

# YMAV Conditions of Use 2019



**Avalon Airport**  
*Flying made easy*



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Avalon Airport Australia  
29 Aug 2019

# CONDITIONS OF USE

## **Note to Users:**

This document sets out the terms and conditions on which the Airport is used by a User.

These Conditions of Use replace and cancel all previous agreements and arrangements between Users and AAA or any other Related Entity of AAA concerning the Use of the Airport and the Services. However:

- rights that exist at the time of cancellation are not affected; and
- these conditions do not alter any other separate contract entered into between Users and AAA or any other Entity.

By using the Airport or any of the Services or Airport Facilities, the User accepts and will be bound by these Conditions of Use.

**Effective from 1 September 2019**

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## 1.0 DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

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

**AAA** means Avalon Airport Australia Proprietary Limited ABN 29 069 136 652, any Related Entity authorised to provide any services at the Airport and, where the context otherwise permits or requires, the related operations of AAA;

**Aerodrome Emergency Plan** means a plan developed by AAA from time to time to co-ordinate all agencies dealing with an Airport emergency (and their individual Airport emergency procedures or supporting plans);

**Aerodrome Manual** means a manual required under the *Civil Aviation Regulations 1988* (Cth) (as amended from time to time) in respect of a licensed airport setting out, in the approved form, particulars of and operating procedures for the Airport, a copy of which is published on the Website;

**Aeronautical Services** means services provided by the use of Airport Facilities in accordance with these Conditions of Use;

**Aircraft** includes directly and remotely piloted fixed wing aircraft (powered or unpowered), rotary-wing aircraft, powered or unpowered balloons and their parts, accessories, equipment and stores;

**Aircraft Operator** means the person whose name appears on the Aircraft Register as the operator of the Aircraft, the holder of the Certificate of Registration with respect to the Aircraft and any person who, with the authority of the holder of the Certificate of Registration for the Aircraft, operates that Aircraft when it arrives at or departs from the Airport;

**Aircraft Owner** means the person or entity named on the Certificate of Registration;

**Aircraft Register** means the register of Australian Civil Aircraft established pursuant to Part 47 of the *Civil Aviation Safety Regulations 1998* (Cth), or the equivalent register of a country other than Australia;

**Airport** means the physical site known as Avalon Airport as described in the Airport Lease and all adjacent lands and roads leased, operated or controlled by AAA from time to time;

**Airport CEO** means the Chief Executive Officer of AAA or his or her nominee;

**Airport Facilities** means the runways, taxiways, aprons, buildings, water and electrical services, ramp areas, plant, fixed equipment and other fixed items located at the Airport and leased, owned, operated or controlled by AAA;

**Airport Lease** means the lease granted to AAA by the Commonwealth dated the 7<sup>th</sup> day of February 1997, as varied from time to time;

**Airshow** means the Australian International Airshow and the Australian International Aerospace & Defence Exposition;

**Airshow Period** means the period of time when the Airshow is operating at the Airport, plus one month before the Airshow and two weeks after the Airshow;

**Airside** means the movement area of the Airport, adjacent terrain and buildings or portions thereof, access to which is controlled as described in Annex 17 to the Convention of International Civil Aviation, but does not include the Terminal;

**Airside Vehicle Control Handbook and Airside Drivers Pocketbooks** means the document of that name as in force from time to time, a copy of which is published on the Website;

**Alternate Airport** means an airport specified in the flight plan for a Flight to which the Flight may proceed if it becomes inadvisable to land at the airport of intended landing or as otherwise defined in the Australian Aeronautical Information Publication;

**Australian Consumer Law** means the Australian Consumer Law set out in Schedule 2 to the *Competition and Consumer Act 2010* (Cth) as amended or replaced from time to time.

**Business Day** means a day other than a Saturday, Sunday or public holiday on which Australian banks are open for general banking business in Victoria, Australia;

**Certificate of Registration** means a certificate issued pursuant to Part 47 of the *Civil Aviation Safety Regulations 1998* (Cth), or an equivalent certificate issued in a country other than Australia;

**Charges** mean collectively the charges for the use of Aeronautical Services or Government Mandated Services;

**Civil Aviation Regulations** means the *Civil Aviation Regulations 1988* (Cth) (as amended from time to time), and includes any regulations that replace those regulations.

**Claim** means and includes any action, proceeding, demand, costs, charges and expenses (including those which are prospective or contingent and those the amount of which is not ascertained) of whatsoever kind or nature;

**Conditions of Use** means these Conditions of Use (as amended from time to time) upon which, unless otherwise agreed between AAA and a User, AAA provides and charges for the Services at the Airport;

**Confidential Information** means any and all information (whether received before or after the commencement of the operation and effect of these Conditions of Use) that:

- a) is by its nature confidential or proprietary; or
- b) the party receiving it (the recipient) knows or ought to know that it is confidential or proprietary;

and includes all other commercial, financial, legal and technical information (whether written, oral or in other recorded or tangible form) provided (whether prior to or on or after the commencement of operation and effect of these Conditions of Use) to the recipient (and/or its advisers) by the party providing Confidential Information and includes all notes, calculations, conclusions or summaries or other material derived or produced partly or wholly from any of the Confidential Information and any or all computer records (including data, copies, models, reproductions and recordings) derived or produced partly or wholly from any of the Confidential Information;

**Consequential Loss** means any loss of revenue, time, goodwill, data, anticipated savings or opportunity, loss of contract, loss of production or loss of profits and any indirect, economic, special or consequential loss or damage.

**Department** means the Department of Infrastructure and Regional Development or such other Australian Commonwealth Government Department for the time being succeeding to the portfolio of responsibilities of such Department in relation to Airports;

**Domestic Operations** means operations that are not International Operations;

**Flight** has the same meaning as is given to that term in the *Civil Aviation Act 1988* (Cth);

**Force Majeure Event** means, in relation to either the Airport or User, acts of God, acts of any governmental or super-national authority, war, national emergency, riots, civil commotion, fire, explosion, flood or epidemic;

**General Aviation** means all civil Aircraft operations other than Regular Public Transport Operations (RPT);



**Government Mandated Services** means those activities undertaken by or at the direction of AAA under a legislative requirement or direction of an authority. Charges for these services are specified in the Schedule of Aviation Charges provided at Schedule 3, or as otherwise published from time to time;

**Ground Handling Services** means the provision of any of the following services: passenger check-in, baggage handling, aircraft cleaning and catering, aircraft maintenance and aircraft engineering;

**Handling Agent** means any person, firm or company appointed by the User to perform Ground Handling Services;

**Injury** includes injury, sickness and death;

**Interest Rate** means the rate per annum that is two percent (2%) higher than the rate published by Australian and New Zealand Banking Group Limited in a newspaper circulating nationally as its Reference Rate from time to time;

**International Operations** means operations by a User that involve departure from a point outside Australia or arrival at a point outside Australia of a User's Aircraft;

**Loss** means and includes direct loss, indirect loss, Consequential Loss, loss of profits, damage, including damage to business, any reference to the making of payment by AAA and a reference to the incurring of any expense by AAA;

**Master Plan** means the Master Plan from time to time prepared and approved under the Airport Lease, a copy of which is available on the Website;

**MTOW** means in relation to an Aircraft, the weight set out in the certificate of airworthiness of, or the flight manual for, the Aircraft as the maximum take-off weight (and, where there is inconsistency, the lesser of those weights);

**NOTAM** means a Notice to Airmen as defined in the Part 139 Manual of Standards of the *Civil Aviation Safety Authority Regulations 1998* (Cth);

**Non-excludable Obligation** means any implied condition or warranty, provision, the exercise of any right or remedy, or the imposition of any liability under the Australian Consumer Law or any other relevant law, that cannot be excluded, restricted or modified without:

- a) contravening the Australian Consumer Law or other relevant law; or
- b) causing any of these conditions to be void.

**Operating Policy** means each of the:

- a) Aerodrome Manual;
- b) Airside Vehicle Control Handbook and Airside Drivers Pocketbooks;
- c) Transport Security Program;
- d) Standard Operating Procedures;
- e) Wildlife Hazard Management Plan;
- f) Aerodrome Emergency Plan; and
- g) any other document which AAA specifies on its Website from time to time as being an Operating Policy for the purpose of the Conditions of Use;

**Passengers** means Terminal Passengers, Transfer Passengers and Transit Passengers arriving or departing as a part of Domestic Operations or International Operations;

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

**Related Entity** has the meaning ascribed to that term in section 9 of the *Corporations Act 2001* (Cth).

**Regular Public Transport Operation** or **RPT** means an operation of an Aircraft for the purpose of an air service for passengers or cargo that:

- a) is provided for a fee payable by persons using the service; and
- b) is conducted in accordance with fixed schedules to or from fixed terminals over specific routes;

**Schedule of Aviation Charges** means the most recent edition of the document entitled "Schedule of Aviation Charges" published on the Website from time to time (a current copy of which is contained in Schedule 3);

**Services** means, collectively, Aeronautical Services and Government Mandated Services;

**Standard Operating Procedures** means a document of that name as in force from time to time, a copy of which is published on the Website;

**Terminal** means the domestic and international terminal buildings at the Airport and any other building at the Airport from time to time used for the purposes of Regular Public Transport Operations or processing Passengers (including temporary facilities);

**Terminal Passenger** means a passenger joining or leaving an Aircraft at the Airport, but does not include a Transfer Passenger or a Transit Passenger;

**Transport Security Program** means a program, required under the *Aviation Transport Security Act 2004* (Cth), of measures adopted by an Airport to safeguard civil aviation against acts of unlawful interference, a copy of which is published on the Website;

**Transfer Passenger** means a passenger who arrives at the Airport on an Aircraft and who, without leaving the Airport, departs from the Airport on another Aircraft;

**Transit Passenger** means a passenger who arrives at the Airport on an Aircraft and who, without leaving the Airport, departs from the Airport on that Aircraft;

**Use of the Airport** means the use by an Aircraft of the Airport and includes, but is not limited to, landing, take-off or parking of Aircraft and discharging or taking on of Passengers and/or cargo;

**User** means any person or body identified as the:

- a) Aircraft Owner which uses the Airport or any Service provided at the Airport;
- b) Aircraft Operator which uses the Airport or any Service provided at the Airport;
- c) the pilot of the Aircraft which uses the Airport or any Service provided at the Airport;  
or
- d) any person or company which has any type of interest in an Aircraft which uses the Airport or any Service provided at the Airport; jointly and severally, and includes each of those entities' legal personal representatives, successors and assigns;

**Website** means the website of the Airport, which can be accessed at [www.avalonairport.com.au](http://www.avalonairport.com.au); and

**Wildlife Hazard Management Plan** means a document of that name as in force from time to time, a copy of which is published on the Website.

## 1.2 Interpretation

These Conditions of Use are to be read subject to the Airport Lease and the Master Plan, which prevail in the event and to the extent of any inconsistency.

A reference to a person includes a reference to a body corporate.

Words in the singular include the plural and words in the plural include the singular.

Any note appearing as a heading in Conditions of Use has been inserted for convenience and reference only.

Any use of the words “includes” or “including” in these Conditions of Use is to be read as though the words “without limitation” appeared immediately after them.

## 2.0 FACILITIES AND SERVICES TO BE PROVIDED BY AAA

### 2.1 Conditions of Use

**2.1.1** This document sets out the terms and conditions on which the Airport is used by a User effective from 1 September 2018 and which will continue to apply until otherwise advised. Subject to the terms of these Conditions of Use, all previous conditions of use cease to have effect from 1 September 2018. A User who uses the Airport is subject to these Conditions of Use, as they may be amended from time to time.

**2.1.2** Notwithstanding that a User may not have executed an agreement embodying these Conditions of Use, by using the Airport or any of the Services or Airport Facilities the User shall be deemed to have accepted and shall be bound by these Conditions of Use (and any amendments thereto) and shall be deemed to have agreed to comply with all of AAA’s rules and reasonable directions in relation to the Use of the Airport, as contained in these Conditions of Use and as notified from time to time.

**2.1.3** Where any agreement has been entered into between AAA or a Related Entity of AAA with a User, these Conditions of Use will apply only to the extent that they are not inconsistent with any alternative agreement relating to the provision of Services and access to facilities (whether that access to facilities or Services are provided by AAA or the Related Entity). To the extent that these Conditions of Use are inconsistent with any such agreement it is the terms of the alternative agreement which will prevail.

- 2.1.4** AAA encourages and supports commercially agreed access to the Airport by third parties provided that such access does not in any way compromise the safe and secure operation of the Airport and is consistent with AAA's current and future planning, in particular, the Master Plan.
- 2.1.5** AAA may in its absolute discretion negotiate and agree to alternate terms and conditions in relation to the Use of the Airport by a User and AAA does not warrant or represent that all Users will be bound by the same terms or conditions in relation to the Use of the Airport, including in relation to the timing of access, service levels relating to such access, cost of access and any other matters that may be appropriate for the specific circumstances.
- 2.1.6** This document does not grant any right or entitlement to use or access any particular service or Airport Facility at the Airport.

## 2.2 Contact Details

- 2.2.1** Name: Avalon Airport Australia Pty Ltd ABN 29 069 136 652
- 2.2.2** Address: Locked Bag 9  
Lara VIC 3212  
Australia
- 2.2.3** Telephone: +61 3 5227 9157
- 2.2.4** Email address: [dave.moreland@avalonairport.com.au](mailto:dave.moreland@avalonairport.com.au)
- 2.2.5** For the attention of: Dave Moreland

All correspondence is to be directed to the above address.

## 2.3 Governing Law

These Conditions of Use are governed by the law of the State of Victoria.

## 2.4 Delivery of Services

AAA will supply Aeronautical Services and Government Mandated Services to a User in accordance with these Conditions of Use:

- a) subject to all applicable laws and regulations; and
- b) with due care and skill.

## 2.5 Common User Facilities

All Airport Facilities and Terminal facilities at the Airport are common user facilities and, unless otherwise agreed by AAA:

- 2.5.1** No User has any exclusive right to use or occupy any Airport Facilities;
- 2.5.2** AAA will allocate to a User pre-agreed time-limited rights to use designated facilities (including, all runways, taxiways, aprons and Terminal facilities) for the purpose of its Flight-related operations to and from the Airport; and
- 2.5.3** The User must, if so required by AAA in order to honour allocations by AAA to another User, vacate or terminate its use of the facilities referred to in clause 2.5.2 at the end of the allocated time whether or not its Flight-related operations have concluded.

## 2.6 Ground Handling

- 2.6.1** Ground Handling Services at the Airport may be:
  - a) acquired by a User from a Handling Agent licensed by AAA (acting reasonably in all circumstances) to provide such services at the Airport; or
  - b) undertaken by the User using equipment and materials carried on its Aircraft.
- 2.6.2** A User must not undertake its own Ground Handling Services (other than in accordance with clause b)) without the prior written consent of, and in accordance with commercial terms agreed to by, AAA.

## 2.7 Passenger Processing

Unless otherwise agreed by AAA, a User using the Airport is not entitled to use the Passenger processing facilities located in the Terminal at the Airport, and the allocation of any particular facilities for the processing of its Passengers is, subject to regulatory requirements, at the sole discretion of AAA.

## 2.8 Other Airport Services and Charges

These Conditions of Use do not cover or apply to:

- a) the provision of services provided by AAA other than those specified in these Conditions of Use; or
- b) the recovery of costs and charges for those other services.

Such other services are only available for use from AAA on separate commercial terms and at commercial rates which, subject to agreement to the contrary, will be determined by AAA (acting reasonably) from time to time.

## 2.9 Excluded Services

For the avoidance of doubt, Aeronautical Services in these Conditions of Use do not include the following:

- a) terminal navigation services;
- b) rescue and firefighting services;
- c) en-route services;
- d) meteorological services;
- e) Ground Handling Services; or
- f) engineering services.

## 2.10 Variations to Conditions of Use

AAA reserves the right to alter these Conditions of Use, Charges payable or any Operating Policies at any time. Any such variation becomes operative upon being published on the Website, or at any later time specified therein.

## 2.11 Applicable Charges

Services provided by AAA under these Conditions of Use must be paid for in accordance with clause 7.1.4 at the rates specified in the Schedule of Aviation Charges or as otherwise published.

## 2.12 Requirement to Pay

Notwithstanding that these Conditions of Use or changes to these Conditions of Use may not have been notified directly or expressly to a User, the User is liable to pay the Charges as per clause 7.1.4 if the User uses the Airport.

## 3.0 OBLIGATIONS OF USERS

### 3.1 Use of Avalon Airport

The Use of the Airport is subject to compliance by the Users with:

- 3.1.1** all flying restrictions, including, but not limited to, the requirements of the Civil Aviation Act 1988 (Cth), the Civil Aviation Regulations 1988 (Cth), the Air Navigation Act 1920 (Cth), the Aviation Transport Security Act 2004 (Cth), the Air Navigation Regulation 2016 (Cth) and Airservices Australia publications such as Aeronautical Information Publications, En route Supplements and NOTAMs;
- 3.1.2** all other Civil Aviation Safety Authority and Airservices Australia rules, regulations and directions;
- 3.1.3** any other restrictions on flying operations that may be in place from time to time by any relevant statutory authority;
- 3.1.4** all other applicable Commonwealth or State laws and regulations;
- 3.1.5** each Operating Policy;
- 3.1.6** the insurance requirements set out in clause 12.0;
- 3.1.7** directives on security of airports and Aircraft issued by the Department or any other law enforcement authority;
- 3.1.8** any safety and security directions notified by AAA, the Department, Australian Federal Police or Victoria Police, from time to time and necessary for the day to day operation of Avalon Airport;
- 3.1.9** all applicable environmental laws, regulations or requirements;
- 3.1.10** the obligation not to do anything which may constitute a nuisance, annoyance or danger to any person at the Airport or within surrounding areas;
- 3.1.11** any noise management procedures or regulations in place from time to time as required by any relevant statutory authority;
- 3.1.12** any environmental and safety directions notified by AAA from time to time and including but not limited to ground running rules, disabled Aircraft, bird and wildlife strike reporting and fuel and oil spill reporting and management;



- 3.1.13** occupational health and safety laws or regulations as applicable from time to time;
- 3.1.14** the need to obtain and observe relevant operator licences issued and/or required by AAA which include, but are not limited to, Airside licences, Airside driving licences and Aviation Security Identification Cards (ASICs); and
- 3.1.15** any other conditions, instructions, orders or directions issued from time to time by AAA, including these Conditions of Use.

The User is responsible for familiarising themselves with the above.

### **3.2 Prior Permission required to use the Airport**

A User must not without the prior written permission of AAA:

- 3.2.1** operate an Aircraft greater than 5,700 kilograms MTOW at the Airport; or
- 3.2.2** nominate the Airport as an Alternate Airport for use by an Aircraft with a MTOW greater than 5,700 kilograms.

### **3.3 AAA's Compliance with Applicable Laws, Airport Lease and Master Plan**

In using the Airport, a User must not do anything that may have the effect of rendering AAA liable for any breach of or non-compliance with:

- 3.3.1** any law applicable to AAA;
- 3.3.2** any condition applicable to AAA under the Airport Lease;
- 3.3.3** any requirement applicable to AAA under the Master Plan; or
- 3.3.4** any other obligation of AAA that the User could reasonably be expected to be aware of.

## **4.0 PRIORITY OF AND INTERRUPTIONS TO USE OF THE AIRPORT**

### **4.1 Priority of Use**

AAA may determine in its absolute discretion the priority to be afforded to a User in relation to access and Use of the Airport. In exercising this discretion, AAA will provide access to a User consistent with these Conditions of Use, in accordance with any Airport Lease conditions and with the law.

AAA will endeavor to provide access to the Airport and associated Services subject to reasonable operational requirements, scheduled and un-scheduled maintenance and events that are outside of the control of AAA in accordance with this clause 4. AAA makes no warranty that any Airport facility will be available at any time.

## **4.2 Unplanned Interruptions and Shutdowns**

AAA may close the Airport or part of it or interrupt or shut down a service or facility at any time if required by law or by direction of a relevant authority or if AAA believes it necessary to do so to deal with an emergency, an Airport security incident or any other event.

## **4.3 Planned Interruptions and Shutdowns**

AAA may close the Airport or part of it or interrupt or shut down a service or facility at any time if AAA believes it necessary to do so for repair or maintenance of the Airport Facilities or because of building or construction work occurring on or at the Airport.

## **4.4 Liability for Planned or Unplanned Interruptions and Shutdowns**

AAA will not be liable for any Loss or damage a User may suffer as a direct or indirect consequence of a planned or unplanned closure, interruption or shutdown of or at the Airport, Services, Airport Facilities or Terminal.

## **4.5 Interruptions by Users**

### **4.5.1 If:**

**4.5.1.1** in the reasonable opinion of the Airport CEO, a User's Aircraft, equipment, facilities or activities interrupt or compromise the safe and/or viable operation of the Airport; or

**4.5.1.2** ordered by any duly constituted legislative or policing entity including, but not limited to, CASA, ASA, the Department, Office of Transport Security, Australian Federal Police and Victoria Police,  
the Airport CEO may without notice to the User remove or cause to be removed, at the Operator's cost (which must be paid on demand), those Aircraft, equipment or facilities or direct or cause the cessation of those activities, or direct the User to do so.

- 4.5.2** AAA is not liable for any Loss or damage suffered by the User, including:
- 4.5.2.1** Loss or damage to the User's Aircraft; and
  - 4.5.2.2** Claims against the User by third parties, directly or indirectly arising out of AAA moving or removing the User's Aircraft unless caused by AAA's negligence or the negligence of AAA's officers, employees, agents or contractors. For the avoidance of doubt, the exercise of a discretion by AAA or the Airport CEO under these Conditions of Use does not constitute negligence.
- 4.5.3** The User will indemnify and keep indemnified the Airport CEO and AAA and each of them from any Loss or Claim which they or either of them may pay, suffer or incur as a result of the Airport CEO acting pursuant to clause 4.5.1.
- 4.5.4** In exercising the discretion conferred by this clause 4.5, the Airport CEO may take whatever steps the Airport CEO considers reasonably necessary, and as expeditiously as possible, to maintain the safety of the Airport.
- 4.5.5** In the exercise of the rights conferred by clauses 4.5.1 and 4.5.4, the Airport CEO shall, whenever possible, act in accordance with the Aerodrome Manual.

## **5.0 AVIATION OPERATIONS**

### **5.1 Regular Public Transport Operators**

- 5.1.1** A User undertaking RPT operations at the Airport will be charged in accordance with item 1 of Schedule 3.

### **5.2 Non-Regular Public Transport operators**

- 5.2.1** Users using the Airport with Aircraft:
- 5.2.1.1** with a MTOW equal to or exceeding 45,000kg; or
  - 5.2.1.2** operating as a freight Aircraft (regardless of MTOW), will be charged in accordance with item 3 of Schedule 3.
- 5.2.2** Users using the Airport with an Aircraft not referred to in clause 5.2.1, being those Aircraft with a MTOW less than 45,000kg, will be charged in accordance with item 2 of Schedule 3.

## 5.3 Training operations

- 5.3.1 Aircraft may only engage in training operations at the Airport in compliance with all applicable legislative requirements and these Conditions of Use.
- 5.3.2 Aircraft Operators undertaking training operations will be charged in accordance with the relevant Charge as provided for in item 2.2, 2.3, 3.2 and 3.3 of Schedule 3.

## 5.4 Additional Charges

- 5.4.1 Additional Charges may be payable by a User for particular uses of the Airport, as provided for in Schedule 3.

## 6.0 AIRCRAFT PARKING

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

No Aircraft parking may occur on any part of the movement area, identified as the Northern Apron- Terminal Apron, without prior AAA approval. No Aircraft or pedestrian access is permitted to or across the movement area without AAA approval.

Aircraft approved to park on the Northern Apron are subject to bay and gate allocation procedures as prescribed by AAA from time to time.

“The Airport CEO, the Aerodrome Compliance Manager (or the person performing a similar role from time to time) or a person authorized by either of them” may at any time direct a User, at the cost of the User, either to move a parked Aircraft to another position on the Airport, or remove it from the Airport. Failure to comply with any direction within the period specified will render the User liable to a Charge in accordance with clause 8.11.

## 7.0 INFORMATION SHARING

### 7.1 Information to be Provided to AAA

Upon request by AAA, the User must provide to AAA, in such form as reasonably required by AAA, information relating to the User’s Use of the Airport Facilities and Services, including, but not limited to:

- 7.1.1 the information required by the form set out in Schedule 1 (or such other form that is agreed or prescribed by AAA from time to time);

- 7.1.2** reasonable evidence that the User has security procedures that comply with AAA's security requirements and applicable laws;
- 7.1.3** reasonable evidence that a User has emergency procedures that comply with the Aerodrome Emergency Plans and applicable laws; and
- 7.1.4** the names, addresses, telephone numbers, email, facsimile numbers and all other contact details for a User's key personnel, which the User must ensure are kept continually up to date (AAA must be able to contact a User at any time during the day or night in respect of any emergency, security matter or operational matter with respect to a User's Use of the Airport). AAA will comply with all privacy obligations in relation to this Personal Information of a User's key personnel.

## **8.0 PAYMENT OF CHARGES**

### **8.1 Payment of Charges**

- 8.1.1** It is a condition of use that a User pays to AAA or AAA's nominated Related Entity the Charges relating to its use of the Services and Airport Facilities. The Charges are set out in the Schedule of Aviation Charges at Schedule 3.
- 8.1.2** Subject to clause 8.2, all Charges are to be paid to AAA or AAA's nominated Related Entity:
  - 8.1.2.1** before the Aircraft departs from the Airport;
  - 8.1.2.2** in Australian dollars; and
  - 8.1.2.3** in the manner determined by AAA from time to time, unless with the prior written agreement of AAA.
- 8.1.3** A User may not make any set-off against or deduction from any Charges.
- 8.1.4** A User will be liable for all Charges whether or not the Aircraft incurring the Charges was used with the User's permission.
- 8.1.5** For the avoidance of doubt, the User may be liable to pay additional Charges in relation to services not covered by these Conditions of Use.

## 8.2 Credit Accounts

- 8.2.1 A User may apply for a credit account with AAA by completing and delivering to AAA an application for credit in the form set out in Schedule 2.
- 8.2.2 AAA is not obliged to approve an application for credit.
- 8.2.3 If AAA approves the application for credit, AAA will notify the applicant and establish a credit account. AAA may impose whatever conditions it sees fit in relation to credit accounts, including in relation to requiring security for payment of the account.
- 8.2.4 AAA may suspend or cancel a credit account at any time by providing the applicant with seven (7) days' notice.

## 8.3 Bank Guarantee

- 8.3.1 AAA may require a bank guarantee as security for payment where a credit account has been approved in accordance with clause 8.2.
- 8.3.2 AAA may require a bank guarantee prior to or at any time after establishing a credit account. The applicant will be notified of the requirement for a bank guarantee and of the required amount of the bank guarantee. Any bank guarantee required must be from an institution and on terms satisfactory to AAA.
- 8.3.3 The applicant must provide AAA with a replacement or additional bank guarantee if AAA:
  - a) calls on the bank guarantee in place; or
  - b) increases the amount required to be secured by the bank guarantee.
- 8.3.4 AAA may, at its absolute discretion, require another form of security other than, or in addition to, a bank guarantee.

## 8.4 Liability and Lien for the Charges

- 8.4.1 The *Aerodrome Landing Fees Act 2003* (Vic) applies in relation to the charging of fees and the recovery of any Charges as a debt due to AAA.
- 8.4.2 The Users are jointly and severally liable for the payment of all Charges, and all interest and costs payable under these Conditions of Use and any other agreements between the User and AAA.

- 8.4.3** The User, by using the Airport, grants to AAA a lien over each Aircraft operated by it which is in AAA's possession or control or situated at the Airport as security for the payment by the Operator of all Charges, moneys and liabilities due to AAA under these Conditions of Use in respect of the relevant Aircraft and whether or not invoiced by AAA. AAA shall not, in exercising this lien, be liable or responsible for any neglect, Loss, damage or Claim to any Aircraft howsoever caused.

## **8.5 Invoicing and Payment of the Charges - Credit Account Holders**

- 8.5.1** This clause 8.5 only applies to Users which hold a credit account at the Airport as approved under clause 8.2.
- 8.5.2** Customer accounts and invoices for the Charges are prepared on a monthly basis and will be issued to the User detailing the Charges incurred for the previous month.
- 8.5.3** A statement of account will also be issued monthly in addition to any current invoice giving details of current invoices, amounts overdue for payment, cash receipts, account adjustments and outstanding balance.
- 8.5.4** Payment of all invoices is required to be made in the manner specified in the invoice and by no later than the date specified in the invoice or, if no date is specified in the invoice, by the end of the calendar month immediately following the date of the invoice (the "**Due Date**").

## **8.6 Invoicing and Payment of the Charges - Non-account Payers**

- 8.6.1** Users who do not hold credit accounts ("**Non- account Payers**") with AAA must pay all Charges prior to their departure from the Airport in accordance with clause 8.0.
- 8.6.2** For all Non-account Payers, all payments are due (the "**Due Date**") at 5:00pm on the day of Aircraft departs the Airport. Alternatively, where the Aircraft departs after 5:00pm or departs on a day other than a Business Day, all Charges are due at 5:00pm on the next Business Day (the "**Due Date**").

## **8.7 Interest and Recovery Costs on Unpaid Charges**

- 8.7.1** AAA may charge interest on any Charges which have not been paid by the Due Date (or in accordance with any written agreement for payment made between AAA and the User).
- 8.7.2** Interest is calculated on a daily basis from the Due Date until the date of payment of the Charges (both dates inclusive) at the Interest Rate. Interest must be paid by the User at the same time as the Charges to which the interest payment relates.
- 8.7.3** AAA may recover from the User on a full indemnity basis the costs of recovering any unpaid Charges and any accrued interest including, without limitation, legal fees.

## **8.8 Refusal of Access**

AAA may refuse access to the Airport to all or any Aircraft of a User (and any associated Aircraft or Aircraft Owners) where either has failed to pay AAA any amount due and payable to AAA by the Due Date and such amount remains outstanding, subject to any legal restriction on AAA refusing access to the Aircraft.

## **8.9 Right of Detention and sale of Aircraft**

- 8.9.1** If any Charges remain unpaid after the Due Date, AAA shall have the right to detain and shall have a lien over:
- a) the Aircraft in respect of which the Charges were incurred (whether or not they were incurred by the person who is the User of that Aircraft at the time when the right of detention is exercised); and
  - b) any other Aircraft or any other property of the User at the Airport liable to pay the Charges,  
until all relevant Charges, any interest on the Charges and any other costs AAA has incurred as a result of the failure to pay the relevant Charges have been paid.
- 8.9.2** If the Charges are not paid within 28 days of the date when the detention and/or lien begins, AAA may in its discretion sell, remove or otherwise dispose of any Aircraft referred to in clause 8.9.1, in order to satisfy the outstanding Charges, any accrued interest or any costs of AAA incurred as a result of the failure to pay the relevant Charges. Any sale will be conducted in accordance with Schedule 4.



- 8.9.3** AAA's right of detention and/or lien is not lost because the relevant Aircraft has departed from the Airport. The right of detention and/or lien continues and is exercisable by AAA at any time when the relevant Aircraft is at the Airport.
- 8.9.4** To the full extent allowed by law, AAA is not liable for any Loss, liability or expense incurred arising out of or in any way connected with:
- 8.9.4.1** AAA's detention of any Aircraft as contemplated under this clause 8.9;
  - 8.9.4.2** anything AAA does or does not do, in exercising its right of sale or detention under this clause 8.9; and
  - 8.9.4.3** AAA's application or payment of sale proceeds.

## **8.10 Disputed Accounts**

- 8.10.1** A User may dispute any Charges by following the dispute resolution procedure provided for in clause 16.
- 8.10.2** For the purposes of disputes relating to Charges a "reasonable time" for the purposes of clause 16 will be considered to be no longer than 10 days following the Due Date of any invoice.
- 8.10.3** If only part of an invoice or statement of account is disputed the part undisputed must be paid by the Due Date or prior to entering into any dispute resolution procedure.
- 8.10.4** Where a User does not notify AAA of a dispute within 10 days of the Due Date the Charges will be held to be accepted and will be payable by the User in accordance with any invoice or statement of account.
- 8.10.5** If, in AAA's reasonable opinion, a User has no reasonable grounds for disputing an invoice, the relevant User must pay the invoice by its Due Date or, if that has passed, immediately.

## **8.11 Movement of Parked Aircraft**

- 8.11.1** If a User fails to comply within the period specified in a direction or order issued by Airport CEO under these Conditions of Use requiring the User to move an Aircraft, the User must pay a Charge calculated as an amount equivalent to the landing Charge as specified in the Schedule of Aviation Charges for every hour or part of an hour during which the Aircraft remains in position after the period specified by the Airport CEO for the moving or removing of the Aircraft has expired.

- 8.11.2** Nothing in this clause prevents the Airport CEO from removing or arranging to be removed any Aircraft in accordance with clauses 4.5 or 6.

## **8.12 Navigation, Rescue, En-Route, Meteorological Charges or Other Charges**

- 8.12.1** The Charges do not include terminal navigation charges, rescue and firefighting charges, en-route charges, meteorological service charges or any other charges charged by a third party relating to services provided at the Airport (**Ancillary Charges**). These charges may be levied by third parties such as Airservices Australia or the Department.
- 8.12.2** The Ancillary Charges may be levied by a third party on its own behalf and on behalf of any other relevant governmental authority providing services at the Airport.
- 8.12.3** The User must pay any Ancillary Charges relating to their Use of the Airport directly to the relevant third party or any other relevant governmental authority as directed by those third parties or AAA, whether or not the Ancillary Charges are invoiced to AAA or the User.
- 8.12.4** AAA accepts no responsibility or liability in relation to any third party charges and any queries relating to these charges should be made directly to the relevant third party.

## **8.13 Apron Service Charges**

The Charges are exclusive of apron service charges. Apron services are not provided by AAA. AAA can advise, on request, details of operators who provide such services.

## **8.14 Parking Charges**

Where parking follows immediately after a landing, any applicable parking Charges are calculated from the time of landing, to the time of take-off, less a discretionary allowance (to be determined by AAA, in its absolute discretion) for taxiing where an actual time on stand is not available.

## 9.0 FORCE MAJEURE EVENT

### 9.1 Non Performance

Non-performance by either AAA or a User of any of their respective obligations in accordance with these Conditions of Use will be excused during the time, and to the extent that, such performance is prevented wholly or in part by a Force Majeure Event.

### 9.2 Notice of Effect of Force Majeure Event

A party claiming the benefit of clause **Error! Reference source not found.** must:

- 9.2.1 promptly give written notice to the other party:
  - 9.2.1.1 advising of the Force Majeure Event; and
  - 9.2.1.2 detailing the cause and extent of its inability to perform its obligations under these Conditions of Use and the likely duration of such non-performance; and
- 9.2.2 take all reasonable steps to remedy or abate the Force Majeure Event.

### 9.3 Performance to Resume

Performance of any obligation affected by a Force Majeure Event must be resumed as soon as reasonably possible after the abatement of the Force Majeure Event.

### 9.4 No Prejudice

The non-performance of obligations as permitted by this clause 9.0 does not prejudice the rights of either party against the other in respect of any matter occurring prior to or after the Force Majeure Event, or any matter or obligation capable of performance notwithstanding the Force Majeure Event.

## 10.0 GOODS AND SERVICES TAX (GST)

### 10.1 Definitions

Terms used in this clause 0 have the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth), unless the contrary intention appears.

## **10.2 Consideration Inclusive of GST**

Where the consideration payable by the User under or in connection with a supply by AAA pursuant to these Conditions of Use is specifically stated to be inclusive of GST, clauses 10 and 11 do not apply.

If there is any increase or decrease in the GST rate after the commencement of these Conditions of Use, the consideration payable for a relevant supply shall be increased or reduced accordingly so that, after remitting GST, the amount retained by AAA shall be the same as the amount retained by AAA immediately prior to the increase or decrease.

## **10.3 Consideration Exclusive of GST**

Subject to clause 10.2, the consideration payable by the User under or in connection with these Conditions of Use is exclusive of GST.

## **10.4 Additional Amount on Account of GST**

If any supply by AAA to the User under or in connection with these Conditions of Use is exclusive of GST, the User will pay an additional amount on account of GST calculated by multiplying the consideration for the supply by the prevailing GST rate.

## **10.5 Timing of Additional Amount**

Any additional amount on account of GST must be paid by the User to AAA without deduction or set-off and is payable by the User to AAA at the same time and in the same manner as the consideration for that supply is payable under these Conditions of Use.

## **10.6 Tax Invoice**

If AAA makes a supply to the User which is subject to GST, the invoice which AAA shall issue pursuant to these Conditions of Use will be in the form of a tax invoice.

# **11.0 INDEMNITIES AND RELEASES**

## **11.1 The User to Indemnify AAA**

The User jointly and severally indemnifies AAA against all Loss (to person or property), liability, damages or Claims incurred or suffered by AAA arising from, in connection with, caused or contributed to by:

- 11.1.1** a breach of these Conditions of Use by the User, including the Loss or damage that results from AAA exercising its right to terminate these Conditions of Use applicable to the User or AAA's refusal to allow the User to Use of the Airport;
- 11.1.2** the User's act, negligence or default or that of their respective employees, contractors and agents;
- 11.1.3** the User bringing onto or storing at the Airport dangerous or contaminating substances;
- 11.1.4** AAA doing anything which the User must do under these Conditions of Use but has not done;
- 11.1.5** the overflow or leakage of water into or from any area at the Airport that the User uses;
- 11.1.6** fire on or from any area at the Airport that the User uses;
- 11.1.7** the User's Use of the Airport, including by their respective employees, contractors and agents;
- 11.1.8** AAA's exercise of the right to detain, move or remove the User's Aircraft;
- 11.1.9** any Claims by third parties arising out of personal Injury of any person or damage to property arising out of (either directly or indirectly) or in connection with the User's Use of the Airport and any legal and other costs incurred by AAA in connection with any such Claim;
- 11.1.10** any breach or non-compliance by the User with any law, regulation or statutory requirement;
- 11.1.11** all costs, penalties, Losses and damages suffered or incurred by AAA arising out of or in connection with any act, omission or breach (whether willful, negligent or otherwise) of these Conditions of Use or any other relevant policy, direction or law by a User or any employees, agent and contractors of any User; and
- 11.1.12** any environmental harm to the Airport including in relation to the overflow, spill or leakage of any fuel, oil or other product of any description whatsoever caused or contributed to by the User.

## 11.2 The User's risk

The Users use the Airport at their own risk. AAA is not responsible for the security of any Aircraft or property.

## 11.3 Liability

**11.3.1** AAA does not make any representation or warranties in connection with the Airport or any Service.

**11.3.2** Except in relation to Non-excludable Obligations, AAA's liability to a User arising directly or indirectly out of or in connection with the User's Use of the Airport or any Service or AAA's exercise of any powers under these conditions or any relevant laws (whether arising under any indemnity, statute, bailment, in tort (for negligence or otherwise), or on any other basis in law or equity) is limited as follows:

**11.3.2.1** AAA will have no liability whatsoever for:

11.3.2.1.1 any loss of or damage to an aircraft, its equipment or its load;

11.3.2.1.2 any loss of or damage to any of a User's property;

11.3.2.1.3 any loss of or damage to the property of the crew or passengers of an Aircraft;

11.3.2.1.4 any loss or damage a User suffers for any reason because the Airport or any part of it is closed or any Service at the Airport is unavailable;

11.3.2.1.5 any personal injury or death in any way associated with a User's Aircraft or Use of the Airport;

11.3.2.1.6 any loss or damage in relation to AAA's exercise or purported exercise of rights conferred on AAA by these conditions; and

11.3.2.1.7 any Loss, harm, damage, cost or expense (including legal fees), or in the nature of special, indirect or Consequential Loss or damage; and

**11.3.2.2** the aggregate of AAA's liability is otherwise limited to an amount not exceeding the aggregate of the previous 3 months' Charges paid or payable by the User to AAA.

**11.3.3** If AAA is liable for breach of any Non-excludable Obligation, then, to the full extent allowed by law, AAA's liability to the User is limited to:

- 11.3.3.1** in the case of services, the cost of supplying the services again or payment of the cost of having the services supplied again; and
- 11.3.3.2** in the case of goods, the cost of replacing the goods, supplying equivalent goods or having the goods repaired, or payment of the cost of replacing the goods, supplying equivalent goods or having the goods repaired.

## **11.4 Statutory Terms**

To the full extent allowed by law, AAA expressly excludes all conditions, warranties, guarantees, rights, remedies, liabilities, representations and other terms in connection with the Use of the Airport or any Service which would otherwise be implied by any relevant law, statute, custom or the common law.

## **11.5 Survival of Indemnities**

The indemnities and releases in these Conditions of Use are continuing and survive termination of these Conditions of Use for whatever reason, or cessation of Use of the Airport by the User.

## **11.6 Enforcement of Indemnities**

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

# **12.0 INSURANCE**

## **12.1 User's Insurances**

The User must, in connection with its Use of the Airport, maintain with insurers and on terms approved by AAA (which approval will not be unreasonably withheld) the following insurances:

- 12.1.1** current and adequate insurance covering any liability, Loss (to person or property, including Injury), damage or Claims (including public liability insurance in the amount of \$20,000,000, or such higher levels of insurance that a prudent User would ordinarily take out), for any one Claim arising out of or in connection with the Use of the Airport, Airport Facilities, Terminal or any Service;

- 12.1.2 other insurances which are required by law in connection with the User's Use of the Airport or which a prudent airline or Aircraft Operator would ordinarily take out; and
- 12.1.3 Aircraft and aviation liability insurance (including (without limitation) third party liability, passenger legal and cargo/mail liability coverage plus war and terrorism AVN52 extended coverage endorsement), on terms and in an amount that a prudent airline or Aircraft Operator would maintain as appropriate to the operations of the User.

## 12.2 Additional Obligations

The User must:

- 12.2.1 give AAA evidence to the satisfaction of AAA that the User has complied with clause **Error! Reference source not found.** within 5 Business Days of AAA having made a written request for such evidence; and
- 12.2.2 notify AAA immediately if an insurance policy required by clause **Error! Reference source not found.** is cancelled, not in place, or an event occurs which may give rise to a Claim or affect rights under an insurance policy in connection with the User's Use of the Airport.

## 12.3 AAA Insurances

AAA will maintain an airport operator's liability insurance policy with a limit on indemnity of not less than the amount required by the Commonwealth of Australia (as landlord) under the Airport Lease.

## 12.4 Claims on Insurances

A User must not without AAA's consent (which consent will not unreasonably be withheld) enforce, conduct, settle or compromise Claims under any insurance policy required by these Conditions of Use if the Claim relates to the User's Use of the Airport (even if that policy also covers other property).

## 12.5 Acts Affecting Insurances

A User must not without AAA's consent (which consent will not unreasonably be withheld) do anything which may adversely affect rights under any insurance:

- 12.5.1 held by AAA; or
- 12.5.2 required by these Conditions of Use to be held by a User.



## **12.6 Noting interests on Insurance Policies**

The insurance policies required to be held under this clause 12.0 by the User must be effected in the names of, and/or note the respective rights and interests of, the User and AAA and any other person with an insurable interest (including any such person notified to the Aircraft Owner and/or Aircraft Operator by AAA).

## **13.0 CONFIDENTIALITY**

### **13.1 Acknowledgment**

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

### **13.2 Obligation of Confidentiality**

Each party undertakes to the other to keep confidential each other's Confidential Information. Each party must use their best efforts to prevent third parties from gaining access to each other's Confidential Information, other than as permitted under these Conditions of Use. To this end, each party must not, without the other party's prior written consent:

- 13.2.1** disclose or in any way communicate to any other person all or any of the other party's Confidential Information except as permitted by these Conditions of Use;
- 13.2.2** permit unauthorised persons to have access to places where the other party's Confidential Information is displayed, reproduced or stored; or
- 13.2.3** make or assist any person to make any unauthorised use of the other party's Confidential Information, and must take all reasonable steps (including obtaining confidentiality undertakings from officers, employees, agents and contractors who have or may have access to the other party's Confidential Information) to ensure that the other party's Confidential Information is not disclosed to any other person by any of the officers, servants, agents, contractors or sub-contractors of any party.

### 13.3 Permitted Disclosure

Subject to clause 13.4, any party may disclose the other party's Confidential Information to its advisers, employees, officers, agents, contractors or Related Entities on a need to know basis in relation to its rights under these Conditions of Use. Nothing in these Conditions of Use prohibits the use or disclosure of any Confidential Information to the extent that:

- 13.3.1** the Confidential Information is lawfully in the possession of the recipient of the information through sources other than the party who disclosed the Confidential Information;
- 13.3.2** it is required by law or a stock exchange;
- 13.3.3** it is strictly and necessarily required in connection with legal proceedings; or
- 13.3.4** the Confidential Information is generally and publicly available other than as a result of a breach of confidence by the person receiving the information.

### 13.4 Conditions of Permitted Disclosure to Representatives

Each party must ensure that its advisers, employees, officers, contractors, agents, Related Entities and all other persons under its control or direction will comply with obligations similar to, the obligations imposed on it under this clause 13.0.

### 13.5 Notification of Breach

If any party's advisers, employees, officers, contractors, agents, Related Entities or other persons under its control or direction breach the confidentiality obligations contained in these Conditions of Use, it must immediately notify the other party in writing and, subject to clause 13.0, indemnify the other party for any direct Loss or damage caused by such breach.

### 13.6 Damages and Other Remedies

Each party acknowledges that a breach of this clause 13.0 may cause the other party irreparable damage for which monetary damages would not be an adequate remedy. Accordingly, in addition to other remedies that may be available, each party may seek and obtain injunctive relief against such a breach or threatened breach.

### 13.7 Survival after Expiry and Termination

The obligations under this clause 13.0 survive expiry and termination of these Conditions of Use, or cessation of Use of the Airport by the User.

## 13.8 Other Agreements

Nothing contained in clause 13.0 shall detract from or affect the obligations imposed by or arising under any other separate confidentiality agreement or undertaking entered into between the parties.

## 14.0 PRIVACY AND DATA PROTECTION

This clause 14.0 applies only to Personal Information collected, used and disclosed by AAA during the term of this Agreement.

### 14.1 AAA's Obligations

- 14.1.1** AAA will comply with the *Privacy Act 1988* (Cth) in respect of all Personal Information collected under this Agreement.
- 14.1.2** AAA will provide access to an individual's Personal Information held by AAA, to the individual to whom the Personal Information relates, upon reasonable notice to AAA and upon payment of AAA's reasonable expenses relating to providing that access (including photocopying charges), provided that no application fee for requesting access will be charged.

### 14.2 AAA's Rights

The User acknowledges and agrees that AAA:

- 14.2.1** may collect from the User Personal Information which is relevant to AAA's administration and operation of the Airport;
- 14.2.2** may use the Personal Information for purposes related to the purposes described in clause 14.2.1 which may include research by or on behalf of AAA, statistical analysis by or on behalf of AAA, and promotion of the services offered by AAA to third parties including tenants, occupiers and users of the Airport;
- 14.2.3** may be required to collect some of the Personal Information it will collect under this Agreement so that it may comply with its obligations under, or the requirements of, legislation; and
- 14.2.4** may disclose the Personal Information collected under this Agreement for any reason permitted by the *Privacy Act 1988* (Cth).

### 14.3 User Consent

The User consents to AAA using and disclosing any Personal Information provided to AAA under these Conditions of Use for the purposes set out in clause 14.2.

### 14.4 User Acknowledgments

The User acknowledges and agrees that:

- 14.4.1** it must, if providing the Personal Information of someone other than itself to AAA as required by these Conditions of Use, comply with the *Privacy Act 1988* (Cth) in respect of the collection, use and disclosure of that information (including obtaining relevant consents) and take all reasonable steps to ensure that the relevant individual is aware:
- a) that the disclosure will be made to AAA; and
  - b) of the provisions of clauses **Error! Reference source not found.** and REF\_Ref509242755 \r \h \\* MERGEFORMAT 14.2.
- 14.4.2** To the extent that it shall otherwise be necessary or appropriate the User will comply with the *Privacy Act 1988* (Cth).

## 15.0 AIRPORT SECURITY AND EMERGENCY PROVISIONS

### 15.1 Airport Security

AAA is responsible for security arrangements and emergency response activities at the Airport under the *Aviation Transport Security Act 2004* (Cth), the *Aviation Transport Security Regulations 2005* (Cth) and any instruments or directions and additional security measures which may be imposed on AAA by any competent authority from time to time. The Department is a relevant regulatory authority for the Airport and may impose on AAA certain security requirements. Both the User and AAA must comply with the Department's security requirements for the Airport.

All Users acknowledge that they or their Aircraft may be subject to inspection and screening before accessing, and while present on, the Airside of the Airport.

### 15.2 Avalon Airport Transport Security Program

The Avalon Airport Transport Security Program outlines AAA's requirements for security. The User must comply with the Avalon Airport Transport Security Program.

### 15.3 Aviation Security Identification Card (ASIC)

The User and its employees, agents and contractors must obtain an ASIC before they will be permitted to access and use restricted areas and controlled areas of the Airport. The User and its employees, agents and contractors must display the ASIC above the waist in a visible location on the person at all times while at the Airport and must produce it for inspection by AAA or by any other lawful authority upon request.

Persons without an ASIC who wish to access restricted or controlled areas of the Airport must obtain a [Visitor Card (VIC)] from AAA or a participating organisation (VIC Agent) and be accompanied at all times by an ASIC holder.

Passengers on Aircraft are not required to hold a VIC card if accompanied to and from the Aircraft by a pilot, or other authorised person, holding a valid ASIC card.

### 15.4 Screening Authority for Avalon Airport

AAA is the authorised screening authority for both passenger screening and checked baggage screening at the Airport. The requirements for screening are prescribed by the Department. The User must comply with these screening requirements.

## 16.0 DISPUTE RESOLUTION

Any disputes that arise between AAA and a User that cannot be settled between the parties within a reasonable period (other than disputes entitling a party to proceed for equitable relief) shall be settled as follows:

- 16.1** either party may submit a "notice of dispute" to the other party setting out all reasonable details and particulars of the dispute;
- 16.2** the parties must meet within 10 Business Days of the date of receipt of the notice of dispute and attempt to resolve the dispute on a mutually acceptable basis and for such purpose each party shall nominate a representative authorised to deal with the dispute;
- 16.3** if the dispute is not resolved within 5 Business Days of the first meeting held pursuant to clause 16.2 then the dispute shall be referred to the Airport CEO and the Chief Executive Officer of the User (or persons holding substantially the same office or position) who shall use their reasonable endeavours to resolve the dispute on a mutually acceptable basis; and

- 16.4** if the dispute is not resolved within 5 Business Days of referral to the CEOs (as the case may be) of the parties pursuant to clause 16.3 then the parties shall be entitled to pursue or enforce all of their legal rights and remedies in respect of the subject matter of the dispute.

## **17.0 AIRSHOW OPERATIONS**

- 17.1** The Airshow is held at the Airport every 2 years on every odd year (i.e.: 2017, 2019 etc.).
- 17.2** During the Airshow Period, a number of restrictions are imposed on flying and ground manoeuvring operations. These restrictions will be notified via means that may include, but are not limited to, NOTAM and supplements to the Aeronautical Information Publication (AIP). The restrictions may include, but are not limited to, the following:
- 17.2.1** the closure of various taxiways;
  - 17.2.2** restrictions on the availability of the runway;
  - 17.2.3** restrictions on access to the Airport;
  - 17.2.4** the parking of Aircraft at the Airport;
  - 17.2.5** the unavailability of some navigational aids; and
  - 17.2.6** changes to airspace.
- 17.3** Some Aircraft parked at the Airport may need to be relocated to other parts of the Airport, or another airport, during the Airshow Period (in which case the Airport CEO may issue a direction to the User of those Aircraft in accordance with clause 6.0).
- 17.4** Use of the Airport under these Conditions of Use during the Airshow Period is subject to compliance with such restrictions and requirements.
- 17.5** For more information regarding restrictions during the Airshow Period, please contact the Airport Administration Office during business hours on 1800 282 566.

## **18.0 VARYING CONDITIONS**

- 18.1** AAA may vary these conditions (including by imposing additional Charges or varying existing Charges) at any time, but in doing so must comply with all applicable laws and regulations.

- 18.2** Any variation under 18.1 will take effect from the nominated date, provided that AAA publishes a notice, advising that details of the variation may be obtained from AAA, in a daily newspaper circulating generally in Victoria, and on its website at least 30 days before the nominated date.
- 18.3** AAA may at a User's request vary these conditions as they apply to that User, but that variation must be agreed in writing and must comply with all applicable laws and regulations.

## SCHEDULE 1 – Notification of Aircraft Details

### AVALON AIRPORT AUSTRALIA PTY LTD

ABN 95 118 451 773  
80 Beach Road, LARA VIC 3212  
Telephone: 1800 282 566



Notification of Movement Details for Occasional Users			
<b>Aircraft Details</b>			
Aircraft Registration:			
Aircraft Type:			
Aircraft MTOW:			
<b>User</b>			
Name:			
Address:			
Telephone:		Fax:	
Email:			
<b>Invoice Details (if different to the User)</b>			
Name:			
Address:			
Telephone:		Fax:	
Email:			
<b>General Information</b>			
Arrival Date:		Arrival Time:	
No. of Arriving PAX:			
Departure Date:		Departure Time:	
No. of Departing PAX:			
Parking Required:	YES / NO	PAX Escort:	YES / NO
Additional Services Required:			

#### Note:

The charges (Schedule of Charges) are fixed and recoverable as debt to Avalon Airport Australia Pty Ltd (AAA) under the Victorian Government's *Aerodrome Landing Fees Act 2003* (Vic).

AAA holds the person(s) named on the Certificate of Registration and the User jointly and severally liable for the payment of charges, interest and costs incurred by a User using the Services.

Please refer to clause 7.1.4 of the Avalon Airport Conditions of Use regarding charges and payment of charges.

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## SCHEDULE 2 – Application for Credit

### AVALON AIRPORT AUSTRALIA PTY LTD

ABN 95 118 451 773  
80 Beach Road, LARA VIC 3212  
Telephone: 1800 282 566



Application for Credit			
<b>Applicant Details</b>			
Business type	Proprietary Limited <input type="checkbox"/> Sole Trader <input type="checkbox"/> Partnership <input type="checkbox"/>		
Registered name:			
Trading name (if any):			
ACN		ABN	
Registered address:			
Business address:			
Telephone:		Facsimile:	
<b>Details for Notices</b>			
Registered address:			
Business address:			
Telephone:		Facsimile:	
Email:			
<b>Director / Partner / Sole Trader Details</b>			
Name:			
Residential address:			
Date of birth:		Driver's licence:	
<b>Other Director(s) / Partner(s) Details</b>			
Name:			
Residential address:			
Date of birth:		Driver's licence:	
<b>Other Director(s) / Partner(s) Details</b>			
Name:			
Residential address:			
Date of birth:		Driver's licence:	
<b>Trade References</b>			
Company:			
Contact:			
Telephone:		Email	
Company:			
Contact:			
Telephone:		Email	
Company:			
Contact:			
Telephone:		Email	
<b>Accounts Contact</b>			
Name:			
Telephone:		Email	

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- Attach any further details on a separate page

**By signing this application the Applicant confirms that the information provided is true and correct and that it understands and agrees to the terms set out in this application.**

Confirmation and acceptance			
Signature		Name	
Date		Position	

## PRIVACY ACT ACKNOWLEDGMENT AND CONSENTS

### 1. Acknowledgment

The applicant(s) ('Operator') acknowledge(s) that Avalon Airport Australia has informed me/us in accordance with section 18E(8)(c) of the *Privacy Act 1988* that certain items of personal information about me/us contained in this application or which may be subsequently obtained by Avalon Airport Australia may be disclosed to a credit reporting agency. This information includes, among other things, particulars as to my/our identity, the fact an application for credit was made and the amount of credit sought, details of current providers of credit and details of any credit at least 60 days overdue, discharges, cheques twice dishonoured and serious credit infringements.

### 2. Applicant for credit's consents

The Operator consents:

- (a) to Avalon Airport Australia obtaining from a credit reporting agency a credit report containing personal information about the Operator for the purpose of Avalon Airport Australia:
  - (i) collecting overdue payments in respect of commercial credit provided to me/us (*Privacy Act* Section 18K(1)(h)); and
  - (ii) assessing my/our application for commercial credit on an on-going basis (*Privacy Act* Section 18K(1)(b)); or
  - (iii) assessing my/our application for consumer credit (*Privacy Act* Section 18L(4));
- (b) that Avalon Airport Australia nominated trade insurer (if any) may obtain from a credit reporting agency a credit report containing personal information about me/us to assess the risk of providing insurance to Avalon Airport Australia in relation to my/our application for commercial credit with Avalon Airport Australia (*Privacy Act* 18K(1)(e)); and
- (c) that Avalon Airport Australia may give to and seek from any credit provider named in this application for credit or in a credit report issued by a credit reporting agency information about my/our credit arrangements, including any information about my/our credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to give or receive from each other under the (*Privacy Act* Section 18N(1)(b)).

## SCHEDULE 3 – Schedule of Aviation Charges

### AVALON AIRPORT AUSTRALIA PTY LTD

ABN 95 118 451 773

80 Beach Road, LARA VIC 3212

Telephone: 1800 282 566

#### 1. Regular Public Transport (RPT)

	Description	Passenger charge per arriving and departing passenger (excl. GST)	Landing Charge per 1,000kg MTOW (pro-rata) (excl. GST)	Aircraft parking charge per hour after first 3 hours (excl. GST)
1.1	Passenger air transport Aircraft utilising the international Terminal	\$20.00	No charge	\$250.00
1.2	Passenger air transport aircraft utilising the domestic Terminal	\$5.00	No charge	\$50.00
1.3	Regular Public Transport aerodrome and infrastructure Charge	N/A	\$8.50 (Minimum charge \$50.00)	N/A

#### 2 Non - RPT Operations with MTOW ≤45,000 kg

	Description	Fee (excl. GST)
2.1	Landing fee (per arrival)	\$22.00 per 1,000kg MTOW (pro-rata) (Minimum charge \$40.00)
2.2	Training Flight fee (for Aircraft that do not touch the runway) per approach	\$30.00
2.3	Training Flight fee (for Aircraft that touch the runway) per touch and go	\$22.00 per 1,000 MTOW (pro-rata)
2.4	Passenger charge per arriving and departing Passenger	\$5.00
2.5	Parking fee per day	\$50.00 per day or part thereof

#### 3 Non - RPT Aircraft with MTOW ≥45,000 kg and Freight Aircraft

	Description	Fee (excl. GST)
3.1	Landing fee (per arrival)	\$8.50 per 1,000kg MTOW (pro-rata)
3.2	Training Flight fee (for Aircraft that do not touch the runway) per approach	\$4.00 per 1,000kg MTOW (pro-rata)
3.3	Training Flight fee (for Aircraft that touch the runway) per touch and go	\$8.50 per 1,000kg MTOW (pro-rata)
3.4	Passenger Charge per arriving and departing Passenger	\$5.00
3.5	Parking fee per day	\$50.00 per day or part thereof after the first three (3) hours

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4 Airside Escort		
	Description	Fee (excl. GST)
4.1	Vehicles or activities operating Airside requiring supervision (08:00 to 18:00 daily)	\$98.00 per hour
4.2	Vehicles or activities operating Airside requiring supervision (18:01 to 07:59 daily)	\$140.00 per hour, where a minimum of 4 hours will be charged for all call outs
4.3	Vehicles or activities operating Airside requiring supervision (Public Holiday)	\$140.00 per hour, where a minimum of 4 hours will be charged for all call outs

5 Airside Environmental Clean-up		
	Description	Fee (excl. GST)
5.1	Where Users are responsible and do not complete their own clean-up to AAA's satisfaction	\$150.00 per hour plus materials and disposal of waste

Other fees may apply for access cards and additional services.

## SCHEDULE 4 – Sale of Aircraft and property

1. If AAA exercises any power of sale under these conditions, AAA may sell or agree to sell a User's Aircraft (and any of its parts or accessories) or other property of the User on the terms and conditions AAA thinks fit. They will include but not be limited to the following:
  - 1.1 the sale may be by public auction, private treaty or by tender, for cash or on credit;
  - 1.2 the sale may be for a price or prices, and any price or prices may be less than market value;
  - 1.3 the sale may be with or without special provisions about title, or time, or means of payment of purchase money, or otherwise; and
  - 1.4 the sale may allow the purchase money to remain secured by a mortgage or charge over the property sold, or secured by other security, or without security, and on any other terms, without AAA being responsible for loss.
2. AAA may engage anyone in connection with the sale of a User's Aircraft or any other property as AAA sees fit.
3. AAA may enter into, rescind or vary a contract for sale, and resell without being responsible for loss, and execute assurances of the property sold in a User's name and on the User's behalf.
4. AAA may do anything to complete any sale which AAA considers desirable, and set aside from the proceeds of sale any amount which AAA considers desirable to meet future claims until the possibility of claims being made has ended.
5. Without limiting any other provision of this schedule, in consideration of AAA allowing a User or a User's Aircraft to use the Airport and the Services, the User irrevocably appoints AAA severally as the User's attorney for the purposes of exercising AAA's rights under this schedule including selling or transferring the aircraft (and any of its parts or accessories) or other property of the User's at the Airport.
6. AAA will apply the proceeds of a sale as follows:
  - 6.1 in reimbursing AAA for any costs associated with the sale;
  - 6.2 in or towards the satisfaction of any outstanding Charges;
  - 6.3 if there remains any surplus to the User or anyone else entitled to it.
7. If the proceeds of sale are less than the amount the User owes AAA, the outstanding balance remains owing by the User to AAA according to these conditions, and all of AAA's rights against the User remain unaffected.
8. No one dealing with AAA on a sale of any aircraft (or any of its parts or accessories) or other property of the User's under these conditions is bound to inquire what AAA's rights and powers to deal in that way are or whether those rights or powers have been properly or regularly exercised. If AAA have exercised those rights or powers improperly or irregularly no one (other than AAA) is affected and the sale to them is valid.