to the other Transaction Documents to which the Airport Manager is a party and agrees to comply with the obligations of the Airport Manager under those Transaction Documents.
- (c) The Airport Lessee must not do anything that interferes with the rights of the Airport Manager to operate and manage the Airport under the SCA Freehold Sublease.

### 18.3 Assignment by Airport Lessee

The Airport Lessee may transfer or assign its interest in this document if, before it transfers or assigns, each of the following is satisfied:

- (a) **(respectability)**: the Airport Lessee demonstrates to the Airport Lessor's reasonable satisfaction that the assignee is of good repute, of sound financial standing and financially and (either itself or through appropriately qualified contractors) technically capable of performing the obligations of the Airport Lessee under this document and the other Transaction Documents; and
- (b) **(Prohibited Entity)**: the Airport Lessee demonstrates to the Airport Lessor's reasonable satisfaction that the assignee is not a Prohibited Entity or that any Affiliate of the assignee is not a Prohibited Entity; and
- (c) **(use of the Airport)**: the Airport Lessee demonstrates to the Airport Lessor's reasonable satisfaction that the assignee will not cause any security or safety issue, loss of amenity to the Airport or loss in value of the Airport greater than that arising from the use and occupation of the Airport by the Airport Lessee; and
- (d) **(Approvals)**: the Airport Lessee demonstrates to the Airport Lessor's reasonable satisfaction that the assignee has obtained all Approvals required for the assignment of this document and the assignment or novation of other Transaction Documents to the assignee, including under the *Foreign Acquisitions and Takeovers Act 1975* (Cth); and
- (e) **(all money paid)**: all money payable by the Airport Lessee or the Airport Manager to the Airport Lessor up to the date of the assignment has been paid; and
- (f) **(no material unremedied breach)**: there is no material unremedied breach by the Airport Lessee of its obligations under this document and the other Transaction Documents (other than a breach that has

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been expressly waived in writing by the Airport Lessor or a breach that is incapable of remedy for which compensation acceptable to the Airport Lessor has been paid to the Airport Lessor); and

- (g) **(assignment documentation):** the Airport Lessee executes and procures the execution by the assignee of an assignment of this document in a form and containing the provisions approved by the Airport Lessor (such approval not to be unreasonably withheld or delayed); and
- (h) **(assignment of other interests):** the Airport Lessee also assigns or novates to the assignee contemporaneously with the assignment of this document, the Airport Lessee's interest in:
  - (i) the Transaction Documents to which it is a party; and
  - (ii) the EOT Option Assets; and
- (i) **(deed with Airport Lessor):** the assignee enters into a deed with the Airport Lessor in the form the Airport Lessor reasonably requires containing (among other things) covenants that:
  - (i) the assignee assumes and will perform the obligations under this document and the other Transaction Documents (including those accruing before the date of assignment); and
  - (ii) the assignee gives acknowledgements that it has made its own enquiries, investigations and analysis about the matters referred to in clauses 4 ("As is where is"), 12 ("Environmental Liability"), 13 ("Heritage/Aboriginal cultural heritage") and 26 ("Default and termination") and gives the same acknowledgements as the Airport Lessee gave to the Airport Lessor about such matters (to the extent applicable); and
  - (iii) the assignee will grant to the Airport Lessor:
    - (A) the AAL Call Option as if it were named in this document as the Airport Lessee in place of the Airport Lessee; and
    - (B) the EOT Call Option as if it were named in the SCA Framework Agreement as the Airport Lessee in place of the Airport Lessee; and
  - (iv) the assignee agrees with and represents to the Airport Lessor that:
    - (A) no promise, representation, warranty or undertaking has been given by or on behalf of the Airport Lessor regarding the fitness or suitability of the Leased Area for the conduct of the Airport or for any other use, otherwise than as expressly contained in this document; and
    - (B) the assignee has not relied on or been materially induced to take an assignment of this document by any promise, representation, undertaking or warranty given by or on behalf of the Airport Lessor; and
    - (C) the person has reviewed this document, the other SCA Tenure Documents, the SCA Framework Agreement and the other Transaction Documents; and
    - (D) the assignee has otherwise relied on its own judgment, expertise and experts in satisfying itself as to the fitness, suitability, physical condition and adequacy of the Leased Area and the utilities and services to the Improvements prior to taking an assignment of this document; and
- (j) **(power of attorney):** a power of attorney is given in the same terms as clause 35 ("Power of attorney"); and
- (k) **(objectives):** the Airport Lessee demonstrates to the Airport Lessor's reasonable satisfaction that the assignee will ensure that the Airport will continue to be managed, operated and maintained in accordance with Good Aviation Industry Practice and the Airport Objectives; and

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- (l) **(Costs)**: the Airport Lessee pays to the Airport Lessor its reasonable Costs of and incidental to the Dealing (including administration costs and the duties and fees of any documentation referred to in this clause) and whether or not the Dealing proceeds to completion.

#### 18.4 Change of Control of Airport Lessee

A Change of Control of:

- (a) the Airport Lessee (not being a body corporate whose shares or units are listed on the official list of the ASX); or
- (b) any person (not being a body corporate whose shares are listed on the official list of the ASX) who Controls the Airport Lessee,

will be taken to be a breach of this document and each other Transaction Document to which it is a party, unless:

- (c) the Change of Control is a Permitted Change of Control and after the Change of Control has taken effect, the following are satisfied in respect of the Airport Lessee:
- (i) **(respectability)** the Airport Lessee demonstrates to the Airport Lessor's reasonable satisfaction that it is of good repute, of sound financial standing and financially and (either itself or through appropriately qualified contractors) technically capable of performing the obligations of the Airport Lessee and the Airport Manager under this document and the other Transaction Documents; and
  - (ii) **(Prohibited Entity)**: the Airport Lessee demonstrates to the Airport Lessor's reasonable satisfaction that it is not a Prohibited Entity or that any Affiliate of the Airport Lessee is not a Prohibited Entity; and
  - (iii) **(use of the Airport)**: the Airport Lessee demonstrates to the Airport Lessor's reasonable satisfaction that the Airport Lessee will not cause any security or safety issue, loss of amenity to the Airport or loss in value of the Airport greater than that arising from the use and occupation of the Airport by the Airport Lessee; and
  - (iv) **(Approvals)**: the Airport Lessee demonstrates to the Airport Lessor's reasonable satisfaction that the Airport Lessee has obtained all Approvals required for the Change of Control, including under the *Foreign Acquisitions and Takeovers Act 1975* (Cth); and
  - (v) **(all money paid)** all money payable by the Airport Lessee or Airport Manager to the Airport Lessor up to the date of the Dealing has been paid; and
  - (vi) **(no material unremedied breach)** there is no material unremedied breach by the Airport Lessee or the Airport Manager of the obligations of the Airport Lessee and the Airport Manager under this document and the other Transaction Documents (other than a breach that has been expressly waived in writing by the Airport Lessor or a breach that is incapable of remedy for which compensation acceptable to the Airport Lessor has been paid to the Airport Lessor); and
  - (vii) **(objectives)** the Airport Lessee demonstrates to the Airport Lessor's reasonable satisfaction that it will ensure that the Airport will continue to be managed, operated and maintained in accordance with Good Aviation Industry Practice and the Airport Objectives; or
- (d) the Airport Lessor approves the Change of Control, with such approval not to be unreasonably withheld where clauses 18.4(c)(i) to (vii) will be satisfied in respect of the Airport Lessee after the Change of Control has taken effect.

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## **19 Security Interest**

### **19.1 Permitted Security Interest**

Subject to clauses 19.2 ("Requirements for Security Interest"), 19.3 ("SCA Specific Security Deed") and 19.4 ("Requirements for Security Interest by Airport Lessee"), the Airport Lessee must not mortgage, charge or otherwise encumber or grant any other Security Interest in or over:

- (a) this document or any other SCA Tenure Document to which it is a party; or
  - (b) the whole or any part of the interest of the Airport Lessee under this document or any other SCA Tenure Document to which it is a party; or
  - (c) the Leased Area, the EOT Option Assets or the Additional Airport Land,
- except as expressly permitted or required by this document.

### **19.2 Requirements for Security Interest**

The Airport Lessee may grant a mortgage or charge over all its assets and undertakings to, or for the benefit of, a mortgagee or chargee, provided that:

- (a) the mortgagee or chargee (or a security trustee on its behalf) first enters into a deed:
  - (i) whereby the mortgagee or chargee agrees with the Airport Lessee to comply with clauses 18 ("Assignment and subletting"), this clause 19 and 20 ("Additional Airport Land") and the SCA Framework Agreement; and
  - (ii) otherwise on such terms and conditions as the Airport Lessor may reasonably require,and for this purpose, the Airport Lessor acknowledges a deed in the form of the SCA Financier Tripartite Deed would satisfy the obligations in this clause 19.2(a); and
- (b) the Airport Lessee has paid the Airport Lessor's reasonable Costs (including stamp duty) of complying with this clause 19.2.

### **19.3 SCA Specific Security Deed**

Any Security Interest granted in respect of this document, the EOT Option Assets or the Additional Airport Land is subject to the terms of the SCA Specific Security Deed.

### **19.4 Requirements for Security Interest by Airport Lessee**

- (a) The Airport Lessee may not permit an Airport Tenant to grant a mortgage or charge over all of its assets and undertaking (including its Airport Sublease) that is a Defacto Assignment without the Airport Lessor's prior consent.
- (b) Where an Airport Tenant holds an Airport Sublease that is a Defacto Assignment, the Airport Lessee may permit that Airport Tenant to grant a mortgage or charge over all of its assets and undertaking (including its Airport Sublease) to a mortgagee or chargee provided that:
  - (i) the mortgagee or chargee (or a security trustee on its behalf) first enters into a deed:
    - (A) whereby the mortgagee or chargee agrees with the Airport Lessee to comply with clauses 18 ("Assignment and subletting") and 20 ("Additional Airport Land"), this clause 19 and the SCA Framework Agreement; and
    - (B) otherwise on such terms and conditions as the Airport Lessor may reasonably require,



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and for this purpose, the Airport Lessor acknowledges a deed substantially in the form of the SCA Financier Tripartite Deed would satisfy the obligations in this clause 19.4(b)(i); and

- (ii) the Airport Lessee has paid the Airport Lessor's reasonable estimated Costs (including stamp duty) of complying with this clause 19.4.

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## 20 Additional Airport Land

### 20.1 Alternative arrangements

If the Airport Lessee, the Airport Manager or any other Affiliate of the Airport Lessee wants to acquire an interest in land that would be Additional Airport Land, the Airport Lessee must give notice to the Airport Lessor of the proposed acquisition and put a proposal to the Airport Lessor:

- (a) instead of the Airport Lessee, the Airport Manager or any other Affiliate of the Airport Lessee acquiring the prospective Additional Airport Land and then be subject to the AAL Call Option, the Airport Lessee offers to procure the owner of the prospective Additional Airport Land to enter into acquisition arrangements directly with the Airport Lessor (on terms acceptable to the Airport Lessor where, at the Airport Lessee's Cost:
  - (i) the Airport Lessor would become the registered owner of the prospective Additional Airport Land; and
  - (ii) the Airport Lessor will immediately lease back the prospective Additional Airport Land to the Airport Lessee as if it were a Leaseback on the basis set out in clause 20.2 ("Grant of AAL Call Option"); or
- (b) to the effect that the Airport Lessee will acquire the prospective Additional Airport Land or procure the owner of the prospective Additional Airport Land to enter into acquisition arrangements directly with the Airport Lessor as contemplated in clause 20.1(a)(ii), subject to the Airport Lessor agreeing to pay a residual value for the land at the expiration of the Term.

The Airport Lessor must consider in good faith any proposal put to it under this clause 20.1, but any decision to agree to or reject the proposal will be at the absolute discretion of the Airport Lessor.

### 20.2 Grant of AAL Call Option

- (a) In consideration of the AAL Call Option Fee paid by the Airport Lessor to the Airport Lessee (which the Airport Lessee acknowledges receiving), the Airport Lessee irrevocably grants to the Airport Lessor an option to require the Airport Lessee to procure the transfer to the Airport Lessor of:
  - (i) the relevant lease of all or any Additional Airport Land leased to the Airport Lessee, the Airport Manager, or an Affiliate of the Airport Lessee or the Airport Manager, free of any Security Interest and any Native Title Claim; or
  - (ii) ownership of all or any Additional Airport Land, free of any Security Interest and any Native Title Claim.
- (b) The transfer will be given subject to the Airport Lessor immediately leasing the Additional Airport Land back to the Airport Lessee ("**Leaseback**") on the same terms as this document (to the extent applicable) except that:
  - (i) no premium will be payable; and
  - (ii) the annual rent payable under the Leaseback will be \$1.00 (if demanded); and

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- (iii) if the Airport Lessor acquires a lease of the Additional Airport Land, the tenure of the Leaseback will be a sublease; and
- (iv) the Leaseback Document will have the same expiry date as the Expiry Date of this document; and
- (v) the Leaseback Document will be interdependent with this document and will terminate if this document terminates; and
- (vi) the indemnities given by the Airport Lessor will not be included in the Leaseback Document.

**20.3 Notice of existence of Additional Airport Land**

The Airport Lessee must promptly give notice to the Airport Lessor of the existence of, or proposal to acquire, Additional Airport Land and give details about the Additional Airport Land to the Airport Lessor, including:

- (a) the real property description of the Additional Airport Land; and
- (b) terms of any lease of the Additional Airport Land; and
- (c) how the Additional Airport Land is or may be used for the Airport; and
- (d) the existence of any Native Title or Native Title Claim over the Additional Airport Land; and
- (e) whether the land has been included in the Planning Scheme as Airport Land or whether it is the subject of an application to amend the Planning Scheme to include the land as Airport Land.

**20.4 Exercise of AAL Call Option**

The AAL Call Option may be exercised from time to time by the Airport Lessor in respect of all or some of the Additional Airport Land at any time during the AAL Call Option Period by the Airport Lessor delivering to the Airport Lessee a notice:

- (a) to the effect that the Airport Lessor exercises the AAL Call Option; and
- (b) describing the Additional Airport Land which the Airport Lessor wants to purchase or lease for the Land Price.

**20.5 Preparation of Land Sale Contract**

Not later than 60 Business Days after exercise of the AAL Call Option, the Airport Lessee must prepare and procure the execution by the relevant transferor under the Land Sale Contract and the Airport Lessee must execute the Land Sale Contract.

**20.6 Preparation of Transfer Forms**

After the Land Sale Contract is executed, the Airport Lessor must prepare and deliver the Transfer Forms and the Leaseback Document to the Airport Lessee for execution not less than 5 Business Days before the AAL Completion Date.

**20.7 Completion**

- (a) On the AAL Completion Date, the Airport Lessee (as transferor) must execute and deliver the Transfer Forms and the Leaseback Document to the Airport Lessor and in exchange the Airport Lessor must pay the Land Price to the Airport Lessee.
- (b) The Transfer Forms and Leaseback Document will be taken to have been entered into on the AAL Completion Date, whether or not the Transfer Forms and Leaseback Document have been prepared or signed by either party.

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- (c) The parties must nevertheless procure execution of the Transfer Forms and Leaseback Document after they have been prepared.
- (d) The title or rights to the Additional Airport Land in respect of which the Airport Lessor exercises the AAL Call Option will vest in the Airport Lessor on the AAL Completion Date free and clear of any Security Interest.

**20.8 Further assurances**

Each party must:

- (a) promptly execute all documents (or in the case of the Airport Lessee, procure that its Affiliate promptly executes all documents) and do all things that the other party from time to time reasonably requires of it to effect, perfect or complete the sale and Leaseback contemplated by this clause 20 following exercise of the AAL Call Option; and
- (b) use reasonable endeavours to minimise the Costs of the transaction to each party.

**20.9 Costs and duty**

- (a) Each party must pay its own Costs arising out of the exercise of the AAL Call Option and the preparation of the Land Sale Contract, Transfer Forms and Leaseback Document.
- (b) The Airport Lessee must pay any:
  - (i) duty chargeable arising out of the grant, assignment or the exercise of the AAL Call Option, including any duty payable on the Land Sale Contract, Transfer Forms and Leaseback Document; and
  - (ii) registration fees payable in relation to the Transfer Forms and Leaseback Document.

**20.10 No adjustment for expenses**

If the AAL Call Option is exercised, no adjustment is to be made between the parties for any Rates and Taxes, fees, charges or expenses attributable to the Additional Airport Land on the basis the Airport Lessee will be responsible for such Rates and Taxes, fees, charges and expenses up to the AAL Completion Date and as Lessee of the Additional Airport Land under the terms of the Leaseback Document from the AAL Completion Date.

**20.11 Acquisition of Additional Airport Land by Airport Manager or Affiliate**

If Airport Manager or an Affiliate of the Airport Lessee or of the Airport Manager becomes the registered owner of Additional Airport Land, the Airport Lessee must procure that the Airport Manager or the Affiliate (as the case may be) enters into a deed with the Airport Lessor in the form the Airport Lessor reasonably requires which grants to the Airport Lessor an option on the same terms as the AAL Call Option as if the Airport Manager or the Affiliate were named in the AAL Call Option as the Airport Lessee except in respect of the Leaseback which will take effect as a lease back of the Additional Airport Land to the Airport Lessee (rather than to the Airport Manager or the Affiliate).

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**21 Handback Plan**

**21.1 Preparation of Handback Plan**

- (a) The Airport Lessee must at its own Cost:
  - (i) approximately 10 years before the Expiry Date, prepare and deliver a Handback Plan to the Airport Lessor; and

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- (ii) on each date that is approximately 5, 3 and 1 years before the Expiry Date, prepare and deliver an updated version of the Handback Plan to the Airport Lessor.
- (b) Each updated version of the Handback Plan must be based upon the previous version of the Handback Plan, but updated for the facts and circumstances then subsisting.

**21.2 Approval of Handback Plan**

- (a) The Airport Lessor must give notice to the Airport Lessee within 20 Business Days of receiving the Handback Plan under clause 21.1 ("Preparation of Handback Plan") whether (acting reasonably) it approves of the Handback Plan and:
  - (i) if so, the Handback Plan will be taken to be approved by the Airport Lessor and the Airport Lessee must, at their own Cost, commence and continue to give effect to the Handback Plan; or
  - (ii) if not, the Airport Lessee must provide a further Handback Plan within 20 Business Days after the date of the Airport Lessor's notice under this clause 21.2(a).
- (b) This clause 21.2 will apply to any further Handback Plan provided by the Airport Lessee under clause 21.1(a)(ii) as if it were the original Handback Plan provided under clause 21.1 ("Preparation of Handback Plan").
- (c) No review, approval or deemed approval by the Airport Lessor of a Handback Plan submitted by the Airport Lessee under clause 21.1 ("Preparation of Handback Plan") will in any way fetter or constrain the exercise of any power, function, duty or discretion provided to or imposed on the Airport Lessor under any Transaction Document or any Law.

**21.3 Dispute Notice about Handback Plan**

If the Airport Lessor is dissatisfied with a further Handback Plan provided by the Airport Lessee under clause 21.2 ("Approval of Handback Plan"), the Airport Lessor may deliver a Dispute Notice under the SCA Framework Agreement, instead of requiring the Airport Lessee to provide another further draft Handback Plan under clause 21.2(a)(ii) ("Approval by Airport Lessor of Handback Plan").

**21.4 Failure to comply with Handback Plan**

- (a) If the Airport Lessee fails to comply with this clause 21, the parties acknowledge that damages will not be an adequate remedy to the Airport Lessor.
- (b) Without prejudice to any other right to remedy which the Airport Lessor may have, if the Airport Lessee fails to comply with clause 21.2(a)(i):
  - (i) the Airport Lessor may take such action as is necessary to give effect to the Handback Plan and may enter the Leased Area and carry out works in the Leased Area or other places at the Cost of the Airport Lessee; and
  - (ii) the Airport Lessee irrevocably appoints the Airport Lessor as its agent for the purpose of giving effect to the Handback Plan and must itself do, or procure to be done by any other person, whatever is reasonably necessary to enable the Airport Lessor to give effect to the Handback Plan.
- (c) In giving effect to the Handback Plan, the Airport Lessor must use reasonable endeavours to mitigate the Costs and Losses which may be suffered or incurred by the Airport Lessor.
- (d) Where the Airport Lessor takes any action under this clause 21.4, the Airport Lessee must pay to the Airport Lessor, as a liquidated debt on demand, any Costs incurred by the Airport Lessor in taking such action.

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## **22 Runway Project**

### **22.1 Acknowledgments about Runway Project**

The Airport Lessee acknowledges and agrees that:

- (a) the parties have also entered into the SCA Runway Project Construction Offer Deed under which either party may call upon the other to enter into the SCA Runway Project Construction Framework Deed and the SCA Council Freehold Sublease; and
- (b) under the SCA Council Freehold Sublease, the Airport Manager is also granting one or more Airport Licences to the Airport Lessor so that the Airport Lessor can use the Licence Site in accordance with each Airport Licence; and
- (c) the grant of this document is made on the basis that the Airport Lessor may need to have access to the Leased Area to carry out the works and activities under the SCA Runway Project Construction Framework Deed; and
- (d) if the SCA Runway Project Construction Framework Deed is entered into, then the Airport Lessee will perform its obligations under the SCA Runway Project Construction Framework Deed and will procure that the Airport Manager also performs its obligations under that deed.

### **22.2 Rights and obligations suspended over Runway Site during Runway Project**

Notwithstanding the grant of the lease of the Leased Area by the Airport Lessor to the Airport Lessee on the terms of this document, the parties agree that for the period commencing on the commencement date of the SCA Council Freehold Sublease and ending on the Date of Surrender, the obligations of the Airport Lessee are suspended in respect of the Runway Site only (subject to the terms of the Displaced Runway Licence (as that term is defined in the SCA Council Freehold Sublease)), to the extent of the following provisions of this document:

- (a) clause 9 ("Use of Leased Area");
- (b) clause 10 ("Access to the Airport");
- (c) clause 11 ("Legislation and licences") to the extent that the Airport Lessor (as Lessee under the SCA Council Freehold Sublease and as the proponent, applicant or party having the benefit of all Approvals in relation to the Runway Site) or any contractor of the Airport Lessor is obliged to comply with Laws and Requirements in respect of the Runway Site;
- (d) clause 12 ("Environmental Liability");
- (e) clause 13 ("Heritage/Aboriginal cultural heritage");
- (f) clause 14 ("Insurance");
- (g) clause 15 ("Maintenance, repairs, alterations and additions");
- (h) clause 16 ("Liquor Licence");
- (i) 17.2 ("Limitations on development obligations") and 17.5 ("Dealing with Improvements") except clauses 17.5(b) and 17.5(c);
- (j) clause 20 ("Additional Airport Land");
- (k) clause 21 ("Handback Plan");
- (l) clause 25 ("End of Term"); and
- (m) 27 ("Risk, indemnities and release") except clause 27.7 ("No Consequential Loss").

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### **22.3 Access for Runway Project**

Despite anything to the contrary in this document, if the SCA Runway Project Construction Framework Deed comes into effect then the Airport Lessee must:

- (a) permit the Airport Lessor (and/or its contractors, subcontractors and nominees) to have access to the Leased Area (including the Runway Site) in accordance with the SCA Runway Project Construction Framework Deed and the SCA Council Freehold Sublease for the purpose of carrying out the works and activities under the SCA Runway Project Construction Framework Deed (subject to any limitations in the SCA Runway Project Construction Framework Deed); and
- (b) manage the Leased Area (including any parts of the Leased Area the subject of Airport Leases) in a manner that facilitates the works and activities under the SCA Runway Project Construction Framework Deed, including without interfering with or delaying those works and activities; and
- (c) otherwise do all things reasonably necessary to permit access to the Runway Site as is reasonably required to facilitate the works and activities in accordance with the SCA Runway Project Construction Framework Deed.

### **22.4 No claims for Runway Project**

Subject to any express rights of the Airport Lessee under the SCA Runway Project Construction Framework Deed if it comes into effect, the Airport Lessee releases and discharges the Airport Lessor (and/or its contractors, subcontractors and nominees) from any Loss or Claim by the Airport Lessee or the Airport Manager and any Loss or Claim which the Airport Lessee or the Airport Manager may incur or sustain in relation to the SCA Runway Project Construction Framework Deed, including in relation to:

- (a) the grant of the SCA Council Freehold Sublease; and
- (b) any disruption to the use and operation of the Airport; and
- (c) any Costs of the Airport Lessee and the Airport Manager incurred or sustained in relation to the SCA Runway Project Construction Framework Deed; and
- (d) any lost revenue, trade, profit and other Consequential Loss and Costs in relation to the Airport arising from the works and activities under the SCA Runway Project Construction Framework Deed; and
- (e) any Claims for Loss, Damage or compensation from Airport Users and Airport Tenants (including any Claim for compensation under the Retail Shop Leases Act).

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## **23 Rights of Airport Lessor**

### **23.1 Right of inspection**

The Airport Lessee must permit the Airport Lessor (and its nominees) to have access to the Leased Area for the purpose of ascertaining whether the Airport Lessee is complying with its obligations under this document and the Transaction Documents:

- (a) at a time agreed between the parties; or
- (b) in the absence of agreement but subject to the terms of any Existing Airport Lease, on notice from the Airport Lessor stipulating the day on which the Airport Lessor will be carrying out an inspection (which will be a Business Day, not less than 25 Business Days after the date of the notice); or
- (c) in the case of an emergency, at any time.

Except in the case of emergencies (in which case the Airport Lessor only has to comply with the Requirements of any Airport Regulators), any access to the Leased Area by the Airport Lessor and its nominees is subject to the

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Airport Lessor and the nominees complying with the Requirements of any Airport Regulators and the reasonable security and safety requirements of the Airport Lessee and the Airport Manager.

**23.2 Designated Obligations**

- (a) If the Airport Lessor (acting reasonably) forms the opinion that the Airport Lessee has not complied with any of its obligations under:
- (i) subject to clause 22.2 ("Rights and obligations suspended over Runway Site during Runway Project"), the following provisions of this document:
- (A) clause 3.2 ("Concurrent lease"); or
  - (B) clause 3.4 ("Residual Occupancy Agreements"); or
  - (C) clause 3.5 ("Dealing with Existing Airport Leases"); or
  - (D) clause 9 ("Use of Leased Area"); or
  - (E) clause 10 ("Access to the Airport"); or
  - (F) clause 11 ("Legislation and licences"); or
  - (G) clause 12 ("Environmental Liability"); or
  - (H) clause 14 ("Insurance"); or
  - (I) clause 15 ("Maintenance, repairs, alterations and additions"); or
  - (J) clause 16 ("Liquor Licence"); or
  - (K) clause 21 ("Handback Plan"); or
  - (L) clause 22 ("Runway Project"),

(together, the **Designated Obligations**), the Airport Lessor may give notice to the Airport Lessee requiring the Airport Lessee to comply with the relevant Designated Obligations within the period specified in the notice which must be reasonable given the nature of the unperformed obligation.

- (b) If the Airport Lessee disputes the Airport Lessor's notice under clause 23.2(a), the Airport Lessee may deliver a Dispute Notice under the SCA Framework Agreement.
- (c) If the Expert determines (under the SCA Framework Agreement) that the Airport Lessee has complied with the relevant Designated Obligations, the Airport Lessee is not obliged to comply with the Airport Lessor's notice.
- (d) If the Expert determines (under the SCA Framework Agreement) that the Airport Lessee has not complied with the relevant Designated Obligations, the Airport Lessee must comply with the Airport Lessor's notice. If the Expert has determined that the period specified in the notice is unreasonable, the Airport Lessee must comply with the relevant Designated Obligations within the reasonable period determined by the Expert.

**23.3 Airport Lessor's right to correct breach**

- (a) If the Airport Lessee fails to comply with the Airport Lessor's notice under clause 23.2(a), the Airport Lessor may do anything necessary to remedy the Airport Lessee's breach of the relevant Designated Obligations, including to enter the Leased Area and carry out works in the Leased Area or other places to perform the relevant Designated Obligations at the Airport Lessee's Cost. In entering the Leased Area,

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the Airport Lessor will comply with the Requirements of any Airport Regulators and the reasonable security and safety requirements of the Airport Lessee and the Airport Manager.

- (b) The Airport Lessee irrevocably appoints the Airport Lessor and each of the directors of the Airport Lessor as the attorneys of the Airport Lessee to do anything and sign any instrument on behalf of, and in the name of, the Airport Lessee for the purposes of exercising the Airport Lessor's rights under this clause 23. The Airport Lessee must pay any duty in respect of any such instrument.
- (c) Where the Airport Lessor takes any action under this clause 23.3, the Airport Lessee must pay to the Airport Lessor any Costs incurred by the Airport Lessor in taking such action.

**23.4 Dealings affecting the Airport**

- (a) Subject to clause 23.4(e), the Airport Lessor may dedicate land or transfer, grant, create or take the benefit of any easement, lease (including a concurrent lease), partially surrender this document, covenant or other interest or right over, to or from the Leased Area, or enter into any arrangement or agreement with, any owners, occupiers or others having an interest in any land near the Leased Area or with any Government Agency (under any valid and enforceable Requirement) as the Airport Lessor thinks fit for:
  - (i) the purpose of the provision of public or private access to the Leased Area; and
  - (ii) the purpose of rectifying any encroachment; and
  - (iii) the support of structures erected from time to time on or from adjoining land; and
  - (iv) any Utility Services; and
  - (v) the safe operation of the Airport and the safety of Airport Tenants and Airport Users; and
  - (vi) the purpose of enabling Airport Regulators and Government Agencies to exercise their statutory rights and discharge their statutory obligations; and
  - (vii) the purpose of putting in place security or safety measures required by any Applicable Law or Good Operating and Maintenance Practice; and
  - (viii) the purpose of complying with any Approval in relation to any Environmental Offsets Area.
- (b) Without limiting clause 23.4(a), the Airport Lessee acknowledges and agrees that the Airport Lessor may dedicate land or transfer, grant, create or take the benefit of any easement, lease (including a concurrent lease), partial surrender, covenant or other interest or right over, to or from the Leased Area, or enter into any arrangement or agreement under clause 23.4(a) in relation to:
  - (i) the provision of public infrastructure (such as light rail) to, from and within the Airport; and
  - (ii) the provision of private infrastructure to, from and within the Airport.
- (c) This document will be taken to be subject to that lease, partial surrender, easement or other interest or right as envisaged by this clause 23.4, and the Airport Lessee will promptly confirm its consent to that lease, easement or other right to the land titles office or other relevant Government Agency on request by the Airport Lessor.



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- (d) The Airport Lessee releases and discharges the Airport Lessor (and/or its contractors, subcontractors and nominees) from any Loss or Claim by the Airport Lessee or the Airport Manager and any Loss or Claim which the Airport Lessee or the Airport Manager may incur or sustain in relation to any actions taken by the Airport Lessor under this clause.
- (e) In exercising its right under clause 23.4(a), the Airport Lessor must use reasonable endeavours to minimise interference to:
  - (i) Airport operations and any other business conducted by the Airport Lessee, the Airport Manager, the Airport Tenants or Airport Users in parts of the Leased Area immediately affected by the exercise of the rights; or
  - (ii) the present use and enjoyment by the Airport Lessee, the Airport Manager, the Airport Tenants and the Airport Users of the parts of the Leased Area immediately affected by the exercise of the rights.

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## **24 Obligations of Airport Lessor**

### **24.1 Quiet enjoyment**

Subject to:

- (a) the rights of the Existing Airport Tenants; and
- (b) the Airport Lessor's rights under clause 23 ("Rights of Airport Lessor"), including the Airport Lessor's rights under clauses 23.1 ("Right of inspection") and 23.4 ("Dealings affecting the Airport"); and
- (c) the Airport Lessor's rights under clauses 24.3 ("Compulsory acquisitions") and 24.4 ("Dealings with Leased Area"); and
- (d) any other rights which the Airport Lessor may have under this document or at Law,

so long as the Airport Lessee complies with its obligations under this document, the Airport Lessee may use and occupy the Leased Area without any disturbance by the Airport Lessor or any person lawfully claiming under the Airport Lessor.

### **24.2 Right of entry**

Whenever the Airport Lessor exercises its right of entry to the Leased Area under this document or at Law, the Airport Lessor must:

- (a) use reasonable endeavours to minimise any interruption to the use or occupation of the Leased Area by the Airport Lessee, the Airport Tenants or the Airport Users, including:
  - (i) by giving reasonable notice to the Airport Lessee to allow it to comply with any of its notice obligations under an Existing Airport Lease or Sublease; and
  - (ii) by complying with the Airport Lessee's reasonable directions relating to access to the Leased Area, having regard to the Airport Lessee's obligations under any Existing Airport Lease or Sublease; and
- (b) make good any loss or damage caused to the Leased Area arising from the Airport Lessor's failure to comply with clause 24.2(a); and
- (c) comply with all Applicable Laws, the Requirements of all Government Agencies and the reasonable security and safety requirements of the Airport Lessee and the Airport Manager.

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This clause 24.2 does not apply in the case of any breach by the Airport Lessee under this document or if there is an emergency.

**24.3 Compulsory acquisitions**

- (a) The Airport Lessor must notify the Airport Lessee of any proposal by a Government Agency (other than the Airport Lessor) to take, by a compulsory acquisition, any of the Airport Lessee's interest in the Leased Area as soon as reasonably practicable after the Airport Lessor is in a position to inform the Airport Lessee of the proposal.
- (b) The Airport Lessor (as the owner of the Airport Land) will not be liable to pay compensation to the Airport Lessee in connection with the compulsory acquisition by the Government Agency.
- (c) Nothing in this clause 24.3 prevents the Airport Lessee from claiming compensation from the relevant Government Agency (other than the Airport Lessor) in relation to a compulsory acquisition of any of the Airport Lessee's interest in the Leased Area.

**24.4 Dealings with Leased Area**

- (a) Subject to the SCA Framework Agreement, the Airport Lessor may freely Deal with all or part of the Leased Area or its rights under this document during the Term provided that the Dealing is in accordance with the SCA Framework Agreement or does not otherwise materially derogate from the Airport Lessee's rights and interests under this document.
- (b) If the Airport Lessor Deals with its interest in the Leased Area so that another person becomes landlord:
  - (i) the Airport Lessor is released from any obligation under this document arising after it ceases to be landlord; and
  - (ii) the Airport Lessee and Airport Lessor agree to sign a document under which:
    - (A) the Airport Lessee and Airport Lessor agree with the other person to comply with this document as if the other person was the Airport Lessor; and
    - (B) the other person assumes the Airport Lessor's obligations under this document arising after the Airport Lessor ceases to be landlord; and
  - (iii) the other person assumes the Airport Lessor's obligations under this document arising after the Airport Lessor ceases to be landlord.

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**25 End of Term**

**25.1 Airport Lessee to vacate**

On the expiry or termination of this document:

- (a) any proprietary or other interest of the Airport Lessee in the Leased Area will cease; and
- (b) the Airport Lessee must vacate the Leased Area and deliver possession of the Leased Area to the Airport Lessor, free and clear of any Security Interest and not subject to any lease or hire and purchase agreement, and in a condition consistent with the Airport Lessee having complied with its obligations under the Transaction Documents to which it is a party to; and
- (c) if the Airport Lessor has not exercised its EOT Call Option but the EOT Call Option Period has yet to expire, the Airport Lessee grants to the Airport Lessor the rights to free and unfettered use of the EOT Option Assets until the end of the EOT Call Option Period or the EOT Completion Date or until the Airport Lessee has removed the EOT Option Assets (but only where the Airport Lessor has notified the

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Airport Lessee that it will not be exercising its EOT Call Option in respect of the EOT Option Assets), whichever is the later; and

- (d) to the extent the Airport Lessor does not exercise the EOT Call Option in respect of any of the EOT Option Assets located on the Leased Area under the SCA Framework Agreement, the Airport Lessee may, on the expiry of the EOT Call Option Period or such earlier time as the Airport Lessor notifies the Airport Lessee that it will not be exercising the EOT Call Option, remove those EOT Option Assets and, if the Airport Lessee elects to do so, the Airport Lessee must remove those EOT Option Assets as soon as practicable and in any event within 60 Business Days after expiry of the EOT Call Option Period and make good any damage caused by that removal; and
- (e) if the Airport Lessee does not remove the EOT Option Assets that are chattels pursuant to clause 25.1(d), those EOT Option Assets will become the property of the Airport Lessor; and
- (f) the Airport Lessee will not be entitled to any compensation or other payment from the Airport Lessor in respect of the rights, title and interests of the Airport Lessee, the Airport Manager or any of their Affiliates in any Improvements constructed, altered or added to by the Airport Lessee or the Airport Manager during the Term even though:
  - (i) the Improvements were constructed, altered or added to at the Airport Lessee's own cost and expense; or
  - (ii) the Airport Lessee or the Airport Manager was required to construct, alter or add to the Improvements under a SCA Tenure Document or because of any Requirement.

For the purposes of this clause 25.1, except in the case of the expiry of the Term on the Expiry Date, 'Security Interest' does not include the Existing Airport Leases of premises within the Leased Area which have been entered into by the Airport Lessee as permitted by the SCA Tenure Documents (excluding the SCA Council Freehold Sublease), but it will include the SCA Freehold Sublease.

## **25.2 Other Rights at end of Term**

At any time during the EOT Call Option Period, the Airport Lessor may give a notice to the Airport Lessee requiring any or all of the following:

- (a) a complete list of the EOT Option Assets in the possession of the Airport Lessee as at the date of the Airport Lessor's request; and
- (b) the Airport Lessee to provide all reasonable assistance to the Airport Lessor in obtaining any Approval required for the management, operation or maintenance of the Airport; and
- (c) the Airport Lessee to appoint the Airport Lessor the agent of the Airport Lessee for the purposes of the Airport Lessor obtaining the benefit of any Approval required for the management, operation or maintenance of the Airport; and
- (d) the Airport Lessee to assign or sublicense to the Airport Lessor or its nominee the relevant contract or licence for the purposes of the Airport Lessor obtaining the benefit of any information technology, computer software or equipment or Intellectual Property Rights used in connection with the management, operation or maintenance of the Airport as specified in the notice.

The Airport Lessee must comply with any of these requirements.

## **25.3 Reasonable efforts of the Airport Lessee**

On the expiry, surrender or termination of the SCA Tenure Documents, the Airport Lessee must, and must procure the Airport Manager and each of its Affiliates to, promptly and at its Cost use all reasonable efforts to assist, to the extent requested by the Airport Lessor, in the transfer to the Airport Lessor of all things necessary for the Airport Lessor to continue to operate the Airport as an airport, including:

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- (a) all documents (whether hard copies or in electronic form) owned by the Airport Lessee and used for the operation of the Airport, including as-built plans, operational manuals and specifications, plans and diagrams relating to the Airport, the Improvements and the Plant and Equipment, as well as leases, subleases, licences and related correspondence; and
- (b) effecting an assignment of the Airport Lessee's rights and obligations under relevant agreements (including leases, subleases, licences and related correspondence) to the extent possible, in respect of which the Airport Lessee must effect an assignment to the Airport Lessor and, to the extent that any agreement cannot be assigned to the Airport Lessor, the Airport Lessee must (subject to the Airport Lessor agreeing to assume any ongoing Liability on the part of the Airport Lessee under the agreement) continue to hold it for the benefit of the Airport Lessor; and
- (c) assisting in the transfer of all necessary licences, permits and authorities (including trade marks, business names and domain names); and
- (d) assisting in the transfer to the Airport Lessor of any employees of the Airport Lessee and the Airport Manager engaged in the operation of the Airport, including providing to the Airport Lessor such information about the employees as the Airport Lessor may reasonably request and allowing the Airport Lessor to have access to the employees to discuss their future employment arrangements.

**25.4 Assignment of Residual Occupancy Arrangements and Guarantees**

On the expiry, surrender or termination of this document, the Airport Lessee assigns to the Airport Lessor (and the Airport Lessor accepts the assignment) with effect from the date of expiry or termination:

- (a) the Airport Lessee's interest in the Residual Occupancy Arrangements; and
- (b) the benefit of the covenants by the Existing Airport Tenants under the Residual Occupancy Arrangements.

**25.5 Reassignment of Lease Guarantees**

On the expiry, surrender or termination of this document, the Airport Lessee assigns to the Airport Lessor its interest in assignable Lease Guarantees and New Lease Guarantees.

**25.6 Bank guarantees that are not assignable**

If on the date of expiry, surrender or termination of this document the Airport Lessee holds a bank guarantee for an Existing Airport Lease or an Airport Sublease and the bank guarantee is not assignable, then:

- (a) the Airport Lessee's interest in the bank guarantee is not assigned to the Airport Lessor; and
- (b) from the date of expiry, surrender or termination:
  - (i) the Airport Lessee holds its rights under the bank guarantee for the benefit of the Airport Lessor; and
  - (ii) if directed by the Airport Lessor, the Airport Lessee must:
    - (A) return the bank guarantee to the issuer of the bank guarantee; or
    - (B) return the bank guarantee to the Airport Tenant on whose behalf the bank guarantee is issued; or
    - (C) Claim under the bank guarantee and pay the money received to the Airport Lessor.

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## 26 Default and termination

### 26.1 Default

The following events are Default Events entitling the Airport Lessor, and in the case of clause 26.1(h), the Airport Lessor or the Airport Lessee, to terminate this document under clause 26.2 ("Termination and surrender"):

- (a) **(Stewardship Covenants)** the Airport Lessee breaches any of its obligations under this document in relation to the Stewardship Covenants and the breach is not cured or made the subject of a cure or mitigation plan approved by SCRC (acting reasonably) within 60 Business Days (or such longer period as the Airport Lessor may allow in its absolute discretion) after the Airport Lessor has given notice of the breach to the Airport Lessee; or
- (b) **(Financial Default)** each of the following are satisfied:
  - (i) there is a Financial Default; and
  - (ii) the Airport Lessee or the Airport Manager (as the case may be) has failed to pay the amount owing to the Airport Lessor within 30 Business Days after the Airport Lessor has given a notice of the breach to the Airport Lessee (including that the notice specifies the Financial Default); or
- (c) **(Insolvency Event)** an Insolvency Event occurs in respect of the Airport Lessee or the Airport Manager and is not cured within 120 days after the Airport Lessor has given the Airport Lessee notice of the relevant Insolvency Event; or
- (d) **(Approval)** an Approval required by any Applicable Law for the Airport Lessee or the Airport Manager to lawfully use and operate the Leased Area as an airport in accordance with this document and the Transaction Documents is suspended, withdrawn, cancelled or conditioned so that the Airport Lessee or the Airport Manager, as the case may be, cannot use and operate the Leased Area as an airport in accordance with this document and the Transaction Documents, other than where:
  - (i) the Approval is suspended, withdrawn or cancelled by a new Approval required by any Applicable Law for the Airport Lessee or the Airport Manager to lawfully use and operate the Leased Area as an airport; or
  - (ii) the Approval is suspended, withdrawn, cancelled or conditioned due to a Force Majeure Event,and the Airport Lessee cannot lawfully use and operate the Leased Area as an airport in accordance with this document and the Transaction Documents within 60 Business Days after the Airport Lessor gives the Airport Lessee notice of that breach; or
- (e) **(Prohibited Dealing – Airport Lessee)** the Airport Lessee Deals with its interest in this document or the Leased Area in a manner that is a breach of clause 18 ("Assignment and subletting") or there is a Change of Control of a person that is taken to be a breach of this document and the breach is not cured within 60 Business Days after the Airport Lessor has given the Airport Lessee notice of that breach; or
- (f) **(Prohibited Dealing – Airport Manager)** the Airport Manager Deals with its interest in the SCA Freehold Sublease, SCA Council Freehold Sublease or the Leased Area in a manner that is taken to be a breach of this document or any other Transaction Document or there is a Change of Control of a person that is taken to be a breach of this document or any other Transaction Document and the breach is not cured within 60 Business Days after the Airport Lessor has given the Airport Lessee notice of that breach; or
- (g) **(Prohibited Entity)** the Airport Lessee, the Airport Manager or any Affiliate of either of them is a Prohibited Entity; or
- (h) **(Extended Force Majeure)** the following things happen:
  - (i) a Force Majeure Event affecting all or substantially all of the material obligations of the Airport Lessee under this document or any Transaction Document has occurred; and

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- (ii) either:
  - (A) the Airport Lessee has substantially failed to implement and give effect to a Force Majeure Cure Plan under clause 26 of the SCA Framework Agreement and does not remedy that failure within 30 Business Days after the Airport Lessor has given notice of that failure to the Airport Lessee; or
  - (B) the Airport Lessee remedies a failure referred to in clause 26.1(h)(ii)(A) in respect of a Force Majeure Cure Plan before the expiry of the 30 Business Day period referred to in clause 26.1(h)(ii)(A), but subsequently the Airport Lessee again substantially fails to implement and give effect to that Force Majeure Cure Plan; or
  - (C) the Force Majeure Event has continued for a period in excess of 2 years (or any extension to this period approved by the Airport Lessor in accordance with the SCA Framework Agreement); or
- (i) **(Failure to pay New Runway Construction Payment, Lease Premium or Completed Works Payment):** the Airport Lessee fails to pay:
  - (i) the New Runway Construction Payment for any reason under the SCA Runway Project Construction Framework Deed (if it comes into effect), other than the Works failing to reach Practical Completion (as defined in the SCA Runway Project Construction Framework Deed) by 30 June 2022; or
  - (ii) any part of the Lease Premium on or before the day on which it is due; or
  - (iii) the Completed Works Payment for any reason under the SCA Runway Project Construction Framework Deed (if it comes into effect) if and when the Completed Works Payment falls due; or
- (j) **(Breach of Essential Term):** the Airport Lessee or the Airport Manager breaches an Essential Term and the breach is not cured (or, if the breach is not remediable, made the subject of a mitigation or prevention plan approved by SCRC (acting reasonably)) within 60 Business Days (or such longer period as the Airport Lessor may allow in its absolute discretion) after the Airport Lessor has given notice of the breach to the Airport Lessee; or
- (k) **(Termination of the SCA Runway Project Construction Framework Deed):** the SCA Runway Project Construction Framework Deed comes into effect and is then terminated by the Airport Lessor under clauses 26.4 or 26.5 of the SCA Runway Project Construction Framework Deed; or
- (l) **(Security Interest):** the Airport Lessee breaches any of its obligations under clause 19 ("Security Interest") and the breach is not cured within 60 Business Days (or such longer period as the Airport Lessor may allow in its absolute discretion) after the Airport Lessor has given notice of the breach to the Airport Lessee; or
- (m) **(Access for Runway Project):** the Airport Lessee seeks to rely on any of its rights or obligations under clause 22.3(a) ("Access for Runway Project") between the period commencing on the commencement date of the SCA Council Freehold Sublease and ending on the Date of Surrender; or
- (n) **(Consecutive breaches)** the occurrence of 5 or more breaches of similar obligations (which, for the avoidance of doubt, are not Essential Terms or a Financial Default) under a Transaction Document in any 24 month period and in respect of which the Airport Lessor has given notice of each breach to the relevant member of the Airport Group, and such breach has not been remedied, or where such breach cannot be remedied, has not been mitigated in accordance with a cure plan or mitigation plan (as applicable) approved by, and agreed with, the Airport Lessor (acting reasonably) and put forward by the relevant member of the Airport Group within 10 Business Days of the final breach occurring and a request for a cure plan or mitigation plan (as applicable) by the Airport Lessor.

If a Default Event occurs due to any non-compliance with a Law by the Airport Lessor prior to the Commencement Date, then the cure period for that Default Event shall be extended by a further 60 Business Days (or such longer period as the Airport Lessor may allow, acting reasonably).

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## **26.2 Termination and surrender**

- (a) The Airport Lessor may terminate this document by giving notice to the Airport Lessee if:
  - (i) any Default Event occurs and has not been rectified before termination by the Airport Lessor; or
  - (ii) a SCA Tenure Document is terminated because of a breach of that SCA Tenure Document by the Airport Lessee or the Airport Manager.
- (b) Where a Force Majeure Event has continued for a period in excess of 2 years (or such agreed extended period) for the purposes of clause 26.1(h)(ii)(C), the Airport Lessee may terminate this document by giving notice to the Airport Lessee provided that the Airport Lessee and the Airport Manager have complied with the Force Majeure Cure Plan in accordance with the SCA Framework Agreement at all times during the period that the Force Majeure Event has continued.

## **26.3 Airport Lessor may remedy breach**

- (a) Where the Airport Lessor reasonably believes (acting in good faith) that the Airport Lessee is in breach of any of the Step-in Terms and that breach has or is reasonably likely to have a material impact on the operation of the Airport (including by way of financial, safety, legal, regulatory, environmental, reputational or other impacts) or creates a legal liability on the Airport Lessor, the Airport Lessor may take such action as it considers necessary to cure such a situation (except for entering into possession of the Leased Area for the purpose of performing the obligations). The Airport Lessor may, subject to providing the Airport Lessee with 20 Business Days' notice to prevent or cure such a breach and provided that the breach has not been cured during that period, take such action as it considers necessary (except for entering into possession of the Leased Area for the purpose of performing the obligations) to cure such a situation.
- (b) Where the Airport Lessor becomes entitled to terminate this document under clause 26.2 ("Termination and surrender"), the Airport Lessor may take any of the actions it is able to take under clause 26.3(a) and in addition the Airport Lessor may either itself or through its agents, enter into immediate possession of the Leased Area (except for those parts the subject of Airport Subleases) for the purpose of carrying out all of the functions that the Airport Lessor considers necessary to operate the Leased Area in accordance with this document.
- (c) Where the Airport Lessor enters into possession under clause 26.3(b) the Airport Lessee must do all things necessary to assist the Airport Lessor to take possession of the relevant Leased Area and, where the Airport Lessor takes any action under clauses 26.3(a) or 26.3(b) or enters into possession under clause 26.3(b), the Airport Lessee must:
  - (i) assist the Airport Lessor to take possession of the relevant Leased Area; and
  - (ii) allow the Airport Lessor to use all of the EOT Option Assets which the Airport Lessor considers necessary or desirable to use for the purpose of operating the Leased Area as an airport.
- (d) Where the Airport Lessor takes any action under clauses 26.3(a) or 26.3(b) or enters into possession under clause 26.3(b), the Airport Lessee must pay to the Airport Lessor, as a liquidated debt on demand, any Costs incurred by the Airport Lessor in taking such action.
- (e) Any of the rights of the Airport Lessor under this clause 26.3 are without prejudice to the Airport Lessor's rights under clause 26.2 ("Termination and surrender").

## **26.4 Suspension or cancellation of Approval**

- (a) If the Airport Lessee or the Airport Manager receives a notice from a Government Agency either to show cause why an Approval required by any Applicable Law to operate the Airport should not be suspended or cancelled or that such Approval has been suspended or cancelled, the Airport Lessee must immediately give a copy of that notice to the Airport Lessor.

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- (b) Where the notice received by the Airport Lessee referred to in clause 26.4(a) is a notice of suspension or a notice to show cause why an Approval required by any Applicable Law to operate the Airport should not be suspended or cancelled, the Airport Lessee must immediately give the Airport Lessor a rectification plan (detailing how and within what timeframe it intends to take action to rectify the matters set out in the notice) and the Airport Lessee must take all necessary action to rectify the matters set out in the notice in the shortest time possible and:
  - (i) if the matters set out in the notice can reasonably be rectified within 30 Business Days, within that period; or
  - (ii) in any event, within 60 Business Days.
- (c) The timeframe set out in the rectification plan for rectifying the matters set out in the notice must be reasonable having regard to the requirements for rectification and the effect suspension or cancellation of the relevant Approval has or may have on the operation of the Airport.
- (d) The Airport Lessee must comply with the rectification plan and diligently pursue rectification of the matters set out in the notice within the timeframe provided in the rectification plan.
- (e) The Airport Lessor may, but is not obliged to, agree to grant an extension of the timeframe in the rectification plan where:
  - (i) the Airport Lessee has satisfied the requirements of this clause 26.4; and
  - (ii) the amended timeframe proposed by the Airport Lessee provides for the matters set out in the notice to be rectified as soon as practicable.
- (f) If the Airport Lessor grants an extension to the timeframe in the rectification plan, the Airport Lessee must comply with the amended rectification plan and diligently pursue the rectification of the matters set out in the notice within the extended timeframe.
- (g) The obligations of the Airport Lessee under this clause 26.4 are without prejudice to any rights that the Airport Lessor has under clause 26.1(d).

**26.5 Liability of Airport Lessor on termination or surrender**

- (a) Subject to this clause 26, the Airport Lessor has no Liability whatsoever to the Airport Lessee or the Airport Manager (including for any Loss or Claim) in respect of the termination or surrender of this document or any other Transaction Document (including for any Improvements or the value of any Improvements), except as expressly provided in this document or the SCA Financier Tripartite Deed.
- (b) This clause 26.5 does not apply to the extent the termination of this document has resulted from a breach by the Airport Lessor.

**26.6 Survival of rights**

Termination, surrender or expiry of this document will not affect any rights or obligations which may have accrued prior to the termination, surrender or expiry. The obligations of each party set out in any clause intended to survive such termination, surrender or expiry will continue in full force and effect despite the termination, surrender or expiry of this document.

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**27 Risk, indemnities and release**

**27.1 Risk and duty of care**

- (a) The Airport Lessee occupies and uses the Leased Area at its own risk and Cost (unless this document expressly provides otherwise).



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- (b) Despite any other provision of this document, on and from the Commencement Date, the Airport Lessee takes the Leased Area and is subject to the same duty of care and other responsibilities with regard to persons and property to which the Airport Lessee would be subject if, during the Term, the Airport Lessee were the owner of the freehold of the Leased Area.

**27.2 No Claims by Airport Lessee**

- (a) The Airport Lessee acknowledges and accepts the content and effect of this document, including clauses 4 ("As is where is"), 5 ("Airport Lessee has made own enquiries"), 12 ("Environmental Liability") and 13 ("Heritage/Aboriginal cultural heritage"). The Airport Lessee has no Claim against the Airport Lessor in respect of these matters, except as expressly stated in this document.
- (b) The Airport Lessee accepts all risks in respect of any Loss or Damage that may be caused to the Leased Area during the Term by the effects of any severe weather conditions, inundation by seawater, erosion or other result or consequence caused by global climatic change. The Airport Lessee has no Claim against the Airport Lessor and no Liability is stated or implied or will attach to the Airport Lessor in respect of such Loss or Damage.

**27.3 Indemnity by Airport Lessee**

Without limiting clause 27.1 ("Risk and duty of care") but unless this document expressly provides otherwise, the Airport Lessee indemnifies the Airport Lessor from and against any Loss or Claim incurred or sustained by the Airport Lessor or for which the Airport Lessor may become liable, or in respect of any Loss or Claim of or to any person by reason of:

- (a) any act or omission of the Airport Lessee, the Airport Manager or an attorney, agent or contractor of the Airport Lessee or the Airport Manager; and
- (b) the breach of this document by the Airport Lessee (including a breach of the performance of the Stewardship Covenants and the Airport Lessee's obligations under clauses 3.2 ("Concurrent lease") and 3.5 ("Dealing with Existing Airport Leases")); and
- (c) any Loss or Claim made against the Airport Lessor in connection with any of the Existing Airport Leases or the Residual Occupancy Arrangements or any Loss or Claim incurred by the Airport Lessor in defending or otherwise dealing with any such Loss or Claim arising as a result of the breach by the Airport Lessee or the Airport Manager of the Existing Airport Lease or the Residual Occupancy Arrangement, as the case may be; and
- (d) the exercise by the Airport Lessee, or the Airport Manager of, or the failure by the Airport Lessee or the Airport Manager to exercise, any statutory authority or power delegated to the Airport Lessee, the Airport Manager or any Responsible Party by the Airport Lessor or any Government Agency under this document, the SCA Framework Agreement or otherwise; and
- (e) the use, possession or occupation of the Leased Area by the Airport Lessee, the Airport Manager or any Responsible Party after the Commencement Date; and
- (f) any penalties or interest that may become payable as a consequence of the Airport Lessee not paying an assessment of Rates and Taxes when due and payable; and
- (g) the Airport Lessor taking any action to give effect to, or purporting to give effect to, a Force Majeure Cure Plan pursuant to the SCA Framework Agreement; and
- (h) any of the following arising in connection with any Post-Commencement Activity conducted by or on behalf of the Airport Lessee, the Airport Manager or any Responsible Party:
  - (i) a Requirement given under any Environmental Laws; and
  - (ii) a breach of Environmental Laws; and

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- (iii) a Claim arising out of or by reason of any Contamination or Environmental Harm to or emanating or released from the Leased Area; or
  - (i) any harm caused to any thing which has heritage significance or Aboriginal cultural heritage values by the acts or omissions carried out by or on behalf of the Airport Lessee or the Airport Manager; and
  - (j) any action taken by the Airport Lessor under clause 23.3 ("Airport Lessor's right to correct breach"); and
  - (k) any action taken by the Airport Lessor under the SCA Framework Agreement; and
  - (l) if any assignee, Airport Tenant, licensee or other person uses or takes possession of any part of the Leased Area contrary to this document, removing the assignee, the Airport Tenant, the licensee or other person from the Leased Area or preventing that person from re-entering; and
  - (m) any action taken by the Airport Lessor under clause 26.3 ("Airport Lessor may remedy breach"); and
  - (n) any lawful exercise of the attorney's powers under clause 35 ("Power of attorney"),
- but this indemnity will not apply to the extent the Loss or Claim is suffered or incurred by the Airport Lessor as a result of:
- (o) negligent or unlawful acts or omissions or wilful misconduct of the Airport Lessor; or
  - (p) an act or omission (which is neither negligent nor wrongful) by Airport Lessee which is required by, and properly performed or undertaken to achieve compliance with, the Transaction Documents; or
  - (q) with respect to clause 27.3(m), any act or omission of Airport Lessor which is not reasonably required or is improperly performed or undertaken, to remedy the Airport Lessee's compliance with the Transaction Documents.

## **27.4 Defending Claims**

In any and every event in which the Airport Lessor is made a party to any Claim to which the Airport Lessee's indemnity extends and if requested by the Airport Lessor, the Airport Lessee agrees to:

- (a) consult with Airport Lessor on any decision to defend the Claim and the conduct of the defence and keep Airport Lessor informed of all developments relating to the Claim; and
- (b) defend such Claim in the name of the Airport Lessor; and
- (c) pay all reasonable Costs of the Airport Lessor in connection with the Claim provided that the Airport Lessee may, in any such event, compromise, pay or satisfy any such Claim with the consent of the Airport Lessor (as the case may be) (such consent must not be unreasonably withheld or delayed),

and Airport Lessor will (at Airport Lessee's Cost) provide such assistance as Airport Lessee reasonably requires in its defence or settlement of the Claim.

## **27.5 Release by Airport Lessee**

Without limiting clause 27.1 ("Risk and duty of care") but unless this document expressly provides otherwise, the Airport Lessee releases and discharges the Airport Lessor from any Loss or Claim by the Airport Lessee or the Airport Manager and any Loss or Claim which the Airport Lessee or the Airport Manager may incur or sustain:

- (a) by reason of:
  - (i) any act or omission of the Airport Lessee or the Airport Manager; or
  - (ii) the performance of this document by the Airport Lessee; or

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- (iii) the use, possession or occupation of the Leased Area by the Airport Lessee, the Airport Manager or any Responsible Party; or
- (b) in respect of any Requirement given under any Environmental Laws, breach of Environmental Laws or Claim arising out of or by reason of any Contamination or Environmental Harm to or emanating or released from the Leased Area, arising out of or in relation to:
  - (i) any activity, whether or not such activity occurred before or after the Commencement Date; or
  - (ii) any act or omission (whether negligent or otherwise) on the part of the Airport Lessor or any prior owner or occupier of the Leased Area before the Commencement Date; or
  - (iii) the use or occupation of the Leased Area or the conduct of activities on the Leased Area by the Airport Lessee or the Airport Manager,but the release and discharge in this clause 27.5 will not apply to the extent that the Loss or Claim:
  - (iv) arises as a result of the negligent or unlawful act or omission of the Airport Lessor in carrying out any of its functions in respect of or affecting the Leased Area after the Commencement Date; or
  - (v) in respect of the indemnity in clause 28.3 ("Stamp duty and registration fees"), relates to or arises from Pre-Existing Contamination.

**27.6 Mitigation of Loss**

To the extent that the Airport Lessee is required under clause 27.3 ("Indemnity by Airport Lessee") to indemnify the Airport Lessor or its Personnel, the Airport Lessor must, and must ensure its Personnel, take all reasonable steps necessary to mitigate any Liability the subject of the indemnities.

**27.7 No Consequential Loss**

Despite anything to the contrary, each party releases and discharges the other party from any Claim by that party for Consequential Loss.

**27.8 Covenants for the benefit of a third party**

The obligations in this clause 27 are covenants that may also be for the benefit of a third party for the purposes of section 55 of the *Property Law Act 1974* (Qld), which the parties agree that the officers and employees of the Airport Lessor have accepted the benefit of those covenants, and to the extent that those covenants are not directly enforceable by the third parties for whose benefit they have been given, may be enforced by the Airport Lessor as trustee on their behalf.

**27.9 Survival on termination**

This clause 27 will survive expiry, surrender or termination of this document.

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**28 Costs and stamp duty**

**28.1 Legal Costs**

The parties agree to pay their own Costs in connection with the preparation, negotiation, execution and completion of this document, except for amounts covered by clause 28.3 ("Stamp duty and registration fees").

**28.2 Further Costs**

The Airport Lessee agrees to:

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- (a) **(transaction Costs)** pay the Airport Lessor's reasonable Costs in connection with considering proposed dealings by the Airport Lessee under clause 18 ("Assignment and subletting") and giving, considering and obtaining consents, approvals, waivers, variations, discharges and releases and providing documents and other information in connection with this document; and
- (b) **(Costs for works)** pay or reimburse all Costs in connection with works the Airport Lessee carries out, including those incurred by the Airport Lessor:
  - (i) in considering, approving and supervising the works; and
  - (ii) in modifying or varying the Improvements because of the works; and
- (c) **(other Costs)** pay the Airport Lessor's Costs of exercising, enforcing or preserving rights, powers or remedies (or considering doing so) in connection with this document, or doing anything in connection with any enquiry by an authority involving the Airport Lessee, its assets, this document or anything in connection with them.

The Airport Lessee agrees to pay amounts due to the Airport Lessor under this clause within 10 Business Days of demand from the Airport Lessor. The Airport Lessee agrees to pay for anything that it agrees to do under this document.

### 28.3 Stamp duty and registration fees

The Airport Lessee must:

- (a) pay or reimburse all stamp duty, registration fees and similar Taxes payable on this document and all transactions it effects (including any fees, fines, penalties and interest in connection with any of those amounts); and
- (b) indemnify the Airport Lessor against, and agrees to reimburse and compensate it for, any Liability in respect of stamp duty under clause 28.3(a).

The Airport Lessee agrees to pay amounts due to the Airport Lessor under this clause within 10 Business Days of demand from the Airport Lessor.

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## 29 Foreign resident capital gains withholding

### 29.1 Definitions

For the purposes of this clause 29:

- (a) all section references are to those provisions of Schedule 1 to the *Taxation Administration Act 1953* (Cth); and
- (b) **"Clearance Certificate"** means a certificate issued by the Commissioner under section 14-220 that applies to the Airport Lessor and is for a period covering the time that the Airport Lessor gives the certificate to the Airport Lessee; and
- (c) **"Commissioner"** means the Commissioner of Taxation of Australia; and
- (d) **"Withholding Amount"** means any amount payable to the Commissioner of Taxation under section 14-200.

### 29.2 Clearance Certificate given by the Airport Lessor

The Airport Lessee acknowledges and agrees that:

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- (a) the Airport Lessor has given to the Airport Lessee a Clearance Certificate on or before the date of this document; and
- (b) the Airport Lessee is not required to pay a Withholding Amount; and
- (c) the Airport Lessee may not withhold a Withholding Amount from any amounts payable to the Airport Lessor under this document.

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## 30 GST

### 30.1 Interpretation

For the purposes of this clause 30:

- (a) “**GST Act**” means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth); and
- (b) a term which has a defined meaning in the GST Act has the same meaning when used in this clause 30, unless the contrary intention appears; and
- (c) unless expressly stated otherwise in this document, all consideration to be provided under this document is exclusive of GST; and
- (d) each periodic or progressive component of a supply to which section 156-5(1) of the GST Act applies will be treated as though it is a separate supply.

### 30.2 Payment of GST

- (a) If GST is payable, or notionally payable, on a supply made under or in connection with this document, the party providing the consideration for the supply must pay to the supplier an additional amount equal to the amount of GST payable on that supply (“**GST Amount**”).
- (b) Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time as the GST-exclusive consideration for the supply, or the first part of the GST-exclusive consideration for the supply (as the case may be), is payable or is to be provided.
- (c) This clause 30.2 does not apply to the extent that the consideration for the supply is expressly stated to include GST or the supply is subject to a reverse-charge.

### 30.3 Adjustment events

If an adjustment event arises for a supply made under or in connection with this document, the GST Amount must be recalculated to reflect that adjustment, the supplier or the recipient (as the case may be) must make any payments necessary to reflect the adjustment and the supplier must issue an adjustment note.

### 30.4 Reimbursements

Any payment, reimbursement, indemnity or similar payment that is required to be made under this document which is calculated by reference to an amount paid by another party shall be reduced by the amount of any input tax credits which the other party (or the representative member of any GST group of which the other party is a member) is entitled. If the reduced payment is consideration for a taxable supply, clause 30.2 (“Payment of GST”) will apply to the reduced payment.

### 30.5 Calculation of payments

If an amount payable under this document is to be calculated by reference to:

- (a) the amount payable for a taxable supply then, for the purposes of that calculation, the amount is to be calculated by reference to the GST-exclusive amount payable for the taxable supply; and

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- (b) the amount payable for an acquisition then, for the purposes of that calculation, the amount payable is calculated by reference to the GST-exclusive amount payable for the acquisition.

### **30.6 Survival of GST clauses**

Clauses 30.1 ("Interpretation") to 30.5 ("Calculation of payments") do not merge after the expiry, surrender or termination of this document.

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## **31 PPSA**

### **31.1 PPSA further steps**

If the Airport Lessor determines that this document (or a transaction in connection with it) is or contains a security interest for the purposes of the PPSA, the Airport Lessee agrees to do anything the Airport Lessor reasonably asks (such as obtaining consents, signing and producing documents and getting documents completed and signed) to:

- (a) ensure that the security interest is enforceable, perfected (including, where possible, by control in addition to registration) and otherwise effective;
- (b) enable the Airport Lessor to apply for any registration, or give any notification, in connection with the security interest so that the security interest has the priority required by the Airport Lessor (including a registration for whatever collateral class the Airport Lessor thinks fit and the Airport Lessee consents to any such registration or notification and agrees not to make an amendment demand); or
- (c) enable the Airport Lessor to exercise rights in connection with the security interest.

### **31.2 Exclusion of PPSA provisions**

To the extent the Law permits:

- (a) for the purposes of sections 115(1) and 115(7) of the PPSA:
  - (i) the Airport Lessor need not comply with sections 95, 118, 121(4), 125, 130, 132(3)(d) or 132(4) of the PPSA; and
  - (ii) sections 142 and 143 of the PPSA are excluded; and
- (b) for the purposes of section 115(7) of the PPSA, the Airport Lessor need not comply with sections 132 and 137(3); and
- (c) if the PPSA is amended after the date of this document to permit the Airport Lessee and the Airport Lessor to agree to not comply with or to exclude other provisions of the PPSA, the Airport Lessor may notify the Airport Lessee that any of these provisions is excluded, or that the Airport Lessor need not comply with any of these provisions as notified to the Airport Lessee by the Airport Lessor; and
- (d) the Airport Lessee agrees not to exercise its rights to make any request of the Airport Lessor under section 275 of the PPSA, to authorise the disclosure of any information under that section or to waive any duty of confidence that would otherwise permit non-disclosure under that section.

### **31.3 Exercise of rights by Airport Lessor**

If the Airport Lessor exercises a right, power or remedy in connection with this document, that exercise is taken not to be an exercise of a right, power or remedy under the PPSA unless the Airport Lessor states otherwise at the time of exercise. However, this clause does not apply to a right, power or remedy which can only be exercised under the PPSA.

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### **31.4 No notice required unless mandatory**

To the extent the Law permits, the Airport Lessee waives:

- (a) its rights to receive any notice that is required by:
  - (i) any provision of the PPSA (including a notice of a verification statement); or
  - (ii) any other Law before a secured party or Receiver exercises a right, power or remedy; and
- (b) any time period that must otherwise lapse under any Law before a secured party or Receiver exercises a right, power or remedy.

If the Law which requires a period of notice or a lapse of time cannot be excluded, but the Law provides that the period of notice or lapse of time may be agreed, that period or lapse is one day or the minimum period the Law allows to be agreed (whichever is the longer).

However, nothing in this clause prohibits the Airport Lessor or any Receiver from giving a notice under the PPSA or any other Law.

### **31.5 PPSA registration information**

The Airport Lessee agrees to notify the Airport Lessor:

- (a) at least 14 days before the Airport Lessee does any of the following:
  - (i) if the Airport Lessee does not have an ACN or ARBN (or if the Airport Lessee is the trustee of a trust and the trust does not have an ABN or ARSN), the Airport Lessee changes its name; and
  - (ii) the Airport Lessee becomes trustee of a trust with an ABN or ARSN, or a partner in a partnership with an ABN, other than a trust or partnership referred to in this document; and
  - (iii) if the Airport Lessee is a trustee of a trust without an ABN or ARSN, or a partner in a partnership without an ABN, the trust or partnership acquires such a number; and
- (b) if the Airport Lessee has an ACN or ARBN (or is the trustee of a trust that has an ABN or ARSN or is a partner in a partnership has an ABN), as soon as possible after the Airport Lessee becomes aware that the number will change or cease to apply.

Any notice given under this clause must state that it is given under this clause.

### **31.6 PPSA confidentiality**

Each party agrees not to disclose any information of the kind referred to in section 275(1) of the PPSA in connection with this document under section 275(4) of the PPSA unless section 275(7) of the PPSA applies.

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## **32 Governance and bribery**

### **32.1 Governance**

The Airport Lessee represents and warrants to the Airport Lessor that at all times during the Term:

- (a) it is not a Prohibited Entity; and
- (b) it is not owned or controlled by a Prohibited Entity; and
- (c) it does not act on behalf of a Prohibited Entity; and

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- (d) to the extent applicable, it will not deal in or with (or has not dealt in or with):
  - (i) a Prohibited Entity; or
  - (ii) an asset or class of assets listed by the Minister for Foreign Affairs under the *Charter of the United Nations Act 1945* (Cth); and
- (e) it agrees to comply with all anti-terrorism legislation in Australia (including Part 4 of the *Charter of the United Nations Act 1945* (Cth) and Part 5.3 of the *Criminal Code Act 1995* (Cth)) and the Anti Money Laundering Regulations; and
- (f) it agrees to give the Airport Lessor any information which the Airport Lessor requests to ensure that it is in a position to comply with the Anti Money Laundering Regulations; and
- (g) it may not do anything which results in a Prohibited Entity obtaining an interest in this document or the Leased Area.

### 32.2 Bribery and corruption

The Airport Lessee agrees to ensure that it, the Airport Manager and their Affiliates do not infringe any Laws relating to bribery and corruption, including the *Criminal Code Act 1995* (Cth).

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## 33 Capacities of parties

- (a) Unless otherwise expressly provided in this document, nothing in this document gives rise to any obligation or duty on the part of the Airport Lessor to:
  - (i) consider interests other than its own interests when exercising any of its powers or rights or carrying out any of its obligations in accordance with this document; or
  - (ii) exercise any of its powers or rights or carry out any of its obligations in a manner that the Airport Lessor reasonably considers is in breach of any Applicable Law; or
  - (iii) procure or seek to procure any new Law or change in Law; or
  - (iv) develop or implement any new policy or to change any existing policy; or
  - (v) act in any way that the Airport Lessor considers is not in the public interest.
- (b) The parties acknowledge that the Airport Lessor enters into this document in its capacity as the landowner of the Airport and:
  - (i) nothing in this document or any other Transaction Document restricts, constrains, limits or fetters in any way the Airport Lessor's discretion to exercise, or not exercise, any of its executive or statutory rights, functions, duties or powers as a Government Agency; and
  - (ii) without limiting clause 33(a)(ii), anything which the Airport Lessor does, fails to do, or purports to do in its capacity as a Government Agency, will be deemed not to be an act, omission or default by the Airport Lessor under this document and will not entitle any member of the Airport Group to make any Claim against the Airport Lessor. However, Airport Lessor (other than in its capacity as a Government Agency) will remain liable for the performance of its obligations under this document.



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## 34 Trustee Capacity

- (a) This clause 34 applies to any party that enters into a Transaction Document in its capacity as a trustee (for the purposes of this clause 34, each such party is a **"Trustee"**) of a trust (for the purposes of this clause 34, each such entity is a **"Trust"**).
- (b) A Trustee is a party to this document or any other Transaction Document only in its capacity as trustee of the relevant Trust.
- (c) A Liability arising under or in connection with this document or any other Transaction Document is limited to and can be enforced against the Trustee only to the extent to which it can be satisfied out of the property of the Trust out of which the Trustee is actually indemnified for the Liability.
- (d) No party will be entitled to:
  - (i) make a Claim against the Trustee in respect of any Loss under this document or any other Transaction Document in any capacity other than as Trustee of the Trust; or
  - (ii) seek the appointment of a Receiver, a liquidator, an administrator or similar person to any property of the Trustee or prove in any liquidation, administration or arrangement of or affecting the Trustee (except in relation to the property of the Trust); or
  - (iii) enforce or seek to enforce any judgment in respect of a Loss under this document or any other Transaction Document against the Trustee in any capacity other than as trustee of the Trust.
- (e) The limitation of liability in this clause 34 will not apply to any obligation or Liability of the Trustee to the extent that it is not satisfied because under the agreement governing the Trust or by operation of Law there is a reduction in the extent of the indemnification of the Trustee out of the assets of the Trust as a result of fraud, negligence or breach of trust of the Trustee or the Trustee waiving or agreeing to amend the rights of indemnification it would otherwise have out of the assets of the Trust.
- (f) Subject to clause 34(e), the limitation of liability in this clause 34 applies despite any other clause in this document or any other Transaction Document, and extends to all liabilities and obligations of the Trustee in any way connected with any representation, warranty, conduct, omission, agreements or transaction related to this document or the Trust.

## 35 Power of attorney

### 35.1 Appointment by Airport Lessee

The Airport Lessee irrevocably appoints the Airport Lessor and each of the Airport Lessor's officers separately and together as the attorney of the Airport Lessee to:

- (a) execute, stamp and register a surrender of this document if this document has expired or been terminated or the Airport Lessor has re-entered possession of the Leased Area; and
- (b) execute, stamp and register a withdrawal of any caveat lodged in respect of the Leased Area or consent to any dealing affected by that caveat if the Airport Lessee fails to comply with its obligations under clause 37.1 ("No caveats"); and
- (c) consent to any Dealing under clause 23.4 ("Dealings affecting the Airport") if the Airport Lessee fails to comply with its obligations under clause 23.4 ("Dealings affecting the Airport"); and
- (d) execute all documents that the Airport Lessor considers necessary or desirable to assist it to operate the Leased Area as an airport if the Airport Lessor enters into possession under clause 26.3(b) or if the Airport Lessee fails to comply with its obligations under clause 26.3(c); and

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- (e) execute all documents that the Airport Lessor considers necessary or desirable to perform the Airport Lessee's obligations under clause 20 ("Additional Airport Land"); and
- (f) generally do, execute and perform any other thing relating to the Leased Area and this document as fully and effectually as the Airport Lessee could do if the Airport Lessee fails to comply with its obligation under this document to do the relevant thing; and
- (g) appoint substitutes and, at the discretion of the Airport Lessor to revoke any appointment and to appoint others; and
- (h) use the name of the Airport Lessee for the purposes of doing any of the things referred to in clauses 35.1(a) to (g).

### 35.2 Statutory declaration for Airport Lessor

A statutory declaration by an authorised person acting on behalf of the Airport Lessor will provide sufficient proof of any relevant default or entitlement to act as attorney under this document. The Airport Lessee agrees to ratify and confirm everything the attorney lawfully does on behalf of the Airport Lessee under this clause 35.

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## 36 Communications

### 36.1 Form

- (a) Unless this document expressly states otherwise, all notices, demands, certificates, consents, approvals, waivers and other communications ("**Communications**") in connection with this document must be in writing and signed by the sender (if an individual) or an Authorised Officer of the sender.
- (b) All Communications (other than email Communications) must also be marked for the attention of the person referred to in the Details (or, if the recipient has notified otherwise, then marked for attention in the way last notified).
- (c) Email Communications must state the first and last name of the sender and are taken to be signed by the named sender.

### 36.2 Delivery

Communications must be:

- (a) left at the address referred to in the Details; or
- (b) sent by regular ordinary post (airmail if appropriate) to the address referred to in the Details; or
- (c) sent by fax to the fax number referred to in the Details; or
- (d) sent by email to the address referred to in the Details.

If the intended recipient has notified changed contact details, then Communications must be sent to the changed contact details.

### 36.3 When effective

Communications take effect from the time they are received or taken to be received under clause 36.4 ("When taken to be received") (whichever happens first) unless a later time is specified in the Communication.

### 36.4 When taken to be received

Communications are taken to be received:

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- (a) if sent by post, 5 days after posting (or 10 days after posting if sent from one country to another); or
  - (b) if sent by fax, at the time shown in the transmission report as the time that the whole fax was sent; or
  - (c) if sent by email:
    - (i) when the sender receives an automated message confirming delivery; or
    - (ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed,
- whichever happens first.

**36.5 Receipt outside business hours**

Despite anything else in this clause 36, if Communications are received or taken to be received under clause 36.4 ("When taken to be received") after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day. For the purposes of this clause, the place in the definition of Business Day is taken to be the place specified in the Details as the address of the recipient and the time of receipt is the time in that place.

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**37 General**

**37.1 No caveats**

- (a) The Airport Lessee may not lodge a caveat on the title to the Leased Area without the prior consent of the Airport Lessor.
- (b) The Airport Lessor will not unreasonably withhold its consent to the lodgement of a caveat if:
  - (i) the caveat only refers to the interest of the Airport Lessee under this document; and
  - (ii) the caveat does not prevent any dealing with the Leased Area contemplated by this document or the SCA Framework Agreement.

**37.2 Exclusion of statutory provisions**

In this document, the covenants, powers and provisions implied in leases by sections 105, 107 and 109 of the *Property Law Act 1974* (Qld) do not apply.

**37.3 Prompt performance**

If this document specifies when a party agrees to perform an obligation, the party agrees to perform it by the time specified. Each party agrees to perform all other obligations promptly.

**37.4 Variation**

A provision of this document may not be varied except in writing signed by each party.

**37.5 Consents, approvals or waivers**

- (a) A provision of this document, or any right, power or remedy created under it, may not be waived except in writing signed by the party giving the waiver. A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A party is not liable for any loss of any other party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

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- (b) By giving any approval, consent or waiver Airport Lessor does not give any representation or warranty as to any circumstance in connection with the subject matter of the consent, approval or waiver.

**37.6 No reliance**

No party has relied on any statement by any other party that has not been expressly included in this document.

**37.7 Further assurances**

Each party must do all things reasonably necessary to give effect to this document and the transactions contemplated by it.

**37.8 Discretion in exercising rights**

Unless this document expressly states otherwise, the Airport Lessor may exercise a right, power or remedy or give or refuse its consent, approval or a waiver in connection with this document in its absolute discretion (including by imposing conditions).

**37.9 Indemnities and reimbursement obligations**

Any indemnity, reimbursement or similar obligation in this document given by Airport Lessee:

- (a) is a continuing obligation despite the satisfaction of any payment or other obligation in connection with this document, any settlement or any other thing; and
- (b) is independent of any other obligations under this document; and
- (c) continues after this document, or any obligation arising under it, ends.

It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity in connection with this document.

**37.10 No merger**

The rights and obligations of the parties under this document do not merge after the expiry or termination of this document.

**37.11 Counterparts**

This document may consist of a number of copies, each signed by 1 or more parties to it. If so, the signed copies are treated as making up a single document and the date on which the last counterpart is executed is the date of the document.

**37.12 Service of process**

Without preventing any other mode of service, any document in an action or process may be served on any party by being delivered to or left for that party at its address for service of Communications under this document.

**37.13 Entire agreement**

This document and the Transaction Documents constitute the entire agreement of the parties about their subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter.

**37.14 Set-off**

The Airport Lessor may set-off any amount owing by the Airport Lessee (whether or not due for payment) against any amount due for payment by the Airport Lessor to the Airport Lessee in connection with this document.

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### **37.15 Supervening Law**

Any present or future Law which operates to vary the obligations of a party in connection with this document with the result that any other party's rights, powers or remedies are adversely affected (including by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by Law.

### **37.16 Provisions prohibited by Law**

If:

- (a) a Law would otherwise make a provision of this document illegal, void or unenforceable; or
- (b) a provision of this document would otherwise contravene a requirement of a Law or impose an obligation or Loss which is prohibited by Law,

this document is to be read as if that provision were varied to the extent necessary to comply with that Law or, if necessary, omitted.

### **37.17 Relationship**

- (a) Except where this document expressly states otherwise, it does not create a relationship of employment, trust, agency, partnership or joint venture between the parties.
- (b) Subject to clause 35 ("Power of attorney"), no party has any authority to bind another party in any way.

### **37.18 Rights cumulative**

Except as expressly stated otherwise in this document, the rights of a party under this document are cumulative and are in addition to any other rights of that party.

### **37.19 Conflict of interest**

The Airport Lessor may exercise its rights, powers and remedies in connection with this document even if this involves a conflict of duty or it has a personal interest in their exercise.

### **37.20 Rules of construction**

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this document or any part of it.

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## **38 Governing law**

The law in force in Queensland governs this document. The parties submit to the non-exclusive jurisdiction of the courts of that place. To the extent the law permits, the law of the Commonwealth as it applies in that jurisdiction governs a Security Interest arising under this document.

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## Schedule 1 Insurance Policies

### 1 Part A - Initial Insurance Policies

Class of insurance	Extent of insurance cover	Policy limit(s)
Industrial special risks (including business interruption)	Insurance covering physical loss, damage or destruction, including Loss, Damage or destruction by fire, fusion, theft, explosion, storm and tempest, lightning, subsidence or collapse, riot, strikes, impact by vessels, vehicles or aircraft, articles dropped from aircraft or vessels, sprinkler leakage, water damage and malicious damage and all other perils as are normally insured against by prudent tenants for the use of the Leased Area (extended to cover machinery breakdown)	Full replacement value of the Improvements, Plant and Equipment and the Other Airport Assets (with a policy loss limit of \$150 million), including all consultant's fees, costs of demolition and removal of debris and expediting costs, and reasonable amounts for business interruption (and for the avoidance of doubt the policy limit of \$150 million is the combined loss limit for any one event)
Public liability	Public liability insurance covering legal Liability to third parties including Liability in respect of personal injury, disease, illness (including mental illness), or death of any person, loss of, damage to or loss of use of, real or personal property (including the sudden and accidental discharge, dispersal, release or escape of pollutants into or upon land, the atmosphere or any water course or body of water, including any costs and expenses incurred in the removing, nullifying or Clean Up of Contamination or pollution) and Liability	Not less than \$50 million for any one occurrence and unlimited as to the number of occurrences
Motor vehicle	Comprehensive motor vehicle insurance	Market value of the motor vehicles and third party insurance cover of not less than \$30 million for any one occurrence or accident
Airport operators liability	Insurance covering the operation and use of the Airport	Not less than \$200 million
Workers compensation	Cover in accordance with Applicable Laws for all persons employed or treated under any Law as being employed at the Leased Area or elsewhere by the Airport Lessee, the Airport Manager or a Related Body	Level of cover in accordance with Applicable Laws

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Class of insurance	Extent of insurance cover	Policy limit(s)
	Corporate of the Airport Lessee or the Airport Manager who may perform work in connection with this document, including during any construction, demolition or alterations or modification of Improvements	

## 2 Part B – Further insurance policies

Class of insurance	Extent of insurance cover	Policy limit(s)
Contract works	Cover for property that is undergoing construction, erection, alteration or addition including the partial dismantling of existing Improvements (including in respect of Improvements in or on which such works are carried out) (where such property is not covered under industrial special risks insurance) against the risks of physical loss, damage or destruction including Loss, Damage or destruction by earthquake, fire, flood, lightning, storm and tempest, theft, malicious damage and resulting loss or damage arising from faulty material, workmanship or design and all other perils as are normally insured against by prudent tenants under contract works insurance	Full replacement value of the Improvements (subject to any deductible amount under the policy), works and other items and include allowances for Claim contingencies, consultants' fees, removal of debris and expediting expenses of not less than 10% of any contract sum
Construction liability	Legal Liability to third parties including Liability in respect of personal injury, disease, illness (including mental illness), or death of any person, loss of, damage to or loss of use of, real or personal property, products Liability, and Liability arising from anything done or omitted to be done in connection with the execution of works relating to the Leased Area, including:  (a) Liability for Claims arising out of the sudden and accidental discharge, dispersal, release or escape of pollutants into or on land, the atmosphere or any water course or body of water, including any	Not less than the contract price in the contract for the works, on an occurrence basis and a broad form basis

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Class of insurance	Extent of insurance cover	Policy limit(s)
	costs and expenses incurred in removing, nullifying or Clean Up of Contamination or pollution; and	
	(b) Liability for Claims arising out of or in connection with any motor vehicle working as a tool of trade	



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Schedule 2    Environmental Offset Areas

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## Schedule 3 Essential Terms

Item	Clause reference	Clause name
<b>Part A – SCA Runway Project Construction Framework Deed</b>		
1	10	Interface – where the breach of this clause 10 constitutes any of the following: <ul style="list-style-type: none"> <li>(a) a breach by Airport Group of its obligations under clause 10 where the breach causes a delay of more than 6 months in the aggregate to any Separable Portion of the Works;</li> <li>(b) a material breach by Airport Group of its obligation under clause 10(f) to comply with the Interface Schedule; or</li> <li>(c) a breach by Airport Group of its obligation under clause 10(h) to promptly advise SCRC's representative if Airport Manager becomes aware of any matter arising in connection with the Works that may have an adverse effect on the safety of any person.</li> </ul>
2	13.2	Airport Manager's Insurance
3	34.1	Restrictions on Dealing
4	34.3	Permitted assignment by Airport Manager
5	34.4	Permitted assignment by Asset Trustee
6	34.5	Change in Control of Airport Manager
<b>Part B – SCA Council Freehold Sublease</b>		
7	6.3	Lessor's consent
8	12.1	Quiet enjoyment
9	12.2	Right of Entry
10	14.1	Termination
<b>Part C – SCA Framework Agreement</b>		
11	5.1(b)(ii)	Airport operator
12	5.6(c) and (d)	Clauses 5.6(c) and (d) to the extent such non-compliance by the Airport Manager would: <ul style="list-style-type: none"> <li>(a) be a Default Event under the SCA Freehold Lease if such non-compliance was committed by the Airport Lessee; and</li> <li>(b) give rise to a right for the Airport Lessor to terminate the SCA Freehold Lease</li> </ul>
13	5.9	Amendments to the SCA Freehold Sublease
14	5.11	Sublease of Airport Land

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15	6.1	Airport Objectives
16	7.2(a), (b), (c)(i)	<p>Compliance with Applicable Laws and Approvals – to the extent any breach committed by Airport Group has a material adverse effect on:</p> <p>(a) the ability of Airport Group to perform its obligations under the Transaction Documents; or</p> <p>(b) the assets, operations or condition (financial or otherwise) of the Airport</p>
17	8.2(a)	Preparation of Master Plans and amendment
18	8.7	Effect to be given to the Master Plan commencing with the first Master Plan submitted by the Airport Manager after the Commencement Date and approved by the Airport Lessor but limited to where the Airport Lessee fails to give effect to the Master Plan insofar as that failure involves Airport Manager undertaking a development which is not permitted by the applicable Master Plan.
19	14.2	<p>Compliance with WH&amp;S Requirements – to the extent any breach committed by Airport Group has a material adverse effect on:</p> <p>(a) the ability of Airport Group to perform its obligations under the Transaction Documents; or</p> <p>(b) the assets, operations or condition (financial or otherwise) of the Airport</p>
20	16.2	<p>Airport Group obligations – to the extent any breach committed by Airport Group has a material adverse effect on:</p> <p>(a) the ability of Airport Group to perform its obligations under the Transaction Documents; or</p> <p>(b) the assets, operations or condition (financial or otherwise) of the Airport</p>
21	16.5	<p>EPBC Approval amendments to conditions – to the extent any breach committed by Airport Group has a material adverse effect on:</p> <p>(a) the ability of Airport Group to perform its obligations under the Transaction Documents; or</p> <p>(b) the assets, operations or condition (financial or otherwise) of the Airport</p>
22	17.2(a)(i)	<p>Allocation of Imposed Conditions – to the extent any breach committed by Airport Group has a material adverse effect on:</p> <p>(a) the ability of Airport Group to perform its obligations under the Transaction Documents; or</p> <p>(b) the assets, operations or condition (financial or otherwise) of the Airport</p>
23	17.3(b), (c)	Amendments
24	18(d), (e)	<p>Offset covenants – to the extent any breach committed by Airport Group has a material adverse effect on:</p> <p>(a) the ability of Airport Group to perform its obligations under the Transaction Documents; or</p> <p>(b) the assets, operations or condition (financial or otherwise) of the Airport</p>

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25	19.1(d)	Conservation Agreement – to the extent any breach committed by Airport Group has a material adverse effect on:  (a) the ability of Airport Group to perform its obligations under the Transaction Documents; or  (b) the assets, operations or condition (financial or otherwise) of the Airport
26	19.2(a)	Access to Conservation Agreement area to achieve compliance – to the extent any breach has a material adverse effect on:  (a) the ability of Airport Group to perform its obligations under the Transaction Documents; or  (b) the assets, operations or condition (financial or otherwise) of the Airport
27	21 (excluding 21.4)	Future Airservices Interests and Required Easements – to the extent any breach has a material adverse effect on:  (a) the ability of Airport Group to perform its obligations under the Transaction Documents; or  (b) the assets, operations or condition (financial or otherwise) of the Airport
28	22.2	Observation Station Interests – to the extent any breach has a material adverse effect on:  (a) the ability of Airport Group to perform its obligations under the Transaction Documents; or  (b) the assets, operations or condition (financial or otherwise) of the Airport
29	25.2	Acquisition of EOT Option Assets by Affiliate
30	25.6	Completion of transfer of EOT Option Assets
31	25.8	Further assurances for transfer of EOT Option Assets
32	26.9(a)	Amendment to approved plan
33	28.1	Restrictions on Dealing
34	28.3	Permitted assignment by Airport Manager
35	28.4	Permitted assignment by Asset Trustee
36	28.5	Change in Control of Airport Manager
37	29.1	Security Interest
38	35.5	No termination or surrender of the SCA Freehold Sublease
39	35.7(c)	Breach of obligations by Airport Manager

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