



**ADELAIDE AIRPORT  
TERMS OF USE**

**EFFECTIVE: 1 July 2019**

## RECITALS

- A. Adelaide Airport Limited (**AAL**) is the airport lessee company and operator of Adelaide Airport under a fifty (50) year lease (together with an option to extend for a further forty-nine (49) years) granted to it by the Commonwealth of Australia and the term commenced on 28 May 1998.
- B. In 2001 the Federal Government implemented a regime of monitoring the prices for Aeronautical Services and revised the regime in 2007.
- C. In accordance with the principles of the prices monitoring regime and with effect and operation from 1 August 2002 AAL has and will supply Aeronautical Services and Government Mandated Services to Aircraft Operators on these Terms of Use.
- D. In consideration of such supply, Aircraft Operators will pay to AAL the Charges specified in these Terms of Use and comply with all of the other obligations imposed upon Aircraft Operators by these Terms of Use.

## TERMS OF USE

### 1. INTERPRETATION

1.1 In these Terms of Use, unless the contrary intention appears:

- 1.1.1 The singular includes the plural and vice versa and words importing a gender include the other genders;
- 1.1.2 Other grammatical forms of defined words or expressions have corresponding meanings;
- 1.1.3 A reference to a clause, paragraph, schedule or annexure is a reference to a clause or paragraph of or a schedule or annexure to this document and a reference to this document includes any schedules and annexures;
- 1.1.4 A reference to a document or Terms of Use, including this document, includes a reference to that document or Terms of Use as novated, altered or replaced from time to time;
- 1.1.5 A reference to 'A\$', '\$A', 'dollar' or '\$' is a reference to Australian currency;
- 1.1.6 A reference to a specific time for the performance of an obligation is a reference to that time in the State, Territory or other place where that obligation is to be performed;
- 1.1.7 A reference to a party includes its executors, administrators, successors and permitted assigns and persons to whom this document is novated;
- 1.1.8 Words and expressions importing natural persons include partnerships, bodies corporate, associations, governments and governmental and local authorities and agencies;
- 1.1.9 A reference to a statute or statutory provision includes:
  - (a) a statutory provision which supplements, amends, extends, consolidates or replaces it; and
  - (b) any applicable orders, regulations, instruments or other delegated legislation; and
- 1.1.10 the word 'including' implies that the immediately following list is not exhaustive and is without limitation.

### 1.2 Definitions/Abbreviations

In these Terms of Use, unless the contrary intention applies:

**AAL** means Adelaide Airport Limited ABN 78 075 176 653, any related corporation of it authorised to provide the Services and where the context otherwise permits or requires the related operations of AAL;

**Aeronautical Charges** means the charges specified in the most recent edition of the document entitled "Schedule of Charges" published on the AAL website from

time to time, which charges are normally reviewed and adjusted annually in accordance with clause 9.

**Aeronautical Services** means the services for the time being and from time to time declared as aeronautical services and facilities pursuant to or for the purposes of the *Airports Regulations 1997* (Cth) (but excluding those services referred to in clause 3.5);

**Aircraft** means and includes fixed wing aircraft, helicopters, balloons powered or un-powered and, their parts and 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 or any person who, with the authority of the holder of the Certificate of Registration for the Aircraft and the written acceptance of AAL, operates that Aircraft when it arrives at or departs from Adelaide Airport (as the case may be);

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

**Aircraft Register** means the register of Australian Aircraft established pursuant to Regulation 8 of the Civil Aviation Regulations;

**Airport** means the physical site known as Adelaide Airport and all adjacent lands and roads leased, operated or controlled by AAL from time to time and as described in Memorandum of Lease No. 8635854 granted to AAL by the Commonwealth;

**Airport Emergency Plan** means a plan developed by AAL to co-ordinate all agencies (and their individual airport emergency procedures) and State or area supporting plans for dealing with an airport emergency;

**Airport Facilities** means the 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 AAL;

**Airport Master Plan** means a plan as detailed in Part 5 Section 3 of the *Airports Act 1996*;

**Airport Operations Manual** means a manual required under the Civil Aviation Regulations in respect of a licensed airport setting out, in the approved form, particulars of and operating procedures for the airport;

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

**Airside** means the movement area of an aerodrome, adjacent terrain and buildings or portions thereof, access to which is controlled as described in Annex 17 to the Convention of International Civil Aviation;

**Air Transport** means a Flight carried out for hire or reward, including any Regular Public Transport Operation, any other domestic scheduled flight operated in accordance to a published timetable where the air service is offered to the public

whether fully loaded, partially loaded or empty, and any Flight where the air service is contracted to another person to provide but does not include empty charter positioning flights;

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

**Certificate of Registration** means a certificate issued pursuant to Regulation 13 of the Civil Aviation Regulations;

**Charges** means collectively the charges for the use of Aeronautical Services (Aeronautical Charges) and for the use of Government Mandated Services (Government Mandated Charges) together with any other amounts that are payable to AAL pursuant to clause 9 of these Terms;

**Closed Charter Operations** means an operation of Aircraft for the carriage of people, or both people and goods, of an air service that:

- (a) is provided for a fee payable by persons using the service;
- (b) is conducted in accordance with fixed schedules to or from fixed terminals over specific routes; and
- (c) is not available to the general public on a regular basis;

**Closed Charter Operator** means a person/company undertaking Closed Charter Operations;

**Civil Aviation Regulations** means the *Civil Aviation Regulations 1988 (Cth)*;

**Claim** means and includes any action, proceeding, demand, cost, charge and expense of whatsoever kind or nature;

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

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

- (c) 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 Terms 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

- 4 -

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.

**Consumer Price Index (CPI)** means the Consumer Price Index (All Groups) for Capital Cities published from time to time by the Australian Bureau of Statistics or by the Commonwealth of Australia or by any other body authorized by the Commonwealth of Australia to do so;

**CUTE** means Common User Terminal Equipment;

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

**Domestic Passenger** means a person travelling on the Aircraft Operator's aircraft engaged in Domestic Operations (excluding Infants, Operating Crew and Positioning Crew but including Transfer Passengers, and Transit Passengers) arriving at or departing from Adelaide Airport.

**Final Destination Airport** means the final destination on any Route from Adelaide Airport (non-stop or multi-sector) which can be reached without changing Aircraft and/or flight number;

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

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

**Foreign Aircraft** means an aircraft registered on a national register of aircraft other than the Aircraft Register;

**Freighter** means an Aircraft on which no fare paying passenger is carried and is configured only to carry cargo;

**General Aviation** means all Civil Aviation Operations as defined in the *Air Navigation Act 1920 (Cth)* other than Regular Public Transport Operations;

**Government Mandated Charges** means the charges specified in the most recent edition of the document entitled "Schedule of Charges" published on the AAL website from time to time under the headings:

- (a) Security Charge for International Passengers for Government Mandated Services – includes passenger screening and baggage screening; and
- (b) Security Charge for Domestic and Regional Passengers for Government Mandated Services – includes passenger screening and baggage screening;

**Government Mandated Costs** means the costs that AAL incurs in providing to an Aircraft Operator the Government Mandated Services that are imposed on AAL by the Commonwealth Government, including AAL's own costs in administering the Government Mandated Services;

**Government Mandated Services** means those services which AAL provides to Passenger Transport Operators and other users of the Airport which are mandated

- 5 -

by the Commonwealth Government (in applicable legislation and ministerial or Commonwealth Department directions) or other lawful authority and includes (but are not limited to) the following services:

- (a) airside inspections; and
- (b) Terminal passenger screening; and
- (c) Terminal passenger checked bag screening; and
- (d) other services required by the Commonwealth Government or other lawful authority;

**Ground Handling Services** means the provision of all or some of the following services namely:-

- (a) passenger check-in;
- (b) baggage handling;
- (c) aircraft cleaning and catering;
- (d) aircraft maintenance; and
- (e) in some instances, aircraft engineering;

**Handling Agent** means any person, firm or company appointed by the Aircraft Operator to perform the handling functions or an Aircraft Operator who self handles;

**IATA** means International Air Transport Association;

**Infant** means a person who at the first date of travel is under the age of 2 years and does not occupy his or her own seat on the aircraft;

**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 an Aircraft Operator that involve departure from a point outside Australia or arrival at a point outside Australia of an Aircraft Operator's Aircraft;

**International Passenger** means a person travelling on the Aircraft Operator's aircraft engaged in International Operations (excluding Infants, Operating Crew, Positioning Crew, Transfer Passengers, and Transit Passengers) arriving or departing from Adelaide Airport;

**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 AAL and a reference to the incurring of any expense by AAL;

**Maximum Take-Off Weight (MTOW) Certified** 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 for the purposes of the Civil Aviation Regulations;

**Minister** means the Minister for Infrastructure and Transport or the Australian Commonwealth Government Minister for the time being succeeding to the portfolio of responsibilities of such Minister in relation to Airports;

**NOTAM** means a Notice to Airmen and published under Section 18 of the *Civil Aviation Act 1988 (Cth)*;

**Operating Crew** means Aircraft Operators' employees operating as flight or cabin crew on arriving or departing aircraft at Adelaide Airport;

**Passenger Facility Charge** and **PFC** means the amount specified in clause 9.6 and calculated in accordance with and on the terms specified in **Schedule 7** of these Terms of Use;

**Passengers** means Terminal Passengers, Transfer Passengers and Transit Passengers of Passenger Transport Operators;

**Passenger Transport** means a RPT Operation or Closed Charter Operation;

**Passenger Transport Operators** means a RPT Operator or a Closed Charter Operator;

**Performance Measures** means those measures as detailed in **Schedule 5**;

**Performance Principles** means the principles set out in Clause 2.2;

**Personal Information** has the same meaning as it does under the Privacy Act;

**Privacy Act** means the *Privacy Act 1988 (Cth)*, including the Australian Privacy Principles;

**Privacy Legislation** means any other privacy related statutes, regulations, standards, by-laws, ordinances, subordinate legislation, industry codes of conduct and any government order, decree or other instrument which a Party is required to comply with at law, other than the Privacy Act;

**Positioning Crew** means Aircraft Operators' flight and cabin crew, other than Operating Crew, arriving into or departing from Adelaide Airport on company duty travel for the purposes of positioning for, or returning from, crewing duties;

**Registered** in relation to an Aircraft, means that the Aircraft is registered on the Aircraft Register or is a foreign Aircraft capable of being lawfully flown in Australia;

**Regular Public Transport (RPT) Operation** means an operation of an Aircraft for the purposes of the carriage of people, or both people and goods, of an air service 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; and
- (c) is available to the general public on a regular basis.



**RPT Operator** means a person/company undertaking Regular Public transport Operations;

**Route** means any route from Adelaide Airport to or from a first or final destination airport;

**Schedule of Charges** means the most recent edition of the document entitled "Schedule of Charges" published on AAL's website from time to time;

**Scheduling Period** means that period deemed by the International Air Transport Association (IATA) to cover the Northern Summer Season (April to September) and the Northern Winter Season (October to March);

**Service** means a route operated to or from the Airport to or from another airport;

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

**T1** means the Multi-User Integrated Terminal at the Airport;

**Terminal** means:

- (a) T1; and
- (b) any other building at the Airport from time to time used for the purposes of processing passengers or Regular Public Transport Operations;

**Terminal Expansion Charge** means the charge related to the recovery of the current terminal expansion project to be specified in the Schedule of Charges published on the AAL website from time to time;

**Terminal Passenger** means a Passenger joining or leaving an Aircraft at the Airport;

**Terms of Use** means these Terms of Use (as from time to time amended) upon which AAL provides the Services at Adelaide Airport and charges for the Services and (without limitation) includes the Adelaide Airport Supplementary Terms of Use for Passenger Facility Charge as specified in **Schedule 7**;

**Transfer Passenger** means a Passenger identified by Handling Agents who arrives at the Airport by one Aircraft and departs the Airport on another Aircraft and is treated as a Terminal Passenger;

**Transit Passenger** means a Passenger who arrives in and departs from the Airport on the same Aircraft or an aircraft with the same flight number;

**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 and discharging or taking on passengers and/or cargo;

## 1.3 Headings

Headings are for ease of reference only and do not affect the meaning of this document.

## 2. AAL'S SERVICE PHILOSOPHY

### 2.1 AAL's service philosophy

To be a top tier Airport Business Centre in Asia Pacific, recognised for delivering exceptional outcomes to our customers, partners, shareholders and community. To achieve this goal AAL adopts a partnering approach in its dealing with its stakeholders with the intention of and commitment to achieving mutually acceptable outcomes.

### 2.2 Performance principles

AAL applies the following performance principles to its activities and development of Adelaide Airport:

- 2.2.1 to deliver high quality facilities and services that are regarded as top tier in the Asia Pacific, safe, secure and sustainable;
- 2.2.2 provide a comfortable and friendly environment to the travelling public;
- 2.2.3 continue to improve Airport Facilities and Aeronautical Services in accordance with the Airport Master Plan;
- 2.2.4 ensure that a high standard of cleanliness of public areas and facilities is maintained by AAL contractors, tenants and concessionaires;
- 2.2.5 maintain the highest environmental standards practicable while balancing economic development;
- 2.2.6 ensure compliance with occupational health and safety standards in place from time to time;
- 2.2.7 respond quickly to enquiries; and
- 2.2.8 continue to work closely with Aircraft Operators and their representative organisations, government agencies, individually and through the Airline Operators Committee, to ensure that Terminal facilities and services are supplied and allocated in a mutually beneficial and equitable manner and with the public's best interests in mind.

### 2.3 AAL's Commitment

AAL's commitment to the Performance Principles set out in clause 2.2 and the Performance Measures detailed in **Schedule 5**, applies to the whole of Adelaide Airport and it is AAL's intent to operate a safe, secure and efficient Airport providing quality facilities and services to the general public, travellers, Aircraft Operators, government agencies and associated businesses. AAL regards the establishment of the general Performance Principles and Performance Measures as essential to the successful delivery of quality customer service.

### 2.4 AAL's Commitment to Consultation

AAL proposes to meet with an Passenger Transport Operator's senior management, or its representative organization, at least annually (but more often if

the Passenger Transport Operator so wishes) to discuss the plans and development for Adelaide Airport and the performance outcomes.

AAL proposes to discuss with the Passenger Transport Operator its plans for business development at or relating to Adelaide Airport and the aircraft passenger and freight services which the Passenger Transport Operator will be offering from Adelaide Airport.

## 2.5 Reason for Performance Measures

The Performance Measures will act as benchmarks against which results will be assessed in order to identify the underlying causes or trends (whether negative or positive) and to obtain from all relevant agencies or organizations the requisite support for and response to such results.

## 2.6 Performance Measures are identified

AAL's approach to quality of service monitoring, including the Performance Measures, is similar to and exceeds the required statutory quality of service monitoring administered by the Australian Competition and Consumer Commission (**ACCC**) in accordance with Part 8 Division 4 of the *Airports Act 1996 (Cth)*.

## 2.7 Aeronautical Services reflect AAL investment in Adelaide Airport

The quality of Adelaide Airport Aeronautical Services will largely be determined by the efficacy of the long-term investments that AAL makes.

It is therefore important for stakeholders to appreciate that provision of quality Aeronautical Services to Aircraft Operators and passengers is dependent upon AAL being appropriately and fairly funded through the Aeronautical Charges.

## 2.8 How AAL conducts the Measures

From time to time at the end of Scheduling Periods, AAL will survey a representative sample of all passengers and other users of Adelaide Airport to determine the level of satisfaction across a range of Performance Measures as detailed in **Schedule 5**.

Provided that AAL gives an Passenger Transport Operator at least 7 days prior notice that it is intended to access an Passenger Transport Operators leased or licensed areas at Adelaide Airport and that such access does not interfere with an Passenger Transport Operators business activities, an Passenger Transport Operator will allow AAL access to the leased or licensed areas to undertake such survey and other research as is considered reasonably necessary to measure passenger or other user satisfaction.

In measuring passenger and other user's satisfaction with the standard of service provided at Adelaide Airport, respondents may be interviewed and asked to rate their level of satisfaction with the Performance Measures on a scale from one to five, where one is very poor and five is excellent as shown below.

1	2	3	4	5
Very poor	Poor	Satisfactory	Good	Excellent

AAL will also consult with Passenger Transport Operators to determine the most appropriate methods of conducting research and the services that AAL will provide to users of Adelaide Airport that will be the subject of the research.

## 2.9 General relationship principles

AAL will operate Adelaide Airport and discharge its responsibilities to an Aircraft Operator having regard to the following principles:

- 2.9.1 AAL will take all reasonable steps to treat an Aircraft Operator with courtesy and respect;
- 2.9.2 AAL will act reasonably to answer all correspondence, questions and inquiries promptly;
- 2.9.3 Relevant AAL representatives can be contacted by telephone, facsimile, in person or electronically during normal business hours. Some of AAL's key personnel are contactable 24 hours a day 7 days a week if required;
- 2.9.4 AAL respects an Aircraft Operators right to privacy and confidentiality and will comply with the Privacy Act 1988 and other applicable laws as those laws relate to the protection of an Aircraft Operators Personal Information; and
- 2.9.5 AAL will take all reasonable steps to act and discharge its duties with professionalism in a spirit of open and honest communication, striving for mutually agreeable outcomes wherever possible.

## 3. FACILITIES AND SERVICES TO BE PROVIDED BY AAL

### 3.1 Use of Adelaide Airport

- 3.1.1 All airlines and Aircraft Operators who use Adelaide Airport are subject to these Terms of Use (as amended from time to time) unless AAL has agreed different conditions with an Aircraft Operator.
- 3.1.2 Notwithstanding that an Aircraft Operator has not executed an agreement embodying these Terms of Use, by using Adelaide Airport or any of the services and facilities at Adelaide Airport, the Aircraft Operator shall be deemed to have accepted and be bound by these Terms of Use (and any amendments thereto) and shall be deemed to have agreed to comply with all of AAL's rules and reasonable directions in relation to the Use of the Airport.

### 3.2 Delivery of Services

AAL will supply Aeronautical Services and Government Mandated Services to an Aircraft Operator:-

- 3.2.1 in accordance with:
  - (a) these Terms of Use;
  - (b) all applicable laws and regulations;

- (c) service levels in the form of the Performance Measures or, in the case of Government Mandated Services, as required by the Commonwealth Department or the relevant authority;

3.2.2 with all due care and skill; and

3.2.3 otherwise in a manner consistent with industry best practice for a leading domestic and international airport.

### 3.3 **Applicable Costs**

The Aeronautical Services and Government Mandated Services will be paid for in accordance with Clause 9 at the rates specified in the Schedule of Charges.

### 3.4 **Other Airport Services and Charges**

These Terms of Use do not cover or apply to the provision of other airport services provided by AAL or the recovery of costs and charges for these services. Other airport services are available for use from AAL on separate commercial terms and at commercial rates.

### 3.5 **Excluded Services**

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

- 3.5.1 terminal navigation services; or
- 3.5.2 rescue and fire fighting services; or
- 3.5.3 en-route services; or
- 3.5.4 meteorological services; or
- 3.5.5 ground handling services; or
- 3.5.6 engineering services.

### 3.6 **Variations to Terms of Use**

AAL reserves the right to change these Terms of Use whenever AAL considers it is necessary or desirable to do so.

Any proposed changes to these Terms of Use will be notified on AAL's website and shall become effective at the date of uploading such changes.

If you are an Passenger Transport Operator or other user of the Aeronautical Services or Government Mandated Services at Adelaide Airport, AAL will endeavour (but without any legal obligation to do so) to give you notice of any proposed changes to these Terms of Use by email or other means.

In the case of emergency or in any case where the safety or security of the Airport or the public is effected, AAL reserves the right to change these Terms of Use with immediate effect.

For all Passenger Transport Operators and other users of Adelaide Airport, if you continue to use Adelaide Airport after AAL has notified you of the changes or after publication of the changes on AAL's website, this will constitute acceptance by the user of the changes to these Terms of Use.

In order to remove doubt, this clause 3.6 does not restrict or limit AAL's right to change the Aeronautical Charges and Government Mandated Charges in accordance with clause 9 of these Terms of Use.

### **3.7 Requirement to Pay**

3.7.1 The Operator is liable to pay the charges as per Clause 9 if the Operator uses the Airport.

3.7.2 Without limiting clause 3.7.1, AAL will use reasonable endeavours to notify the Operator of changes to these Terms of Use. The parties acknowledge and agree that making these Terms of Use reasonably accessible by the Operator on the AAL website will be sufficient to constitute notification by AAL under this clause 3.7.2.

### **3.8 CUTE & CUSS**

3.8.1 If AAL, at its discretion, installs a Common User Terminal Equipment (CUTE) solution or Common User Self Service (CUSS) solution in any of the Terminals, Passenger Transport Operators must access their respective Departure Control System (DCS) via CUTE solutions or the CUSS solution if so required by AAL.

3.8.2 If a Passenger Transport Operator fails to access and use the CUTE solution or CUSS solution in accordance with this clause, AAL shall be entitled to issue a written notice requiring the RPT Operator to access and use the relevant solution within a reasonable period of not less than fourteen (14) days from the date of the notice.

### **3.9 Thunderstorm Management System**

If AAL provides a Thunderstorm Management System, it does so with no warranty that the system will be accurate and up to date and AAL is not liable for any reliance an Aircraft Operator may have on this Thunderstorm Management System. Aircraft Operators are responsible for their own thunderstorm management.

## **4. OBLIGATIONS OF THE PARTIES**

### **4.1 Use of Adelaide Airport**

The Use of Adelaide Airport is subject to compliance by the Aircraft Operator with:

4.1.1 local flying restrictions including the requirements of the Civil Aviation Act 1988, the Civil Aviation Regulations, the Air Navigation Act 1920, the Aviation Transport Security Act 2004, the Air Navigation Regulations and Aircservices Australia publications such as Aeronautical Information Publications, En route Supplements and Notices to Airmen;

4.1.2 conditions, instructions, orders or directions published from time to time by AAL including these Terms of Use; and

- 4.1.3 directives on security of airports and aircraft issued by the Commonwealth Department.

## 4.2 The Operator:

An Aircraft Operator must also comply with the following matters as amended from time to time:

- 4.2.1 the Adelaide Airport Operations Manual;
- 4.2.2 the Adelaide Airport Security Program and the Adelaide Airport Emergency Plan; and
- 4.2.3 AAL's reasonable insurance policy requirements set out in clause 14;
- 4.2.4 all applicable laws and regulations;
- 4.2.5 any restrictions on flying operations that may be in place from time to time by the relevant statutory authority;
- 4.2.6 reasonable safety and security directions notified by AAL from time to time and necessary for the day to day operation of Adelaide Airport, and if reasonably possible, AAL will consult with Aircraft Operators and try and give reasonable notice of any such directions;
- 4.2.7 environmental and safety directions notified by AAL from time to time and including (but not limited) to ground running rules, bird and wildlife strike reporting and fuel and oil spill reporting and management;
- 4.2.8 Civil Aviation Safety Authority and Airservices Australia rules and regulations;
- 4.2.9 the requirement to obtain and observe the relevant operator licences issued by AAL which include, but are not limited to, airside licences, airside driving licences and ASIC (Aviation Security Identification Card);
- 4.2.10 any directions on security issued by the Commonwealth Department or any other law enforcement authority;
- 4.2.11 any noise management procedures or regulations in place from time to time by the relevant statutory authority;
- 4.2.12 the applicable environmental laws or regulations including, but not limited to, the Adelaide Airport Environmental Strategy approved by the Minister under the Airports Act 1996 (Act); and
- 4.2.13 occupational health and safety laws or regulations in place from time to time.

## 4.3 Breach of Confidentiality

AAL need not give an Aircraft Operator information if that would breach a confidentiality obligation that AAL has or a law or relevant security restriction. If AAL gives an Aircraft Operator this information and asks that it keep it on a secure basis and only disclose it to authorised personnel, the Aircraft Operator must comply with this request.

An Aircraft Operator must keep AAL up to date with changes in contact details.

#### 4.4 **Use of Common User facilities**

Currently, all runways, taxiways and aprons at Adelaide Airport including, T1 and the General Aviation Terminal are Common User facilities. An Aircraft Operator will be expected to use the common user facilities in accordance with these Terms of Use. All new Aircraft Operators will be treated fairly in the consultation and negotiation of the use of these facilities. For the avoidance of doubt, Aircraft Operators will be allocated aprons for aircraft parking or any other purpose at Adelaide Airport at AAL's absolute discretion. Prior use is no indication of future use. Apron parking will be subject to Aeronautical Charges.

#### 4.5 **Ground handling**

Any Aircraft Operator is permitted to undertake its own Ground Handling Services. In that event the Aircraft Operator will need to consult and negotiate commercial terms and conditions with AAL for the provision of necessary space and support services.

#### 4.6 **Closed Charter Operations & Freighters**

When landing and taking off at Adelaide Airport, all Closed Charter Operations and Freighters must operate through the Terminal unless AAL provides its consent otherwise in writing.

### 5. **PRIORITY OF USE OF THE AIRPORT**

#### 5.1 **Access**

Adelaide Airport will provide access to an Aircraft Operator as described in these Terms of Use, in accordance with its lease conditions and with the law. In providing an Aircraft Operator with access AAL will take reasonable steps to apply the following guidelines:

- 5.1.1 AAL will provide access to an Aircraft Operator and other prospective users, to Adelaide Airport on these Terms of Use as amended from time to time;
- 5.1.2 AAL will provide to an Aircraft Operator and other prospective users of Adelaide Airport information that will enable them to identify and negotiate with AAL the timing of access, service levels relating to such access, cost of access and other reasonable commercial terms of access to prepare an application or proposal for access (as a variation to the Terms of Use if that shall be appropriate for the specific circumstances); and
- 5.1.3 AAL wishes to encourage and support access by third parties to Adelaide Airport provided that such access does not in any way compromise the safe and secure operation of Adelaide Airport and such access is consistent with AAL's current and future planning, in particular, the Airport Master Plan approved from time to time by the Minister under the Airports Act 1996.



## 5.2 Unplanned interruptions and shutdowns

AAL may close or be directed to close Adelaide Airport or part of Adelaide Airport or interrupt or shutdown a service or facility at any time if required by law or if AAL believes it necessary to deal with an emergency or an airport security incident. AAL will use all reasonable endeavours to:

- 5.2.1 give the Aircraft Operator reasonable notice of a closure or interruption in these circumstances, but the Aircraft Operator acknowledges that in some circumstances this may not be possible; and
- 5.2.2 minimise the effect of any such unplanned closure, interruption or shutdown on the Aircraft Operator.

## 5.3 Planned interruptions and shutdowns

AAL may close Adelaide Airport or part of Adelaide Airport or interrupt or shutdown a service or facility at any time if AAL believes it necessary for repair, maintenance of the Airport Facilities or because of building or construction work occurring on the Airport. In such cases, AAL will wherever it is reasonably possible to do so:

- 5.3.1 when applicable, issue a Notice to Airmen (NOTAM);
- 5.3.2 consult, and agree a project plan, with Aircraft Operators;
- 5.3.3 give prior notice by e-mail or other means of such a closure or interruption; and
- 5.3.4 use reasonable endeavours to minimize the effect of any such closure or interruption upon Aircraft Operators.

## 5.4 Liability for planned or unplanned interruptions and shutdowns

AAL will not be liable for any loss or damage the Aircraft Operator may suffer as a direct or indirect consequence of a planned or unplanned closure, interruption or shutdown.

## 5.5 Interruptions by Aircraft Operators

- 5.5.1 If in the reasonable opinion of AAL, an Aircraft Operator's aircraft, equipment, facilities or activity will or may interrupt or compromise the safe and/or viable operation of the Airport, AAL may remove, cause to be removed or direct the Aircraft Operator to remove those aircraft, equipment, or facilities or direct or cause the cessation of those activities. The Aircraft Operator will indemnify and keep indemnified AAL from any Loss which AAL may pay, suffer or incur as a result of AAL taking such action.
- 5.5.2 The discretion conferred on AAL by this clause will entitle AAL to take whatever steps may be reasonably necessary and as expeditiously as possible to maintain the safety of the Airport.
- 5.5.3 In the exercise of the rights conferred on AAL pursuant to clauses 5.5.1 and 5.5.2, AAL shall, whenever possible, act in accordance with the Airport Operations Manual.

## 6. ADELAIDE AIRPORT SCHEDULING RULES

### 6.1 AAL may make and change Scheduling Rules

AAL may make Scheduling Rules for the use of Adelaide Airport Aviation Services. The current Scheduling Rules are those set out in **Schedule 2**. AAL may change the Scheduling Rules at any time to take effect on a date that AAL will specify, in accordance with clause 6.2.

### 6.2 How AAL will change Scheduling Rules

6.2.1 If AAL proposes to change the Scheduling Rules applicable from time to time in relation to International Flights, AAL will first consult with the Aircraft Operators affected by the proposed change and seek their comment and submissions regarding the proposed change. After due consideration of any comments and submissions, and variation to the proposed change if considered appropriate by AAL, AAL will submit the change to the Airport Facilitation Committee for ratification.

6.2.2 If AAL proposes to change the Scheduling Rules applicable from time to time in relation to Domestic Flights, AAL will first consult with the Aircraft Operators affected by the proposed change and seek their comment and submissions regarding the proposed change. After due consideration of any comments and submissions, and any variation to the proposed change if considered appropriate by AAL (and subject to any legally binding obligations to the contrary on AAL), AAL will submit the change to the Airport Facilitation Committee or an alternative appropriate committee for ratification.

### 6.3 Compliance with Scheduling Rules

The Aircraft Operator agrees to comply with the Scheduling Rules at all times and the reasonable directions of AAL officers, employees, agents and contractors provided that they are acting in accordance with the Scheduling Rules.

### 6.4 IATA Schedule Co-ordinated Airport

T1 is an IATA Schedule Co-ordinated Airport for International Operations and Domestic Operations and as such Airlines and Aircraft Operators should have an allocated slot through Airport Co-ordination Australia Pty Ltd ACN 082 075 901 before Scheduling Rules are applied.

## 7. CONSULTATION

AAL agrees to meet and or consult with all users of the Services as often as reasonably required, and in addition to existing statutory or regulatory obligations, to discuss matters which may have a material effect on Airport Facilities and Airport Services including but not limited to:-

7.1 master plans;

7.2 land use planning and property development;

7.3 terminal development;

- 7.4 capital expenditure programs;
- 7.5 customer service standards;
- 7.6 environmental strategies and plans;
- 7.7 safety and security requirements and initiatives;
- 7.8 fleet mix and scheduling programs;
- 7.9 slot management and on time performance;
- 7.10 statistical data for planning purposes; and
- 7.11 facilitation and processing requirements.

## 8. INFORMATION SHARING

### 8.1 Information to be provided to AAL

The Aircraft Operator shall furnish to AAL, in such form as AAL may from time to time reasonably determine, information relating to the Aircraft Operator's Use of the Airport Facilities and Airport Services.

### 8.2 Why AAL needs statistical information

The statistical information the Aircraft Operator provides to AAL under this clause is extremely important to AAL. It is required, not just for the purposes of calculating Aeronautical Charges and Government Mandated Charges, but also to provide statistical data to assist AAL to monitor growth in activity and efficiently manage Adelaide Airport. It will also assist AAL in its future planning and to ensure that the Aircraft Operator's future needs are catered for.

### 8.3 For occasional users

If an Aircraft Operator will be using Adelaide Airport once or occasionally then before such Aircraft Operator arrives (or as soon as practicable after arrival) such Aircraft Operator must complete and give AAL by hand delivery, fax or e-mail the information set out on the form in **Schedule 1 Part 1**. The Aircraft Operator must also provide the information required in **Schedule 3** for each individual Flight.

### 8.4 For regular users

If an Aircraft Operator is a regular user of Adelaide Airport, to the extent that such information has not already been provided, an Aircraft Operator will provide AAL with (by mail, hand delivery, fax or e-mail):

- 8.4.1 the information required by the form set out in **Schedule 1 Part 1 and Part 2** (or such other form that is agreed); and
- 8.4.2 reasonable evidence that an Aircraft Operator has security procedures that comply with AAL security requirements and applicable laws; and
- 8.4.3 reasonable evidence that an Aircraft Operator has emergency procedures that comply with Adelaide Airport emergency plans and applicable laws; and

8.4.4 the names, addresses, telephone numbers, facsimile numbers and all other contact details for an Aircraft Operator's key personnel to ensure that AAL is able to contact an Aircraft Operator at any time during the day or night in respect of any emergency, security matters or operational matter with respect to an Aircraft Operator's use of Adelaide Airport. AAL will comply with all privacy obligations in relation to this Personal Information of an Aircraft Operator's key personnel; and

8.4.5 The provision of other information as per Clause 8.5 and the information required in **Schedule 3** which is to be consolidated on a calendar monthly basis and provided to AAL within five (5) business days after the end of each calendar month.

An Aircraft Operator must use their best endeavours to promptly notify AAL of any changes to their information (including changes to Flight schedules).

## 8.5 Other information

AAL and Passenger Transport Operators and their representative organisations shall meet biannually to discuss and review the information requirements of AAL with a view to ensuring that Passenger Transport Operators continue to provide to AAL in a timely and meaningful fashion information which is essential to AAL efficiently running its operations and to achieving mutually acceptable parameters with respect to the provision of such information.

A Passenger Transport Operator shall furnish to AAL, in such form as AAL may from time to time reasonably require, further information (if the Passenger Transport Operator ordinarily collects such information and it is readily accessible) relating to the Passenger Transport Operator's Use of the Airport's Services including (but not limited to):

### 8.5.1 Traffic Information

(a) Passengers carried by Route:

- (i) preferably weekly (minimum monthly);
- (ii) noting daily variations;
- (iii) seasonal trends;
- (iv) reporting profiles;
- (v) baggage per passenger (average);
- (vi) percentage of passengers without baggage;
- (vii) meeter/greeter ratios (if known);
- (viii) transfer component over Adelaide Airport Limited mix by class if possible; and
- (ix) number of infants, wheelchair passengers etc.

(b) relative position/percentage growth in relation to other airports;

- (c) freight/mail statistics (details as for passengers above if possible); and
- (d) flight specific information.

## 8.5.2 Environmental Issues

Commitment to discuss new targets:

- (a) use of 400hz at night;
- (b) track keeping;
- (c) noise generation;
- (d) fuel/oil spills; and
- (e) food/litter control.

## 8.5.3 Product

Early notification of contemplated changes in:

- (a) aircraft type changes; and
- (b) new technical systems, security procedures, etc.

## 8.5.4 Surveys

Agreement to share information including:

- (a) access to relevant airport information in Aircraft Operator's survey; and
- (b) reasonable access to Operator's passengers for AAL surveys with prior notice.

## 8.6 Method of delivery of information

An Aircraft Operator must provide AAL with the information requested in Clause 8.5, **Schedule 1 and Schedule 3**:

- 8.6.1 if appropriate, by e-mail to our e-mail address (we prefer this method where possible); or
- 8.6.2 in writing delivered or faxed to our office; or
- 8.6.3 electronic file transfer; or
- 8.6.4 by any other means that we agree with an Aircraft Operator.

## 9. PAYMENT OF CHARGES

### 9.1 Payment of charges

- 9.1.1 It is a condition of use that an Aircraft Operator pays the Charges relating to its use of the Services. The Charges are set out in the Schedule of Charges.
- 9.1.2 All Charges accrue from day to day and, unless otherwise agreed in writing by AAL, are payable to AAL before the Aircraft departs from the Airport.
- 9.1.3 All Charges are to be settled in Australian dollars prior to the aircraft departing the Airport.
- 9.1.4 An Aircraft Operator may elect, by agreement with AAL, and entirely at AAL's discretion, to incur Aeronautical Charges on a MTOW or Passenger basis, which basis is then fixed for the ensuing twelve (12) month period.
- 9.1.5 AAL shall at its own cost be entitled at any time to have an independent audit undertaken to determine that the basis of such Aeronautical Charges (whether by MTOW or by Passenger) is accurate.

### 9.2 Liability and Lien for the Charges

- 9.2.1 The Charges are fixed and recoverable as a debt due to AAL under the Aerodrome Fees Act 1998 (SA).
- 9.2.2 The Aircraft Owner and Aircraft Operator are jointly and severally liable for the payment of all Charges, interest and costs incurred by an Aircraft Operator using the Services.
- 9.2.3 In addition to any security interest that arises in favour of AAL under a law of the Commonwealth, a State or a Territory of Australia or by operation of the general law, the Aircraft Operator grants to AAL a lien:
  - (a) over each Aircraft which may be in AAL's possession or under AAL's control within the meaning of clause 9.2 of these Terms as security for the payment now or in the future by the Aircraft Operator of the Charges including without limitation, all charges, moneys and liabilities due to AAL under these Terms of Use in respect of all Aircraft used by the Aircraft Operator and whether or not invoiced by AAL;
  - (b) and such lien is immediately created upon any Charges falling due and payable by the Aircraft Owner and Aircraft Operator under these Terms of Use;
- 9.2.4 AAL shall not, in exercising its lien including but not limited to the exercise of any power of sale, be liable or responsible for any neglect, loss or damage to or in respect of any Aircraft howsoever caused.
- 9.2.5 AAL shall have a power of sale in respect of any Aircraft subject to the lien and for that purpose AAL shall have power to carry out maintenance and repairs to the Aircraft and incur costs referable to the sale of the Aircraft.

Any costs incurred by AAL pursuant to this clause will be recoverable from the Aircraft Owner and Aircraft Operator and are also secured by way of the lien established pursuant to clause 9.2 and any other lien in favour of AAL however the same is established;

9.2.6 The Aircraft Owner and Aircraft Operator irrevocably appoints AAL and each director and officer of AAL (each an Attorney) jointly and severally as its attorney in the name of the Aircraft Owner and Aircraft Operator and on its behalf to do everything necessary or expedient to:

- (a) execute and deliver any documents, instruments, certificates, applications or forms; and
- (b) to represent the Aircraft Owner and Aircraft Operator before any governmental entity, agency, department or public authority in Australia including, without limitation, the Civil Aviation Safety Authority, Air Services Australia, the Department of Transport and Communications and the Australian Customs Service;

in order to:

- (c) obtain deregistration of the Aircraft from, or to attempt or vary the information relating to the Aircraft on, the register of Australian aircraft or any successor or replacement register maintained by the Australian Civil Aviation Safety Authority or Air Services Australia or their successors;
- (d) give effect to any lien in favour of AAL in respect of the payment of the Charges and in respect of the exercise of any rights granted in favour of AAL by clause 9 of these Terms; or
- (e) export the Aircraft from Australia, including all things necessary to register the Aircraft in another jurisdiction.

9.2.7 The Aircraft Owner and Aircraft Operator agree, at their cost in all things, to do anything (such as ratifying action of the Attorney, obtaining consents, signing and producing documents, getting documents completed and signed and supplying information) which AAL asks and considers required for the purposes of:

- (a) ensuring that the lien is enforceable, perfected and otherwise effective to the maximum extent possible so as to secure payment to AAL of the Charges;
- (b) enabling AAL to apply for any registration, complete any financing statement (on the Personal Property Securities Register or otherwise) or give any notification, in connection with the lien so that AAL has the priority it requires; or
- (c) enabling AAL to exercise rights in connection with the lien.

9.2.8 The Aircraft Owner and Aircraft Operator each agree to pay or reimburse the reasonable costs of AAL in connection with anything required to be done under this clause and to indemnify each Attorney for any Loss arising from exercise of powers under the power of attorney and the

Aircraft Owner and Aircraft Operator authorises AAL to deduct all such costs, in addition to any monies already owed by the Aircraft Owner or Aircraft Operator to AAL from the proceeds of sale of the Aircraft.

- 9.2.9 The Aircraft Operator acknowledges and agrees that an Aircraft shall be in the possession and control of AAL for the purposes of clause 9.2.3 if the Aircraft is situated at the Airport or otherwise in the possession or control of AAL.

### 9.3 Investment in Aeronautical Services

- 9.3.1 Minor investments in Aeronautical Services have been taken into account by AAL in setting the Aeronautical Charges and are not subject to adjustment due to any under or over payment of expenditure by AAL on minor investments in Aeronautical Services.
- 9.3.2 If AAL decides to make a major investment in Aeronautical Services, AAL may increase the Aeronautical Charges at such time in its discretion.
- 9.3.3 Without limiting clause 9.3.2, AAL will use reasonable endeavours to notify the Operator of changes to the Aeronautical Charges. The parties acknowledge and agree that making details of the Aeronautical Charges reasonably accessible by the Operator on the AAL website will be sufficient to constitute notification by AAL under this clause 9.3.3.

### 9.4 Annual CPI Adjustment

The Aeronautical Charges will be adjusted annually as at either 31 March or 30 June each year (or any other date to be determined at the election of AAL in its discretion) (**the Adjustment Date**) in direct proportion to any increase in the CPI for the 12 month period between the CPI for the quarter ending immediately before the relevant Adjustment Date and the CPI for the quarter ending immediately before the Adjustment Date in the immediately preceding year.

### 9.5 Review of Aeronautical Charges Every Five (5) Years

- 9.5.1 The Aeronautical Charges will be reviewed and adjusted every five (5) years.
- 9.5.2 The next review of the Aeronautical Charges is due to be undertaken and finalised by 1 July 2022 (or such later date as may be published on the AAL website from time to time) and the Aeronautical Charges will be reviewed again on every 5th anniversary of that date (Review Date).
- 9.5.3 Any review of the Aeronautical Charges will be undertaken and determined having regard to the pricing model which AAL uses to reset the Aeronautical Charges and any other relevant factors as determined by AAL after consultation with the Passenger Transport Operators and users of Adelaide Airport. The review and determination will also take into account changes in actual and/or forecast numbers for the following pricing variables, namely:
- (a) aircraft passenger numbers, movement numbers and landed tonnes at Adelaide Airport;



- (b) capital (CAPEX) costs in relation to any relevant infrastructure and facilities;
  - (c) operational (OPEX) costs in relation to any relevant infrastructure and facilities;
  - (d) weighted average cost of capital to the extent of changes in the benchmark rate which AAL originally used to set the Aeronautical Charges.
- 9.5.4 Any review of the Aeronautical Charges will be undertaken and determined as at 31 March in the relevant year and any adjustment to the Aeronautical Charges will take effect as at and from 1 July in the relevant year or such other date as may be determined and notified by AAL in its discretion.
- 9.5.5 Prior to each Review Date, AAL will consult with the significant Passenger Transport Operators, the Board of Airline Representatives of Australia (BARA) and any other significant users of the Airport and where appropriate (as determined by AAL in its reasonable discretion) will supply such parties with a report which contains the preliminary calculation of the new Aeronautical Charges to take effect from the next Review Date. The relevant report will include an update of proposed aeronautical charges to take account of any changes in pricing having regard to AAL's pricing model and any other factors specified in clause 9.5.3 together with appropriate substantiation of those charges.
- 9.5.6 Passenger Transport Operators and other significant users of AAL will be given the opportunity to consider the preliminary report and make submissions to AAL in relation to any pricing, accounting or other matters which should be taken into account by AAL in preparation of the final report and final determination of the New Aeronautical Charges.
- 9.5.7 AAL will consult in good faith with any Passenger Transport Operator or other significant user of the Airport who expresses concerns or disagrees with the preliminary report with a view to resolving such concerns or disagreements if reasonably practicable.
- 9.5.8 At least one (1) month before the next Review Date (or such other period as may be mutually agreed), AAL will notify all users of the changes to the Aeronautical Charges to apply from the next Review Date by publication of the amended Schedule of Charges on the AAL website. The varied Aeronautical Charges set out in that notice will take effect from the next Review Date specified in that notice. In addition, AAL will endeavour (but without any obligation to do so) to notify each RPT Operator and other significant user of Adelaide Airport by email or other means of the changes to the Aeronautical Charges to apply from the next Review Date.
- 9.5.9 AAL, may undertake a further review of the Aeronautical Charges within any particular five (5) year period in the event that there is a significant change in any of the assumptions or facts taken into account in determining the Aeronautical Charges at the immediately preceding Review Date including (without limitation):

- (a) if AAL decides to undertake a major investment in infrastructure or services;
- (b) a change in timing for delivery of any major investments; or
- (c) a significant change in actual and/or forecast capital cost (CAPEX).

## 9.6 PFC AND ADDITIONAL PFC

- 9.6.1 It is a condition of use that an Aircraft Operator must pay the Passenger Facility Charge (PFC) in the amount and on the terms specified in the document entitled "Adelaide Airport Supplementary Terms of Use for Passenger Facility Charge" as specified in **Schedule 7** of these Terms of Use.
- 9.6.2 The PFC is in addition to and shall not form part of the Aeronautical Charges from time to time.
- 9.6.3 The amount of the PFC is to be reviewed from time to time in the manner and at the times specified in **Schedule 7**.
- 9.6.4 AAL may introduce and charge additional PFCs if AAL undertakes major expansions of the existing Terminal at the airport or construction of a new or additional Terminal at the airport.

## 9.7 Terminal Expansion Charge

- 9.7.1 From 17 February 2021, the Terminal Expansion Charge will be payable.
- 9.7.2 The Terminal Expansion Charge will be calculated on a per passenger basis and applied on International Passengers only. The Terminal Expansion Charge will reflect the common use principle of new aeronautical areas and will be applied to all airlines with International Operations at Adelaide Airport regardless of whether they operate from the newly developed areas.
- 9.7.3 Notice of the Terminal Expansion Charge will be given three months in advance of commencement and will subsequently be reviewed and adjusted periodically.

## 9.8 Government Mandated Services

AAL administers the Government Mandated Services at Adelaide Airport.

## 9.9 Changes to Government Mandated Charges

- 9.9.1 The Commonwealth Government may change any or all of the following:
  - (a) the Government Mandated Services AAL must provide at Adelaide Airport; and
  - (b) the amount of Government Mandated Costs payable by AAL; and
  - (c) the basis upon which Government Mandated Costs are payable by AAL.

9.9.2 Accordingly, if any of the things mentioned in clause 9.8.1 happen, AAL may change the Government Mandated Charges and shall use reasonable endeavours to notify an Aircraft Operator of such change as promptly as is possible.

9.9.3 If AAL's costs of administering the Government Mandated Services change, AAL may change the Government Mandated Charge and use reasonable efforts to notify an Aircraft Operator of such changes as promptly as possible.

9.9.4 Any change to Government Mandated Charges will be effective as and from the date as notified by AAL.

## 9.10 **Recovery of Government Mandated Costs through the Government Mandated Charges**

AAL will recover Government Mandated Costs from an Aircraft Operator by levying on an Aircraft Operator the Government Mandated Charges. Any under or over recoveries of Government Mandated Costs in any particular year up to and including 30 June in that year, will be adjusted in the following year of the period of operation of the Terms of Use by increasing or reducing Government Mandated Charges for the following year of the period of operation of the Terms of Use.

## 9.11 **AAL's Management of Government Mandated Charges and Government Mandated Services**

9.11.1 AAL will act reasonably to manage the Government Mandated Charges and provide the Government Mandated Services in the most economically efficient and cost effective manner having regard to best practice in the industry and the service levels mandated by the Commonwealth Government.

9.11.2 AAL will take all reasonable steps, where possible, to manage any third party costs and any third party contractors in order to efficiently manage the Government Mandated Charges and provide the Government Mandated Services as competitively as may be reasonably possible.

9.11.3 AAL agrees to consult with Passenger Transport Operators in relation to the ways in which it can manage any third party costs and any third party contractors to efficiently manage Government Mandated Charges and provide the Government Mandated Services.

## 9.12 **A Passenger Transport Operators provision of Government Mandated Services**

If reasonably practicable and permitted by the Civil Aviation Safety Authority (CASA) and the Commonwealth Department, upon reasonable notice by an Passenger Transport Operator, AAL agrees that the Passenger Transport Operator may provide the Government Mandated Services. AAL will not impose Government Mandated Charges on an Passenger Transport Operator to the extent that the Passenger Transport Operator provides the Government Mandated Services to itself.

## 9.13 Invoicing and Payment of the Charges

- 9.13.1 Customer accounts for the Charges are prepared on a monthly basis.
- 9.13.2 The invoice will detail the Charges incurred.
- 9.13.3 A statement of account will also be issued monthly giving details of current invoices, amounts overdue for payment, cash receipts, account adjustments and outstanding balance.
- 9.13.4 Payment of all invoices is required by no later than the 28th day of the calendar month immediately following the date of the invoice for the charges (the Due Date).
- 9.13.5 Payment of an account can be made by direct deposit payable into AAL's bank account, details of which can be obtained from Adelaide Airport Credit Controller or by credit card.
- 9.13.6 Aircraft operated by non-account holders must pay all Charges prior to their departure from the Airport.

## 9.14 Interest and Recovery Costs on Unpaid Charges

- 9.14.1 AAL may charge interest on any Charges which have not been paid in accordance with any written agreement for payment made between AAL and the Aircraft Operator or, in the absence of such agreement, from the Due Date.
- 9.14.2 Interest is calculated on a daily basis from the Due Date until the date for payment of the Charges (both dates inclusive) at the Interest Rate. Interest must be paid by the Aircraft Operator at the same time as the Charges to which the interest payment relates.
- 9.14.3 AAL may recover from the Aircraft Operator any reasonable costs of recovering any unpaid Charges including, without limitation, any reasonable legal fees.

## 9.15 Refusal Of Access

AAL may refuse access to the Airport to all or any aircraft of an Aircraft Owner or Aircraft Operator where either has failed to pay AAL any amount due and payable to AAL by the Due Date and such amount remains outstanding and there is no legal impediment to AAL taking such action.

## 9.16 Right Of Detention

- 9.16.1 For so long as any Charges remain unpaid after the Due Date, AAL shall have the following right to detain and shall have a general possessory 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 Aircraft Operator of that Aircraft at the time when the right of detention is exercised); or

- (b) any other Aircraft in respect of which the person in default of its obligations pursuant to these Terms is the Aircraft Operator at the time when the right of detention and/or lien is exercised.

9.16.2 If the Charges are not paid within 28 days of the date when the detention and/or lien begins AAL may, in any way it thinks fit, sell, remove or otherwise dispose of any Aircraft (referred to in clause 9.15.1), in order to satisfy the Charges.

9.16.3 The right of detention and the right to claim a general possessory 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 AAL at any time when the relevant Aircraft is at the Airport.

9.16.4 All such rights under this clause are in addition to, and do not derogate from, the rights of AAL pursuant to clause 9.2 of these Terms.

## 9.17 **Cross Default**

A breach by an Aircraft Operator under any contractual agreement with AAL will constitute a breach under all agreements between AAL and the Aircraft Operator including these Terms of Use and permit AAL to take any action allowed either by law or agreement for a default.

## 9.18 **Disputed Accounts**

9.18.1 Every effort will be made to settle disputes regarding accounts and if necessary adjust accounts prior to the next invoicing period so that the next statement and invoice will be in order and correct. Invoices are produced at the beginning of each month. Prompt advice of problems will assist in ensuring that any necessary adjustments can be made.

9.18.2 If an Aircraft Operator disagrees with an invoice or asserts that an invoice contains an error then the Aircraft Operator or its appointed Handling Agent must within twenty one (21) days of notification to AAL of the asserted disagreement or discrepancy (or forthwith upon AAL having submitted a written request to the Aircraft Operator or its Handling Agent) provide AAL copies of all the necessary registration particulars of the Aircraft Operator involved to enable verification by AAL of the particulars of the flights of such Aircraft landing at the Airport during the relevant period and such further or other information as AAL may reasonably require for the purpose unless alternative arrangements for resolving any such disagreement or discrepancy have been agreed in writing between the Aircraft Operator and AAL. This provision also applies to the furnishing of copies of extracts from aircraft flight manuals to enable verification of aircraft weight.

## 9.19 **Movement Of Parked Aircraft**

AAL, acting reasonably, may at any time require the Aircraft Operator either to move a parked aircraft to another position, or remove it from the Airport. Failure to comply with the order within the period specified will render the Aircraft Operator liable to a charge equivalent to the landing charge as specified in the Schedule of Charges for every hour or part of an hour during which the aircraft remains in position after the period specified by AAL for the moving or removing of the Aircraft

has expired. Nothing in this clause prevents AAL removing or arranging to be removed any aircraft in accordance with clause 5.5. AAL is not liable for any loss or damage suffered by the Aircraft Operator, including:

9.19.1 losses or damage to the Aircraft Operator's Aircraft; and

9.19.2 claims against the Aircraft Operator by third parties;

directly or indirectly caused by AAL moving or removing the Aircraft Operator's Aircraft unless caused by AAL's negligence or the negligence of AAL's officers, employees, agents or contractors.

## 9.20 **No Set-Off**

Until the Charges including, without limitation, all charges, moneys and liabilities due to AAL under these Terms of Use (**Amount Owing**) have been irrevocably paid and discharged in full, the Aircraft Operator is not permitted in reduction of its liability to pay the Amount Owing to make or claim any set-off against or deduction from the Amount Owing save and except with the express written consent of AAL.

## 9.21 **Navigation, Rescue, En-Route and Meteorological Charges**

The Charges are exclusive of terminal navigation charges, rescue and firefighting charges, en-route charges and meteorological service charges. These charges are levied by Airservices Australia on its own behalf and on behalf of the Commonwealth Department and the Bureau of Meteorology. Charges for the services are payable to Airservices Australia under the relevant regulations. Any queries relating to these charges should be made to Airservices Australia.

## 9.22 **Apron Service Charges**

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

## 9.23 **Parking Charges**

9.23.1 The charges for parking of Aircraft in the light general aviation category are set out in the Charges as specified in the Schedule of Charges.

9.23.2 Where parking follows immediately after a landing, parking charges are calculated from the time of landing, to the time of take-off, less a discretionary allowance for taxiing where an actual time on stand is not available.

9.23.3 The charges for parking of Aircraft in the category of Code "B" or greater is by arrangement with AAL from time to time.

## 9.24 **Rebates**

9.24.1 AAL intends to encourage new business and to grow existing business by providing, at its discretion, a series of rebate incentives which have been formulated on a fair, equitable and even handed basis.

9.24.2 Prior written applications for rebates, which may be considered to be developing the total aviation business at Adelaide Airport, should be made to AAL. The granting of any of the rebates referred to in clause 9.23.1 shall be at the sole and absolute discretion of AAL and the decision of AAL in this regard shall be final and binding on Aircraft Operators.

## 10. FORCE MAJEURE EVENT

### 10.1 Non Performance

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

### 10.2 Notice of Effect of Force Majeure Event

The party claiming benefit of clause 10.1 must:

10.2.1 promptly give written notice to the other party detailing the cause and extent of its inability to perform any of its obligations under these Terms of Use and the likely duration of such non-performance; and

10.2.2 take all reasonable steps to remedy or abate the Force Majeure Event.

### 10.3 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.

### 10.4 No Prejudice

The non performance of obligations pursuant to this Clause 10 will not prejudice the rights of either party against the other in respect of any matter occurring prior to the Force Majeure Event.

## 11. GOODS AND SERVICES TAX (GST)

### 11.1 Definitions

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

### 11.2 Consideration inclusive of GST

Where the consideration payable by the Aircraft Operator under or in connection with a supply by AAL pursuant to these Terms of Use is specifically stated to be inclusive of GST (for example, the prices shown in the Schedule of Charges), clauses 11.4 and 11.5 do not apply.

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

## 11.3 Consideration exclusive of GST

Subject to clause 11.2, the consideration payable by the Aircraft Operator under or in connection with these Terms of Use is exclusive of GST.

## 11.4 Additional amount on account of GST

If any supply by AAL to the Aircraft Operator under or in connection with these Terms of Use is subject to GST, the Aircraft Operator will pay an additional amount on account of GST calculated by multiplying the consideration for the supply by the prevailing GST rate.

## 11.5 Timing of additional amount

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

## 11.6 Tax Invoice

If AAL makes a supply to the Aircraft Operator which is subject to GST, the invoice which AAL shall issue pursuant to these Terms of Use will be in the form of a tax invoice.

## 12. NOTICES

### 12.1 Form of notice

Unless expressly stated otherwise in these Terms of Use (particularly where AAL prefers e-mail notification), all notices, certificates, consents, approvals, waivers and other communications in connection with these Terms of Use must be in writing, signed by an authorised officer of the sender and marked for the attention of the person identified in **Schedule 4** or, if the recipient has notified otherwise, then marked for attention in the way last notified.

### 12.2 Delivery of notices

Unless expressly stated otherwise in these Terms of Use (particularly where AAL prefers e-mail notification), notices to AAL must be:

12.2.1 left at the address set out hereunder; or

12.2.2 sent by prepaid ordinary post (airmail if appropriate) to the address set out hereunder; or

12.2.3 sent by fax to the fax number set out hereunder or

12.2.4 transmitted by email; or

12.2.5 given in any other way permitted by law.

However, if the intended recipient has notified a changed postal address, changed fax number or changed email address, then the communication must be to that new address, number or email address.



## 12.3 **When effective**

Notices take effect from the time they are received unless a later time is specified.

## 12.4 **Receipt - post**

If sent by post, notices are taken to be received two (2) days after posting (or seven days after posting if sent to or from a place outside Australia).

## 12.5 **Receipt - fax**

If sent by fax, notices are taken to be received at the time shown in the transmission report as the time that the whole fax was sent.

## 12.6 **Receipt - email**

If transmitted by email, notices are taken to be received at the time and date recorded on the email on the date of transmission, provided that the sender does not receive an automated notice that the email was not delivered.

## 12.7 **Receipt - general**

Despite clauses 12.4 (Receipt – post), 12.5 (Receipt – fax) and 12.6 (Receipt – email), if notices are received after 5.00pm in the place of receipt or on a non-business day, then the notice is to be taken to be received at 9.00am on the next Business Day.

For all other notices under these Terms of Use or correspondence to AAL, use AAL's usual address and contact details:

**Adelaide Airport Limited**  
**ABN 78 075 176 653**  
1 James Schofield Drive  
ADELAIDE AIRPORT SA 5950

**Attention: Company Secretary**

Telephone +61 08 8308 9211 Facsimile +61 08 8308 9311

Email [airport@aal.com.au](mailto:airport@aal.com.au)

## 13. **INDEMNITIES AND RELEASES**

### 13.1 **The Aircraft Owner and Aircraft Operator to indemnify AAL**

Except to the extent of AAL's negligent acts, omissions or defaults, the Aircraft Owner and Aircraft Operator are liable for and must indemnify jointly and severally AAL against liability or Loss arising from, and cost incurred in connection with:

- 13.1.1 breach of these Terms of Use by the Aircraft Owner and/or Aircraft Operator, including the Loss or damage that results from AAL exercising its right to terminate these Terms of Use applicable to the Aircraft Owner and/or Aircraft Operator or AAL's termination of the Aircraft Owner's and/or Aircraft Operator's use of Adelaide Airport;

- 13.1.2 damage, Loss (to person or property), injury or death caused or contributed to by the Aircraft Owner and/or Aircraft Operator's act, negligence or default or their respective employees and agents to the extent of such cause or contribution;
- 13.1.3 damage, Loss, injury or death caused or contributed to by the Aircraft Owner and/or Aircraft Operator bringing onto or storing at Adelaide Airport dangerous or contaminating substances;
- 13.1.4 AAL doing anything which the Aircraft Owner and/or Aircraft Operator must do under these Terms of Use but have not done;
- 13.1.5 the overflow or leakage of water into or from any area at Adelaide Airport that the Aircraft Owner and/or Aircraft Operator uses or fire on or from any area at Adelaide Airport that the Aircraft Owner and/or Aircraft Operator uses;
- 13.1.6 Loss or damage (to person or property) caused or contributed to by the Aircraft Owner and/or Aircraft Operator's use of Adelaide Airport by their respective employees and agents or otherwise relating to the use of Adelaide Airport;
- 13.1.7 the Aircraft Owner's and/or Aircraft Operator's use of Adelaide Airport;
- 13.1.8 AAL's exercise of the right to detain, move or remove the Aircraft Owner's and/or Aircraft Operator's aircraft;
- 13.1.9 any claims by third parties arising out of personal injury or death of any person or damage to property caused (either directly or indirectly) as a result of the Aircraft Owner's and/or Aircraft Operator's use of Adelaide Airport and the legal and other costs incurred by AAL in connection with any such claim; and
- 13.1.10 any breach or non-compliance with any law, regulation or statutory requirement in relation to the environment or environment protection caused or contributed to by the Aircraft Owner and/or the Aircraft Operator including (without limitation) the overflow, spill or leakage of any fuel, oil or other waste product of any description whatsoever.

## 13.2 The Aircraft Owner and Aircraft Operator's risk

Subject to clauses 13.1 and 13.3, the Aircraft Owners and Aircraft Operators use Adelaide Airport at their own risk.

## 13.3 The Aircraft Owner and Aircraft Operator to release AAL

The Aircraft Owner and Aircraft Operator jointly and severally release AAL from, and agree that AAL is not liable for, liability or Loss arising from, and cost incurred in connection with:

- 13.3.1 damage, Loss, injury (to person or property) or death unless it is caused by AAL's act, negligence or default or an act, negligence or default of AAL's employees or agents; and

13.3.2 anything AAL is permitted or required to do under these Terms of Use unless the liability or Loss is caused by AAL's act, negligence or default or the act, negligence or default of AAL's employees or agents.

#### 13.4 **Survival of indemnities**

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

#### 13.5 **Enforcement of indemnities**

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

### 14. **INSURANCES**

#### 14.1 **Aircraft Operator's insurances**

The Aircraft Operator must in connection with its use of Adelaide Airport, maintain with insurers the following insurances:

14.1.1 Aviation Hull, Third Party, Passenger, Cargo and Mail Liability and Premises Liability including War Third Party Liability (AVN52E) for an amount of not less than the amounts specified in the table set out in **Schedule 6** for any one occurrence or such higher level of insurance cover that a prudent airline or aircraft operator would ordinarily take out and maintain but in respect of AVN52E any one occurrence and in the annual aggregate; and

14.1.2 other insurances which are required by law in connection with the Aircraft Owner and Aircraft Operator's use of Adelaide Airport or which a prudent Airline or Aircraft Operator would ordinarily take out.

#### 14.2 **Additional obligations**

The Aircraft Owner and Aircraft Operator must:

14.2.1 provide AAL with a copy of the Certificate of Insurance within five (5) business days of AAL having made a written request for the Certificate of Insurance;

14.2.2 notify AAL immediately if an insurance policy required by clause 14.1 is cancelled or an event occurs which may allow a claim or affect rights under an insurance policy in connection with the Aircraft Owner and Aircraft Operator's use of Adelaide Airport; and

14.2.3 procure the insurances required under clause 14.1 from insurers with a Claims Paying rating of not less than A- by Standards & Poor's (or similar rating agency).

## 14.3 AAL insurances

AAL must 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.

## 14.4 Claims on insurances

An Aircraft Operator may not enforce, conduct, settle or compromise claims under any insurance policy required by these Terms of Use, even if that policy also covers other property, if the claim relates to the Aircraft Owner and Aircraft Operator's use of Adelaide Airport without AAL's prior written approval which shall not be unreasonably withheld.

## 14.5 Acts affecting insurances

An Operator must not do anything which may adversely affect rights under any insurance or which may increase an insurance premium payable in connection with its use of Adelaide Airport, unless the Aircraft Owner and Aircraft Operator:

14.5.1 first obtain AAL consent (which consent shall not be unreasonably withheld); and

14.5.2 do not prejudice the insurance policy or coverage in any respect; and

14.5.3 pay any additional premium caused or incurred as a result of their actions.

## 14.6 Naming AAL and Commonwealth of Australia as Additional Insured's on insurance policies

The Operator must name:

14.6.1 AAL and its subsidiaries;

14.6.2 the Commonwealth of Australia; and

14.6.3 other parties (when requested),

as Additional Insureds and ensure a Cross Liability Clause is included in the insurance policies specified in clause 14.

## 15. CONFIDENTIALITY

### 15.1 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.

### 15.2 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 Terms of Use. To this end, each party must not, without the other party's prior written consent:

- 15.2.1 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 Terms of Use; or
- 15.2.2 permit unauthorised persons to have access to places where the other party's Confidential Information is displayed, reproduced or stored; or
- 15.2.3 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.

### 15.3 Permitted disclosure

Subject to clause 15.4, any party may disclose the other party's Confidential Information to its employees, officers, agents and contractors in the course of their employment on a need to know basis or to its advisers in relation to its rights under these Terms of Use. Nothing in these Terms of Use prohibits the use or disclosure of any Confidential Information to the extent that:

- 15.3.1 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; or
- 15.3.2 it is required by law or a stock exchange; or
- 15.3.3 it is strictly and necessarily required in connection with legal proceedings relating to these Terms of Use; or
- 15.3.4 the Confidential Information is generally and publicly available other than as a result of a breach of confidence by the person receiving the information.

### 15.4 Conditions of permitted disclosure to representatives

Each party must ensure that its employees, officers and contractors, agents and all other persons under its control or direction will be under and will comply with obligations similar to the obligations imposed on it under this clause 15.

### 15.5 Notification of breach

If any party's servants, officers, agents or contractors breach the confidentiality obligations contained in these standard conditions it must immediately notify the other party in writing of this and indemnify the other party for any direct loss and damage caused by such breach.

### 15.6 Damages and other remedies

Each party acknowledges that a breach of this clause 15 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.

## 15.7 **Survival after expiry and termination**

The obligations under this clause 15 survive expiry and termination of these Terms of Use.

## 15.8 **Other agreements**

Nothing contained in this clause 15 shall detract from or affect the obligations imposed or arising under any other separate confidentiality agreement or undertaking entered into between the parties or arising otherwise at law.

## 16. **PRIVACY AND DATA PROTECTION**

### 16.1 **AAL's Obligations**

AAL will comply with the Privacy Act and any other Privacy Legislation applicable to AAL in respect of all Personal Information handled by AAL in connection with this Agreement.

### 16.2 **AAL's Rights**

Without limiting the effect of any privacy collection notice provided by AAL to the Aircraft Operator, the Aircraft Operator acknowledges and agrees that AAL may and will handle personal information in accordance with its privacy policy at [www.adelaideairport.com.au/privacy/](http://www.adelaideairport.com.au/privacy/).

### 16.3 **Aircraft Operator Consent**

The Aircraft Operator:

16.3.1 represents and agrees that it has read and understood the privacy policy and (if applicable) privacy collection notices referred to in Clauses 16.1, and 16.2; and

16.3.2 consents to AAL handling all Personal Information provided to AAL in connection with this Agreement by or on behalf of the Aircraft Operator in accordance with Clauses 16.1 and 16.2.

### 16.4 **Aircraft Operator Acknowledgments**

The Aircraft Operator acknowledges and agrees that:

16.4.1 without limiting its obligations under any other Privacy Legislation, it will comply with the Privacy Act in respect of all Personal Information handled by the Aircraft Operator in connection with this Agreement (even if it would not otherwise be required to do so at law);

16.4.2 in respect of Personal Information provided to it by or on behalf of AAL under this Agreement, the Aircraft Operator must:

(a) use and disclose that Personal Information only for the purposes of this Agreement;

- (b) not transfer or disclose any of the Personal Information outside of Australia without the prior written consent of AAL; and
  - (c) at AAL's request, promptly update, cease using, de-identify and/or delete any such Personal Information.
- 16.4.3 without limiting its obligations under Clause 16.4.1, it must, if providing the Personal Information of someone other than itself to AAL take all reasonable steps to ensure that the relevant individual is aware:
- (a) that the disclosure will be made to AAL; and
  - (b) of the information (including the content of the privacy policy and privacy collection notices) described in Clauses 16.1 and 16.2; and
- 16.4.4 it will promptly comply with all reasonable directions of, and all privacy related policies and procedures notified to it by, AAL, including those which AAL considers necessary to assist AAL to comply with its obligations under the Privacy Act or Privacy Legislation.

## 16.5 Incident reporting

- 16.5.1 Each party shall promptly report to the other party any suspected or actual 'eligible data breach' (as that term is defined by the Privacy Act) or any security breach (including any misuse, interference or loss of, or any unauthorised access, modification or disclosure to) affecting Personal Information provided to it by or on behalf of that other party in connection with this Agreement.
- 16.5.2 Subject to clause 16.6 below, use diligent efforts to remedy any incident referred to in clause 16.5.1 in a timely manner and provide all information about the incident reasonably required by other party to enable to assist that other party in its compliance with the Privacy Act or Privacy Legislation.

## 16.6 Eligible data breach

In the event of a data breach that AAL has reasonable grounds to suspect or believe is an 'eligible data breach' either of AAL or of AAL and the Aircraft Operator, then, to the extent permitted by law and without limiting the Aircraft Operator's other obligations under this Agreement, AAL may by written notice to the Aircraft Operator:

- 16.6.1 assume control of any assessment, remedial action, preparation of a statement and/or notification processes required under the Privacy Act in respect of that 'eligible data breach'; and
- 16.6.2 require the Aircraft Operator not to undertake such assessment, remedial action, preparation of a statement and/or notification and to instead rely on the steps taken by AAL in connection with those actions in accordance with the relevant provisions in the Privacy Act.

## 17. AIRPORT SECURITY AND EMERGENCY PROVISIONS

### 17.1 Airport Security

- 17.1.1 AAL is responsible for Adelaide Airport security arrangements and emergency response activities under the Aviation Transport Security Act 2004, the Aviation Transport Security Regulations 2005 and any Commonwealth Department instruments or directions and additional security measures which may be imposed on AAL by any competent authority from time to time.
- 17.1.2 The Commonwealth Department is the regulatory authority for Adelaide Airport and may impose on AAL certain security requirements.
- 17.1.3 Both the Aircraft Operator and AAL must comply with any Commonwealth Department security requirements for Adelaide Airport.

### 17.2 Adelaide Airport Security Program

The Adelaide Airport Security Program outlines AAL's requirements for security. The Aircraft Operator must comply with the Adelaide Airport Security Program.

### 17.3 Aviation Security Identification Card (ASIC)

- 17.3.1 Unless an Aircraft Operator is an authorised issuing authority for ASIC (proof of authority will be required by AAL in writing from the Commonwealth Department), the Aircraft Operator and its employees, agents and contractors must apply to AAL for an ASIC before they will be permitted to access and use restricted areas and controlled areas of Adelaide Airport.
- 17.3.2 The Aircraft Operator 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 Adelaide Airport and must produce it for inspection by AAL or by any other lawful authority at any time. Application forms are available from the address and contact numbers at **Schedule 4**.

### 17.4 ASIC application security checks

- 17.4.1 As part of the application, the Aircraft Operator and its employees, agents and contractors acknowledge that AAL are authorised to conduct a detailed Police Service and law enforcement check on all applicants, which will include a check on the applicant's criminal history to determine their suitability to possess an ASIC.
- 17.4.2 More information about this, and about the applicant's consent for AAL's security checks, is on the AAL ASIC application form.
- 17.4.3 An Aircraft Operator must pay AAL's reasonable fees for an ASIC on making the application.



## 17.5 ASIC conditions of use

- 17.5.1 If AAL, or an authorised issuing authority, issue the Aircraft Operator or its employees, agents and contractors with an ASIC, the ASIC is issued on AAL's ASIC issuing conditions on the ASIC application form available by contacting AAL at the address or numbers in **Schedule 4**.
- 17.5.2 The ASIC remains AAL's property at all times and must be surrendered to AAL or any other lawful authority on demand or when the Aircraft Operator's staff employment ceases or when it is no longer required.
- 17.5.3 The Aircraft Operator shall pay to AAL the amount from time to time specified by AAL as the fee and charges for issue and surrender of an ASIC including (without limitation) the applicable deposit to be held by AAL during the term of the ASIC.

## 17.6 Screening Authority for Adelaide Airport

AAL is the authorised screening authority for both passenger screening and checked baggage screening at the T1. The requirements for screening are prescribed by the Commonwealth Department. An Aircraft Operator and AAL must comply with these screening requirements.

## 17.7 Adelaide Airport Committees

AAL has the following committees in relation to Adelaide Airport security and emergency management:

- 17.7.1 Adelaide Airport Security Consultative Group which meets every two months. This is a regulatory requirement of the Commonwealth Department through the Aviation Transport Security Act 2004; and
- 17.7.2 Adelaide Airport Emergency Committee which meets every three months. This is a regulatory requirement of the Civil Aviation Safety Authority through the Civil Aviation Act 1988.

AAL invites Aircraft Operators to be represented on these committees so that their respective interests in these matters may be presented and that they might discharge their obligations to contribute to and approve of the formulation of relevant policies and procedures for security and emergency management.

## 17.8 Adelaide Airport exercises and training

- 17.8.1 AAL conduct regular Adelaide Airport emergency and security exercises mandated annually (and usually conducted monthly in one form or another) which includes training for an Aircraft Operator and its employees, agents and contractors on a variety of Airport related activities and procedures (which includes security and emergency procedures).
- 17.8.2 AAL will give an Aircraft Operator reasonable prior notice when these exercises and training will be conducted.
- 17.8.3 AAL strongly recommend that an Aircraft Operator send a representative and any new employees to these exercises. The Aircraft Operator and its employees should participate in these exercises if AAL ask it to.

## 17.9 Building or construction works in restricted or controlled areas

- 17.9.1 If required, before an Aircraft Operator may undertake any construction or modifications to buildings or other structures on Adelaide Airport which are on restricted or controlled areas or which may impact the security of restricted or controlled areas of Adelaide Airport, the Aircraft Operator must first have security clearance from the Commonwealth Department, AAL and, if applicable, Airservices Australia (air traffic control). Where reasonably necessary, AAL may ask that the Aircraft Operator have security personnel supervising any building or construction work in restricted or controlled areas at all times.
- 17.9.2 In addition, AAL, the Commonwealth Department and any lawful authority may supervise the Aircraft Operator's building or construction work in restricted or controlled areas of Adelaide Airport. AAL may invoice the Aircraft Operator for the reasonable costs and expenses (on a full recovery basis) if AAL require security personnel to supervise the Aircraft Operator's building or construction work.
- 17.9.3 In performing any building work on the Airport, the Aircraft Operator must also comply with the Airport (Building Control) Regulations.
- 17.9.4 If there is a failure in security or a breach of AAL security requirements AAL may take any reasonable action necessary to re-secure the Aircraft Operator's area at the Aircraft Operator's expense until such time as the area is re-secured.

## 18. DISPUTE RESOLUTION

Any disputes that arise between AAL or an Aircraft Operator 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:

- 18.1 either party may submit a "notice of dispute" to the other party setting out all reasonable details and particulars of the dispute;
- 18.2 the parties must meet within five (5) 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;
- 18.3 if the dispute is not resolved within five (5) Business Days of the first meeting held pursuant to clause 18.2 then the dispute shall be referred to the Managing Director of AAL and the Managing Director of the Aircraft Operator (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
- 18.4 if the dispute is not resolved within five (5) Business Days of referral to the Managing Directors (as the case may be) of the parties pursuant to clause 18.3 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.

**SCHEDULE 1**

**ADELAIDE AIRPORT**

**NOTIFICATION OF AIRCRAFT DETAILS**

Before completing this form please read the notes below.

**PART 1**

**Aircraft Registration:**

Aircraft Type:

**Certificate of Registration of Holder**

Name:

Address:

Telephone: ( )                                      Fax: ( )                                      e-mail:

**Owner: (if different to Certificate of Registration Holder)**

Name:

Address:

Telephone: ( )                                      Fax: ( )                                      e-mail:

**Operator:**

Name:

Address:

Telephone: ( )                                      Fax: ( )                                      e-mail:

Effective Dates of Operation:

From –  
To -

**Signature of person completing this form**

.....  
**Certificate of Registration Holder/Owner/Operator (Delete whichever is not applicable)**

**Note:**

The Charges (Aeronautical Charges and Government Mandated Charges) are fixed and recoverable as a debt due to Adelaide Airport Limited (AAL) under the *Aerodrome Fees Act 1998 (SA)*.

AAL holds the person(s) named on the Certificate of Registration and the Aircraft Operator jointly and severally liable for the payment of all Charges, interest and costs incurred by an Aircraft Operator using the Services.

Please refer to clause 9 of the Terms of Use regarding charges and payment of charges.

**PART 2**

Commencement date of Flight Schedule		.....20 .....
Flight Schedule		As per copy provided ..... 20..... The Aircraft Operator must supply a copy of any new or amended Flight Schedule at least 30 days prior to the commencement of that Schedule.

**SCHEDULE 2  
ADELAIDE AIRPORT  
SCHEDULING & GATE RULE CONVENTIONS**

**1. INTRODUCTION**

Airline schedule control procedures are the arrangements made for coordinating scheduled aircraft arrival and departure times in order to minimise overloading of airport facilities and the consequent delays to passengers and services.

**2. DOMESTIC OPERATORS SCHEDULING**

2.1 AAL seeks to ensure that where practical that domestic operations will not be displaced by International Operations and similarly International Operations will not be displaced by domestic operations based upon the following principles:

2.1.1 In the event of an off-schedule international aircraft arriving and no aerobridge being available or an aerobridge being available on the stand immediately adjacent to a parked domestic aircraft, such that in order to access the aerobridge the domestic aircraft would have to be moved, the domestic aircraft would remain and the international would be allocated a stand-off gate; and

2.1.2 This principle would also apply in the event of an off-schedule domestic operation, so that the domestic aircraft would not displace the scheduled international aircraft on the stand.

2.1.3 It is anticipated that local conventions will ensure a cooperative approach to reach acceptable solutions to overcome any operational difficulties.

2.2 AAL as the airport managing body will discuss with domestic operators their proposed schedules as part of AAL's twice-yearly airport capacity parameters review. Following the facilitation of these schedules, with due adherence to 'grand-fathered' domestic and international schedules, requests that result from the Schedules Conference will then be addressed. AAL acknowledges that information given and received by AAL is at all times Commercial in Confidence.

2.3 Operators acknowledge that from time-to-time, operational disruptions may result in aircraft going to non-preferred gates or subject to company agreement electing to utilise a stand-off position.

2.4 In the event that gate demand exceeds capacity, AAL will undertake to expand the building accordingly with the addition of gates and facilities subject to a review of the Aeronautical Charges or an additional PFC. This will occur when all other reasonable options have been investigated and agreed by the parties to be unworkable. Options to be considered will include scheduling at non-peak periods when gates are under utilised.

2.5 A new entrant domestic or international operation will not displace an on-time existing domestic operation. (Existing is defined as current at the time of commencement of operations of the new entrant).

### 3. INTERNATIONAL SCHEDULE CONTROL

Schedule control for International Passenger aircraft is based on Terminal and Apron capacity. Where required, a Sub-committee of the Airport Facilitation Committee will meet bi-annually to consider and approve individual airline schedules in accordance with the rules. This sub-committee will consist of :-

- AAL Terminal Operations Manager (Chairman)
- AAL Executive General Manager Finance and Corporate
- Airport Co-ordination Australia
- Australian Border Force
- Australian Dept of Agriculture & Water Resources
- Airport Operators Committee Representative

### 4. APRON OCCUPANCY – (International Operations)

- 4.1 On-bridge International Passenger operations are provided at Gates 16R, 18R, 20R and 22R (all Code F capable); Gates 15, 16L, 18L, 19, 20L, and 22L (all Code C capable)
- 4.2 Non-contact bay 28R (Code F capable)
- 4.3 16R, 20R, 18R & 22R are A380 capable (not consecutively)
- 4.4 16R, 18R, 20R & 22R are fitted with pre-conditioned air & 400hz power. All other contact gates are fitted with APU.
- 4.5 Arriving aircraft up to Code F may occupy a position up to 60 mins
- 4.6 Departing aircraft up to Code F may occupy a position up to 75mins (90 mins if the block times exceed 8 hours)
- 4.7 Aircraft in transit/turnaround may occupy a position up to 2.15 hours (2.30 over 8 hours block time)

### 5. RECOMMENDED SEPARATIONS – (arriving & departing International aircraft)

Arrivals		Departures	
Up to 180 seats	15mins	Up to 180 seats	10mins
Up to 250 seats	20mins	Up to 250 seats	10mins
Up to 325 seats	25mins	Up to 300 seats	15mins
Up to 400 seats	30mins	Up to 400 seats	20mins
Over 400 seats	45mins	Over 400 seats	25mins

## **6. ITINERANT /CHARTER AIRCRAFT ARRIVALS**

Any aircraft intending to arrive at Adelaide Airport that will require parking and/or passenger processing should contact either their handling agent or the AAL Airport Duty Manager on Ph (08) 8154 9462 or e-mail [airportdutymanager@aal.com.au](mailto:airportdutymanager@aal.com.au).

### SCHEDULE 3

#### ADELAIDE AIRPORT STATISTICAL INFORMATION

ALL AIRCRAFT		
Flight Number		
Aircraft Registration Number *		
Airline/Aircraft Operator		
Aircraft type *		
MTOW *		
Maximum Passenger Capacity		
	<b>Arrivals</b>	<b>Departures</b>
Origin *		
Destination *		
Date of Flight		
Scheduled time of arrival (if applicable)		
Actual time of arrival		
Terminal Gate used (if applicable)		
PASSENGER INFORMATION		
All services	<b>Seating capacity of Aircraft</b>	
	Positioning Crew	
	Infants	
International services only	International passengers	
	Domestic on-carriage passengers	
	Transits (within the International Terminal)	
	Transfers (within the International Terminal)	
	Transfers ( to the Domestic Terminal) – if available	
	Transfers from the Domestic Terminal – if available	
Domestic Services only	Domestic passengers	
	Transits (within the Domestic Terminal)	
	Transfers (within the Domestic Terminal)	
	Transfers ( to the International Terminal)	
	Transfers (from the International Terminal)	
Regional Services only	Regional Passengers	
<b>TOTAL PASSENGERS</b>		
FREIGHT INFORMATION		
Freight carried – Tonnes		

\* this information is currently obtained from Airservices Australia and will not be separately required from Aircraft Operators unless it is no longer obtained from Airservices Australia.



## SCHEDULE 4

### ADELAIDE AIRPORT CONTACT DETAILS and ADDRESSES

#### **For serving of Notices:-**

**Adelaide Airport Limited**

**ABN 78 075 176 653**

1 James Schofield Drive

ADELAIDE AIRPORT SA 5950

**Attention: Company Secretary**

Telephone +61 08 8308 9211 Facsimile +61 08 8308 9311

Email [airport@aal.com.au](mailto:airport@aal.com.au)

#### **For Safety, Security, Environmental and Operational Faults:**

Adelaide Airport Limited

Airport Coordination Centre

Telephone 08 8154 9444 Facsimile 08 8308 9448

24 Hours a day 7 days a week.

#### **For Property and Commercial (non aeronautical) matters:**

Adelaide Airport Limited

Property Development Department

1 James Schofield Drive

ADELAIDE AIRPORT SA 5950

Telephone 08 8308 9211 Facsimile 08 8308 9311

Business Hours.

## SCHEDULE 5

### PERFORMANCE MEASURES

1. Check-in - waiting time in check-in queue;
2. Government Inspection:
  - 2.1 waiting time in inbound immigration queue;
  - 2.2 waiting time in Customs queue;
  - 2.3 waiting time in outbound immigration queue;
3. Security Clearance - waiting time at baggage x-ray area and the length of time security screening takes per passenger;
4. Gate Lounges:
  - 4.1 availability of seating in departure lounge;
  - 4.2 comfort of seating in departure lounge;
  - 4.3 cleanliness of seating in departure lounge;
  - 4.4 size of departure lounge for number of people using it;
5. Baggage:
  - 5.1 waiting time at baggage reclaim area;
  - 5.2 size of baggage reclaim area for number of passengers;
  - 5.3 ease of find appropriate carousel;
6. Baggage Trolleys - ease of finding baggage trolleys;
7. Flights Information Display and Signs - general satisfaction with flight information display and signs;
8. Washrooms - terminal's overall standard of toilets and washrooms;
9. Car Parking:
  - 9.1 waiting time to get in and out of the car park;
  - 9.2 overall standard of car parking;
  - 9.3 availability of car spaces; and
10. Airport Access:
  - 10.1 suitability of area for kerbside car pick-ups and drop-offs;
  - 10.2 space provided for kerbside car pick-ups and drop-offs;
  - 10.3 suitability of area for taxi pick-ups and drop-offs;
  - 10.4 space provided for taxi pick-ups and drop-offs;

10.5 suitability of area for bus pick-ups and drop-offs;

10.6 space provided for bus pick-ups and drop-offs.

In relation to queuing times, a selection of Passengers are identified and tracked to ensure that their perceived and actual queuing times can be correlated.

**SCHEDULE 6**

**(clause 14.1)  
INSURANCE POLICY REQUIREMENTS**

<b>Group / Classification</b>		<b>Third Party Liability</b>
		Combined single limit for third party liability for any one accident/incident occurrence to be not less than:
<b>Fixed Wing Aircraft</b>		
1.	10,000kg MTOW or less	AU\$25,000,000
2.	10,001kg – 28,000kg MTOW	AU\$60,000,000
3.	28,001kg – 100,000kg MTOW	AU\$200,000,000
4.	100,001kg – 170,000kg MTOW	AU\$500,000,000
5.	170,001kg MTOW and above	AU\$1,000,000,000
<b>Helicopters</b>		
1.	Up to two passenger seats	US\$8,000,000
2.	Three and four passenger seats	US\$10,000,000 or A\$16,000,000
3.	More than four passenger seats	US\$15,000,000 or A\$24,000,000
<b>Aircraft other than helicopters, jet aircraft or large turbo prop aircraft</b>		AU\$20,000,000

**SCHEDULE 7**

**ADELAIDE AIRPORT SUPPLEMENTARY TERMS OF USE  
FOR PASSENGER FACILITY CHARGE**

**THESE TERMS OF USE** are issued by

**ADELAIDE AIRPORT LIMITED** ABN 78 075 176 653 of 1 James Schofield Drive, Adelaide Airport, South Australia ("AAL") in relation to all regular public transport operators ("**Aircraft Operators**") who use the terminals at Adelaide Airport

**BACKGROUND**

- (A) AAL is the lessee and operator of Adelaide Airport under a fifty (50) year lease (together with an option to extend for a further forty-nine (49)) years granted to it by the Commonwealth of Australia and which term commenced on the 28<sup>th</sup> day of May 1998.
- (B) AAL has issued a document entitled "Adelaide Airport Agreed Terms of Use" applicable to Adelaide Airport and which specifies the Aeronautical Services and Government Mandated Services supplied by AAL to Aircraft Operators and the Charges payable by Aircraft Operators and the terms and conditions of such services and supply.
- (C) AAL proposes to construct and operate a new international and domestic terminal ("**New Terminal**") at Adelaide Airport and these Supplementary Agreed Terms of Use specify the additional terms and conditions of use for a passenger facility charge (PFC) which will apply at Adelaide Airport as at the commencement of operation of the New Terminal.

## AGREED TERMS OF USE

### 1. INTERPRETATION

#### 1.1 Definitions

In these Supplementary Agreed Terms of Use, unless the contrary intention appears, all words and phrases defined in the Principal Agreed Terms of Use have the same meaning in this document:

#### 1.2 Additional Definitions/Abbreviations

**"Agreed Terms of Use"** means:

1.2.1 the Principal Agreed Terms of Use; and

1.2.2 the Supplementary Agreed Terms of Use.

**"New Terminal"** means the new International and Domestic Terminal to be constructed at Adelaide Airport and which is scheduled to become operational in October 2005.

**"Passenger Facility Charge"** and **"PFC"** mean the amount from time to time charged by AAL to an RPT Operator in respect of its Passengers using a Terminal for the purposes of recovering costs relating to the Terminals, or to the Airline under these Terms of Use (as the context requires).

**"Principal Agreed Terms of Use"** means those Agreed Terms of Use (as from time to time amended) issued by AAL and upon which AAL provides the Services at Adelaide Airport and charges for the Services.

**"Supplementary Agreed Terms of Use"** means these Agreed Terms of Use (as from time to time amended) issued by AAL and upon which AAL provides the Services in respect of the New Terminal at Adelaide Airport and charges for the Services covered by these Agreed Terms of Use.

#### 1.3 Paramountcy

If there is any conflict between the terms and conditions of the Principal Agreed Terms of Use and the Supplementary Agreed Terms of Use as regards the New Terminal, then the provisions of the Supplementary Agreed Terms of Use shall prevail but only to the extent of the inconsistency.

In order to remove doubt, any charges applicable pursuant to the Principal Agreed Terms of Use are in addition to any charges applicable pursuant to the Supplementary Agreed Terms of Use.

#### 1.4 Headings

Headings are for ease of reference only and do not affect the meaning of this document.



**2. PASSENGER FACILITY CHARGE**

- 2.1 The Airline agrees with AAL that the Airline will, subject to and on the terms of these Terms of Use:
- 2.1.1 pay the PFC at the rates for Regional Passengers, Domestic Passengers and International Passengers applicable pursuant to these Terms of Use (including Schedule 1 and it's Appendices) from time to time at the time and in the manner mutually agreed between AAL and the Airline from time to time;
  - 2.1.2 pay the PFC in respect of all of its Passengers;
  - 2.1.3 pay the PFC for the full duration of the Recovery Period; and
  - 2.1.4 pay the PFC on the terms and conditions specified in Schedule 1 and it's Appendices.
- 2.2 The Airline will pay the PFC as at and from the Operational Date.
- 2.3 The Airline will pay the PFC irrespective of whether the Airline operates from the MUIT or any other Terminal at the Airport.
- 2.4 The Airline acknowledges that there is no differential PFC applicable to the different facilities at the Airport and, in particular, the PFC payable by RPT Operators using the DTB will be at the same rates and categories as RPT Operators using the MUIT.
- 2.5 The Airline specifically agrees that it will not dispute the applicability of the PFC to RPT Operators using the MUIT, the DTB or any other Terminal at the Airport.
- 2.6 The Airline shall upon request by AAL execute a tripartite deed between the Airline, AAL and AAL's senior lenders in a form and on terms and conditions satisfactory to both AAL's senior lenders and the Airline and for the purposes of covenanting to observe and perform the provisions of these Terms of Use in respect of the PFC.
- 2.7 If the Airline does not pay the PFC in respect of its Passengers in accordance with its obligations under this clause 2 then the Airline will pay to AAL by way of liquidated damages an amount equal to the PFC which would otherwise have been payable by the Airline or by the Passengers of the Airline plus interest on that amount calculated in the manner specified in Schedule 1, provided that if AAL commences to charge the PFC direct to the Airline Passengers pursuant to clause 9 of Schedule 1 then the Airline will not incur any liability for the PFC in respect of Airline Passengers who use the Terminal after the date AAL commences to charge the PFC direct to Airline Passengers, but without prejudice to any antecedent debt and interest thereon owing by the Airline.
- 2.8 Nothing contained in clause 2.7 shall be deemed to restrict any right which AAL may have to collect the PFC itself direct from Passengers arriving at or departing from the MUIT, the DTB or any other Terminal at the Airport.

**3. FACILITIES OPERATION FEE**

The Airline must pay to AAL a facilities operation fee in respect of any 400Hz power and preconditioned air supplied to any of the Airline's aircraft from an aerobridge (if requested by the Airline or if required by legislation). Such fee will be calculated at the prevailing rate from time to

time charges by AAL for such facility and shall be calculated on the basis of actual usage. Such fee shall be paid by the Airline to AAL within 30 days of receipt of an invoice or written demand from AAL.

## SCHEDULE 1

### TERMS AND CONDITIONS FOR CALCULATION AND CHARGING OF THE PFC

#### BACKGROUND

- A. AAL has a long term lease of Adelaide Airport ("**the Airport**") and is the operator of the Airport and its facilities.
- B. AAL proposes to construct a multi user integrated terminal ("**MUIT**") at the Airport.
- C. AAL proposes to charge a passenger facility charge ("**PFC**") to all RPT Operators during the Recovery Period.
- D. AAL proposes to calculate and charge the PFC to each RPT Operator on the basis of the number of passengers of each RPT Operator who use any Terminal at the Airport (including the MUIT).
- E. The Airline has agreed to pay the PFC to AAL in accordance with the terms of this Schedule.

#### OPERATIVE PROVISIONS 1.

#### DEFINITIONS

- 1.1 **AAL Auditor** means such duly qualified auditor or expert as AAL may appoint for the purposes of this Schedule provided that such auditor or expert must be from a major Australian chartered accounting firm unless otherwise mutually agreed between AAL and the Airline.
- 1.2 **ACCC** means the Australian Competition and Consumer Commission and if:
  - 1.2.1 its powers or functions are transferred to another organisation; or
  - 1.2.2 it is reconstituted, renamed or replaced by another organisation; or
  - 1.2.3 it ceases to exist, but its purposes or objects are substantially undertaken by another organisation;then this Deed shall be taken to refer to that organisation in lieu of the ACCC.
- 1.3 **ACCC Based Methodology** means the methodology set out in Appendix 1 which has been mutually agreed between AAL and the Airline for the purposes of calculating the PFC from time to time.
- 1.4 **Accounting Period** means:
  - 1.4.1 the period from the commencement of the First Recovery Period to the immediately following 30 June; and
  - 1.4.2 thereafter each period of 12 months from 1 July to the following 30 June during the First Recovery Period; and
  - 1.4.3 the period from 1 July immediately preceding the end of the Recovery Period to the end of the First Recovery Period; and

- 1.4.4 thereafter is a period determined or calculated in the same manner in respect of the Second Recovery Period.
- 1.5 **Airline** means the Airline and includes its related bodies corporate as defined by the Corporations Act and (without limitation) its Subsidiaries.
- 1.6 **Airline Passengers** and **Passengers** in respect of any RPT Operator means passengers (including passengers of any code share partners of such airline) carried on that airline's flights by aircraft owned or leased by that airline or a Subsidiary of that airline and processed through a Terminal, and includes both arriving and departing passengers but does not include the following passengers for the purpose of calculating and charging the PFC:
- 1.6.1 infants under 2 years of age on a Domestic Air Service or International Air Service who do not occupy a seat on the aircraft;
- 1.6.2 International Transit Passengers and International Transfer Passengers;
- 1.6.3 Aircrew operating the RPT Operator's aircraft; or
- 1.6.4 Aircrew travelling for the purpose of repositioning an RPT Operator's aircraft,
- AND, for the avoidance of doubt, if an Airline Passenger arrives at and departs from a Terminal, the Airline is liable to pay the PFC on both the outbound and inbound journeys.
- 1.7 **Approved Price Adjustment** means an additional amount payable under the Design and Construct Contract but only if such amount is properly payable due to:
- 1.7.1 the cost of any variations instigated by parties other than AAL including (without limitation) Australian Customs Services, Australian Quarantine and Inspection Services or any other border agencies at the Airport but excluding retailers and RPT Operators other than the Airline unless mutually agreed in writing to the contrary;
- 1.7.2 the cost of any variations arising from the requirements of any statutory authorities or bodies having jurisdiction in respect of the Airport or the MUIT;
- 1.7.3 any costs properly claimable by Hansen Yuncken Pty Limited (including costs over and above the amount of the Initial Guaranteed Maximum Price) in relation to the following provisions of the Design and Construct Contract which are beyond the control of AAL or a Related Body Corporate and not attributable to any fault of AAL, a Related Body Corporate of AAL or Hansen Yuncken Pty Ltd and which are limited to:-
- (a) delay or disruption costs pursuant to clause 36 of the Design and Construct Contract in respect of any Delay Causing Event applicable for the purposes of such clause 36 and set out in **Appendix 2** to this Schedule;
- (b) adjustments for any GST payable in respect of any Taxable Supply pursuant to clause 42.2A of the Design and Construct Contract; or

- (c) adjustments for provisional sums on account of prime cost items pursuant to clause 11 of the Design and Construct Contract as set out in **Appendix 2**.
- 1.8 **Authorised Officer** means a person appointed by the relevant party to act as an authorised officer for the purposes of this Schedule.
- 1.9 **Confidential Information** means any information provided by one party to the other:
- 1.9.1 in connection with this Schedule; and
- 1.9.2 which information has been notified by the disclosing party to be commercially sensitive on reasonable grounds and (without limitation) includes any passenger numbers supplied by the Airline to AAL.
- 1.10 **Corporations Act** means the *Corporations Act 2001* (Cth).
- 1.11 **Design and Construct Contract** means, as the context requires:
- 1.11.1 the design and construct contract made or to be made between AAL as principal and NTCC as contractor for the design and construction of the MUIT; and/or
- 1.11.2 the design and construct contract to be made between NTCC as the contractor and Hansen Yuncken Pty Ltd (or another person nominated by AAL) as the under contractor for the design and construction of the MUIT.
- 1.12 **Domestic Air Service** means an air service provided by means of a flight from a place within Australia to another place within Australia with no intermediate stop outside Australia.
- 1.13 **Domestic Passenger** means a Passenger (other than a Regional Passenger) arriving at or departing from a Terminal on a Domestic Air Service.
- 1.14 **DTB** means the existing Domestic Terminal Building at the Airport.
- 1.15 **Extraordinary Event** means an unexpected event or combination of events which are not within the control of AAL and which has a material adverse effect on AAL, including (without limitation) an event or combination of events which has, or is reasonably expected to have, any of the following effects:
- 1.15.1 a reduction in total passenger numbers of at least 30% below the passenger forecasts (as at the most recent Five Year Reset Date) over an eight (8) month period;
- 1.15.2 an increase in annual Operating Expenses of more than 25% above the forecast Operating Expenses (as at the most recent Five Year Reset Date); or
- 1.15.3 an upfront cost in respect of the MUIT to AAL of more than ten million dollars (\$10m exclusive of GST); or
- 1.15.4 a combination of the impacts specified in paragraphs (a) to (c) which individually are less severe than the limits specified in those paragraphs but which in aggregate are sufficiently severe as to adversely effect the short term liquidity and solvency of AAL.

- 1.16 **First Recovery Period** means the period of 15 years from the Operational Date.
- 1.17 **GST** means any goods and services tax imposed under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and associated legislation.
- 1.18 **Indicative PFC** means the PFC calculated in accordance with **clause** Error! Reference source not found..
- 1.19 **Inflation Rate** means the percentage change in the Consumer Price Index (All Groups Weighted Average of Eight Capital Cities) as published by the Australian Bureau of Statistics from the same quarter in the previous year.
- 1.20 **Interest Rate** means the rate quoted from time to time by the Reuters System at page BBSW as the thirty day bank bill rate plus 2% per annum.
- 1.21 **Initial Guaranteed Maximum Price** means two hundred and twenty million and five hundred thousand dollars (\$220,500,000).
- 1.22 **International Air Service** means an air service provided by means of a flight from a place within Australia to a place outside Australia or from a place outside Australia to a place within Australia.
- 1.23 **International Passenger** means a Passenger arriving at or departing from a Terminal on an International Air Service.
- 1.24 **International Transit Passenger** means an International Passenger whose original port and ultimate destination are serviced by an RPT Operator on an aircraft which has the same flight number which includes a landing and take-off at the Airport and the Passenger is not processed by the Australian Customs Service.
- 1.25 **International Transfer Passenger** means a Passenger who connects from one International Air Service to another and the Passenger is not processed by the Australian Customs Service.
- 1.26 **MUIT** means the multi user integrated terminal to be constructed by AAL at the Airport and includes all facilities and equipment ancillary to or associated with the new terminal building.
- 1.27 **MUIT Cost** means the cost of the development, design and construction in respect of the MUIT, irrespective of whether those costs are incurred by AAL itself or by NTCC, New Terminal Finance Company Pty Ltd ACN 094 891 102 or any other Subsidiary of AAL and which shall comprise the aggregate of:
- 1.27.1 the actual contract cost payable by NTCC pursuant to the Design and Construct Contract, but not exceeding the lesser of:
- (a) the aggregate of the Initial Guaranteed Maximum Price and the Approved Price Adjustments; and
- (b) the aggregate of the Reset Guaranteed Maximum Price and any Approved Price Adjustment arising after the date of determination of the Reset Guaranteed Maximum Price;

- (c) any other reasonable costs of AAL directly related to the development, design and construction of the MUIT in the categories specified in **Appendix 2** as AAL direct costs but excluding any amount or item listed in paragraphs (a) to (f) (both inclusive) of the definition of Operating Expenses,
- 1.27.3 provided that:
- 1.27.4 any cost incurred by AAL or a Related Body Corporate shall be the amount of the cost actually incurred by such party less any reimbursement which such party is entitled to receive, to the intent that such costs shall not be double counted; and
- 1.27.5 such calculation shall exclude any amount on account of the cost of tenancy or licence fit out in areas which are to be leased or licensed by the Airline or any other RPT Operator or any retail tenant or retail occupier.
- 1.28 **MUIT Cost Recoverable** is the aeronautical component of the MUIT Cost and which is to be determined in the manner specified in **Appendix 6**.
- 1.29 **Nominal Risk Free Rate** means the eight (8) week simple average of the yield on five (5) year nominal Commonwealth Government Bonds.
- 1.30 **NTCC** means New Terminal Construction Company Pty Ltd ACN 094 891 077.
- 1.31 **Operating Expenses** means all items of expenditure by AAL after the Operational Date in relation to the operation and maintenance of the MUIT to the extent attributable to the PFC as set out in **Appendix 4** and, which are classified as operating expenses under the Australian Accounting Standards applicable to AAL, but excluding:
  - 1.31.1 interest, margin, guarantee fees, letter of credit fees, commitment fees, line fees and underwriting fees payable under any senior debt facilities of AAL or its Subsidiaries;
  - 1.31.2 amounts payable to interest rate hedge providers (net of amounts received from interest rate hedge providers, if any);
  - 1.31.3 amounts applied in reduction of outstandings under any working capital facility;
  - 1.31.4 capital expenditure to increase the capacity of the MUIT;
  - 1.31.5 capital expenditure to maintain the MUIT in good state of repair and in good working condition; and
  - 1.31.6 payments between AAL Group members.
- 1.32 **Opex and OpEx** have the same meaning as Operating Expenses.
- 1.33 **Operational Date** means the first date on which any RPT Operator uses the MUIT to process and board one or more fare-paying Domestic Passenger or International Passenger on a scheduled flight, or the Sunrise Date specified in the Development Agreement made between AAL and the Qantas Group, whichever shall first occur.
- 1.34 **Passenger Facility Charge and PFC** mean the amount from time to time charged by AAL to an RPT Operator (excluding the Airline) in respect of its Passengers using a Terminal for

the purpose of recovering costs relating to the Terminals, or to the Airline under the Schedule (as the context requires).

- 1.35 **Real Operating Expenses** means Operating Expenses in Australian dollar currency as at 30 June 2002, taking into account the actual Inflation Rate where applicable.
- 1.36 **Real Risk Free Rate** means the eight (8) week simple average of the yield on 5 year indexed Commonwealth Government bonds. If there is no indexed Commonwealth Government bond with a 5 year maturity, the rate will be the simple eight week average of the linearly interpolated, or linearly extrapolated, 5 year rate from the two indexed Commonwealth Government bonds with a maturity closest to a bond with a 5 year maturity.
- 1.37 **Recovery Period** means the duration of:-
- 1.37.1 the First Recovery Period; and
  - 1.37.2 the Second Recovery Period; and
  - 1.37.3 any additional period for which the parties agree to the collection of a PFC for the purpose of recovery of expenditure by AAL relating to a Terminal or relating to other improvements undertaken by AAL at the Airport.
- 1.38 **Regional Passenger** means a Passenger arriving at or departing from a Terminal on a Domestic Air Service operating on a propeller-driven aircraft with less than thirty eight (38) seats:
- 1.38.1 wholly within South Australia; or
  - 1.38.2 between Adelaide and Mildura or Adelaide and Broken Hill.
- 1.39 **Regular Passenger Transport Operation** has the meaning defined in the *Air Navigation Act 1920* (Cth).
- 1.40 **Related Agreement** means any lease, licence or other agreement made between AAL and the Airline in relation to the use and occupation of a Terminal by the Airline.
- 1.41 **Related Body Corporate** has the same meaning as in section 50 of the Corporations Act.
- 1.42 **Reset Date** means any of the dates specified in **Appendix 6** (whether specified as an event or a date) in respect of which the PFC is to be recalculated.
- 1.43 **Reset Event** means any of the events specified in **Appendix 6** (whether specified as an event or a date) in respect of which the PFC is to be recalculated.
- 1.44 **Reset Guaranteed Maximum Price** means the amount so defined and determined pursuant to the Design and Construct Contract made between NTCC and Hansen Yuncken Pty Ltd;
- 1.45 **RPT Operator** means an operator of regular public transport operations (but excluding Emu Airlines, whose operations as at the date of this Deed are not considered to amount to regular public transport operations) as defined in the *Air Navigation Act 1920* (Cth) and, when the context requires, includes the Airline.



1.46 **Second Recovery Period** means the period commencing from the date of expiry of the First Recovery Period and expiring on the date of expiry or termination of the Lease made between AAL and the Airline pursuant to the Development Agreement.

1.47 **Start Date** means:

1.47.1 in relation to the Provisional PFC notified by AAL pursuant to **clause** Error! Reference source not found., the Operational Date; and

1.47.2 in relation to any subsequent adjustment of the PFC, the Reset Date in respect of such adjustment or the date which is three (3) calendar months after the date on which AAL notifies the Airline of the amount of the adjusted PFC (whichever last occurs).

1.48 **Subsidiary** means a company which constitutes a subsidiary of another company for the purposes of the Corporations Act.

1.49 **Terminal** means:

1.49.1 the DTB at the Airport; and

1.49.2 the MUIT to be constructed at Adelaide Airport; and

1.49.3 any other terminal used by RPT Operators at the Airport from time to time.

## 2. COVENANT BY AAL

2.1 AAL will charge the same PFC to all RPT Operators at the Airport irrespective of whether the RPT Operator and its Passengers use the MUIT, the DTB or any other Terminal at the Airport.

2.2 AAL will ensure that any new RPT Operators who commence operations at the Airport after the date of this Deed will pay the PFC on the same terms and conditions as the RPT Operators who presently operate at the Airport.

2.3 Without limiting **clause 2.1** and **clause 2.2**, AAL will charge the PFC to all RPT Operators using the MUIT, the DTB or any other Terminal at the Airport at all times and will not waive this requirement (in full or in part) for one or more of such RPT Operators.

## 3. CATEGORIES OF PFC

For the avoidance of confusion or doubt, the parties acknowledge that:

3.1 there are different rates of PFC applicable to the categories of Regional Passengers, Domestic Passengers and International Passengers respectively of an RPT Operator and any reference to the "same PFC" or the "full PFC" in this Schedule means the full amount of the PFC for a Passenger in the relevant category; and

3.2 a reference to the "PFC" means the Passenger Facility Charge in relation to the arrangements for development of the MUIT and any ancillary works to the intent and purpose that the arrangements set out in this Schedule will not apply in relation to any charge or fee in the future in respect of any other development or infrastructure undertaken at the Airport.

#### 4. CALCULATION OF THE PFC

4.1 AAL and the Airline agree that:

4.1.1 the PFC will be calculated or derived using a discounted cash flow analysis of the MUIT on the basis of cash flows projected over nineteen (19) years comprising a period of up to four (4) year for design and construction of the MUIT and a fifteen (15) year cost recovery period; and

4.1.2 the PFC will be calculated and derived on the basis of an amount sufficient to provide for:

(a) recovery of the MUIT Cost Recoverable;

(b) a pre-tax real rate of return on the aeronautical component of AAL's investment in the MUIT as specified and determined in accordance with **Appendix 3**; and

(c) recovery of the aeronautical component of reasonable incremental Operating Expenses.

4.2 AAL and the Airline agree that the PFC shall be calculated and determined in accordance with this Schedule and the formula, criteria, forecasts and other information specified in **Appendix 1 to 6** (both inclusive) of this Schedule and using the ACCC Based Methodology.

#### 5. INITIAL SETTING OF THE PFC

5.1 AAL has undertaken a calculation of the PFC based on the estimated costs known to AAL at the current time for the purposes of estimating the PFC and the amount of such PFC is contained in **Appendix 5** ("Indicative PFC Calculation").

5.2 AAL shall undertake a further calculation of the anticipated PFC ("Provisional PFC Calculation") using the ACCC Based Methodology not later than 3 months prior to the anticipated Operational Date. Such calculation shall be in accordance with the revised variables specified in **Appendix 6** and AAL shall give written notification to the Airline of the amount of the PFC based on the Provisional PFC Calculation by not later than 3 months prior to the Operational Date. The Airline shall pay the PFC at the rates applicable under the Provisional PFC Calculation in relation to all Passengers travelling on flights operated by the Airline on or after the Operational Date (which is the Start Date of the PFC).

5.3 AAL shall undertake a calculation of the PFC using the ACCC Based Methodology not later than 3 months after the Operational Date ("First PFC Calculation") and subject to the requirements of **clause 6**. Such calculation shall be in accordance with the revised variables specified in **Appendix 6** and AAL shall give written notification to the Airline of the amount of the PFC based on the First PFC Calculation as soon as reasonably possible. The Airline shall pay the PFC at the rate notified by AAL based on the First PFC Calculation in relation to all Passengers travelling on flights operated by the Airline which occur on or after the Start Date in respect of such adjustment of the PFC.

## 6. FIRST PFC CALCULATION

6.1 As soon as reasonably practicable after the Operational Date, AAL shall cause the AAL Auditor to issue to the Airline a written notice stating (and giving reasonable detail of):

6.1.1 the actual amounts applicable pursuant to the Design and Construct Contract between NTCC and the Contractor in respect of:

- (a) the Initial Guaranteed Maximum Price;
- (b) the Reset Guaranteed Maximum Price;
- (c) the Approved Price Adjustments (if any);
- (d) the contract price actually payable by the NTCC including a breakdown of any component payable to the Contractor as an incentive for cost savings;

6.1.2 the aggregate amount of AAL's direct costs in respect of the MUIT in the categories specified in **Appendix 2** including a breakdown of such amount by relevant categories;

6.1.3 the projected Operating Expenses in respect of the MUIT together with a report from Rider Hunt and Resolve FM (or such other experts as may be retained by AAL for the purposes of finalising the projected Operating Expenses) confirming the amounts taken into account in calculation of the projected Operating Expenses and confirming that such amounts were calculated in accordance with the ACCC Based Methodology and this Deed, which reports must acknowledge that the Airline is entitled to rely on the contents of the reports; and

6.1.4 the amounts so certified are true and correct to the best of the knowledge and belief of the AAL Auditor and after all proper enquiry and verification.

## 7. SUBSEQUENT PFC ADJUSTMENTS

7.1 The PFC shall be adjusted at the times specified in **Appendix 6** in respect of each Reset Event specified in **Appendix 6** and shall be adjusted in accordance with the revised variables and other directions specified in **Appendix 6** in respect of the applicable Reset Event and using the ACCC Based Methodology.

7.2 AAL shall notify the Airline of the reset PFC based on the recalculation of the PFC in respect of any Reset Event as soon as reasonably possible and the revised PFC shall be payable by the Airline at the new rate with effect as at and from the Start Date in respect of such Reset Event.

7.3 AAL and the Airline acknowledge that any adjustment of the PFC at a Reset Date applicable pursuant to **Appendix 6** during the First Recovery Period will be an adjustment of the PFC over the balance of the First Recovery Period as opposed to an adjustment over the period to the immediately succeeding Reset Date.

7.4 AAL will ensure that the forward forecasts of passenger numbers to be taken into account in adjusting the PFC as at each Reset Date are reasonably current and in any event are not more than four months old as at the date of the calculation.

7.5 For the avoidance of doubt:

- 7.5.1 the Airline acknowledges that this Deed does not prohibit or restrict AAL from applying a new or additional PFC for the purpose of AAL recovering costs relating to any further new infrastructure or improvements to be constructed at the Airport other than the MUIT Cost and the Operating Expenses; and
- 7.5.2 the Airline acknowledges that the ongoing replacement and growth capital expenditure in respect of the MUIT is not included in the calculation of the PFC pursuant to **Appendix 1 to 6** (inclusive) of this Deed and such expenditure may be recovered by AAL through adjustments to the landing and aeronautical charges applicable at the Airport by a charge or fee based on Passenger numbers consistent with the PFC pursuant to the Service Level Agreement made between the parties on or about the date of this Deed.

**8. PAYMENT OF PFC**

**8.1 The Airline to pay PFC**

The Airline will during the Recovery Period pay the PFC to AAL monthly:

- 8.1.3 at the end of the month following the month when the passenger departed or arrived from the Terminal (as the case may be); and
- 8.1.4 by direct credit from the Airline account to an account nominated by AAL.

**8.2 Commencement of Recovery Period**

- 8.2.1 The Airline acknowledges that the PFC shall be charged for the duration of the Recovery Period.
- 8.2.2 AAL acknowledges that the Airline shall require not less than three months prior notice of the expected or anticipated Operational Date.
- 8.2.3 AAL will ensure that the arrangements made between it and the Airline in relation to prior notice of the expected or anticipated Operational Date are no less favourable than the corresponding arrangements made between AAL and the other RPT Operators.

**8.3 Statement of Passengers**

- 8.3.1 Within ten (10) business days after the end of each month during the Accounting Period, the Airline must give to AAL a statement which specifies for the relevant month:
  - (a) the total number of aircraft movements of the Airline's aircraft at the Airport including reasonable particulars of the aircraft movements; and
  - (b) the total number of the Airline Passengers (categorised as International Passengers, Domestic Passengers, or Regional Passengers) including (without limitation) the total numbers categorised by arriving Passengers, departing Passengers, transfer Passengers, transit Passengers, positioning crew and infants.

8.3.2 Within ten (10) business days after receipt from the Airline of the information specified in **clause 8.3.1**, AAL will issue an invoice to the Airline setting out reasonable detail of the PFC incurred and payable in respect of the relevant month.

#### 8.4 Accounting records

8.4.1 The Airline must keep proper records of the Airline Passengers for 3 years after the month in which the passenger arrived or departed from the Terminal or such longer period as may be required by law.

8.4.2 AAL may at any time request the Airline to produce the records referred to in **clause 8.4.1** for inspection, copying or audit by AAL (at AAL's cost) at a place suitable for that purpose as specified by the Airline. The Airline must comply with the request within a reasonable time. AAL shall pay all reasonable costs incurred by the Airline in supplying the information for the purposes of such inspection and audit including the Airline's reasonable internal administrative cost.

8.4.3 If either party notifies the other of an error in the amount of the PFC remitted to AAL and provides evidence of the error which shows that:

(a) the Airline has paid to AAL less than AAL was entitled to receive, then the Airline must pay the difference to AAL; or

(b) AAL has received from the Airline more than it was entitled to receive, then AAL must pay the difference to the Airline,

within 28 days after receipt of notification in writing of the overpayment or underpayment (as the case may be) together with the supporting evidence.

8.4.4 If either party receives notification of an error or alleged error pursuant to **clause 8.4.3** of this Deed and considers that the supporting evidence does not substantiate the error or if either party otherwise has any query or dispute regarding calculation of any amount pursuant to this **clause 8** then:

(a) such party may serve a notice of dispute on the other party setting out reasonable particulars of the issues and amounts in dispute; and

(b) the parties must liaise in good faith and attempt to resolve the dispute on a mutually acceptable basis within a period of 10 working days; and

(c) if the parties are unable to resolve the dispute by mutual agreement within the period specified in **clause 8.4.4(b)** then the correct amount of the invoice and charges shall be determined by an auditor appointed by the parties for such purpose; and

(d) the cost of the audit shall be paid by AAL and the Airline in such proportions as the auditor considers fair and reasonable having regard to the outcome of the audit.

9. **ALTERNATE CHARGING OF PFC**

Notwithstanding any other provision of this Deed or the Related Agreements:

- 9.1 if the Airline does not pay the PFC to AAL by the due date for payment and fails to rectify such breach within ten (10) business days of receipt of a notice of default given by AAL; or
- 9.2 if the Airline commits any other breach or default in the due observance and performance of this deed and fails to rectify such breach or default within the time stipulated in a notice of default given by AAL; or
- 9.3 if AAL ascertains that it cannot lawfully charge the PFC to the Airline,

then AAL shall be entitled to charge the PFC itself direct to the Airline Passengers at the Terminals and for such purposes AAL may construct and maintain collection booths or other facilities in the Terminals at locations reasonably determined by AAL and AAL may make such consequential changes to the operational procedures at the Terminals as it may reasonably determine in order to facilitate collection of the PFC provided that such changes are not inconsistent with the Airline' rights under the Related Agreements.

10. **GST**

- 10.1 The parties acknowledge that the PFC, or any other amount payable (including non-monetary consideration) for the supply of goods, services or other things under this deed ("Price") is stated as exclusive of GST.
- 10.2 If GST is imposed on any supply pursuant to this deed, the recipient of the supply, (being a party to this deed), must pay in addition to the Price an amount calculated by multiplying the prevailing GST rate by the Price. Subject to **clause 10.4**, any amount payable under this **clause 10.2** is payable on the day that payment of the Price (or part of the Price) for the supply that has given rise to the obligation to pay GST, is required pursuant to this Deed.
- 10.3 Prior to calculating the additional amount payable pursuant to **clause 10.2**, AAL agrees to adjust the fees to reflect any abolition or reduction of taxes which has occurred as result of or in connection with the imposition of the GST and represents and warrants that it will pass on to the Airline the full benefit of the abolition or reduction of such taxes and will otherwise comply with the provisions of Part VB of the *Trade Practices Act 1974* (Cth).
- 10.4 AAL must ensure that any invoice or other request or demand for payment of supplies provided by it to the Airline shall constitute a tax invoice under the relevant GST legislation or any public ruling of the Australian Tax Office ("**ATO Public Ruling**") and will enable the Airline to claim input tax credits in respect of supplies to which the invoice relates. No amount shall be due and payable by the Airline in respect of any supply under this Agreement unless the Airline has received from the party making the supply a tax invoice which complies with this clause.
- 10.5 The parties agree to use reasonable efforts to do everything required by the relevant GST legislation or any ATO Public Ruling to enable or assist the other party to claim or verify any input tax credit, set off, rebate or refund in respect of any GST paid or payable in connection with supplies under this Deed.
- 10.6 If any amount payable by the Airline under this Deed is calculated by reference to any cost, expense or other liability ('Cost') incurred by any person including AAL,

the Cost for the purposes of that calculation shall be the amount of the Cost actually incurred by the relevant party less the amount of any input tax credits (as defined in the relevant GST legislation) which that party is entitled to claim in respect of that Cost. AAL must provide details of the Cost and any input tax credits to the Airline on demand.

10.7 In compliance with the relevant withholding tax legislation or any ATO Public Ruling, the Airline will withhold an amount of tax (currently 48.5%) from any payment it makes to AAL if the payment is for a supply, unless AAL provides to the Airline an invoice, or other document notifying an obligation to make a payment, that quotes AAL's Australian Business Number (ABN).

10.8 In this **clause 10 'GST'** means any goods and services tax imposed by legislation enacted by the Commonwealth Government of Australia including but not limited to a tax imposed by the A New Tax System (Goods and Services Tax) Act 1999 (Cth) and the related imposition Acts of the Commonwealth; and;

10.9 In this **clause 10 'supply'** has the meaning given to it by the legislation enacted or amended from time to time by the Commonwealth Government of Australia in relation to the imposition of GST.

## 11. CONFIDENTIALITY

11.1 AAL and the Airline agree that the Confidential Information and the contents of this Schedule are sensitive commercial information and that they must use their best endeavours to keep the Confidential Information and the terms of this Schedule confidential.

11.2 AAL and the Airline will not be in breach of their respective obligations under **clause 11** if they give the Confidential Information to:

11.2.1 any person with the prior approval of the other party;

11.2.2 to a Related Body Corporate of a party or to the legal or financial advisers of either of these for the purposes of this Schedule and related transactions, providing the person to whom disclosure has been made has agreed with the other party to be bound by this clause;

11.2.3 to AAL's employees or the Airline's employees as the case may be in the proper exercise of any rights and proper performance of any obligations under this Schedule,

nor if the disclosure:

11.2.4 is of information that is or enters the public domain other than under a breach of this clause; or

11.2.5 is as required by law or the requirements of any relevant stock exchange.

11.3 In all cases a disclosure permitted by this **clause 11** must be reasonably necessary and the party disclosing the information must use its best endeavours to ensure that the person who receives the information keeps the Confidential Information confidential.

## 12. TERMINATION FOR EVENT OF DEFAULT

- 12.1 If the Airline fails to pay to AAL any money that it must pay under this Schedule and does not remedy that failure within one (1) month after the due date for payment of that money, AAL may terminate the Airline's rights of use under the Adelaide Airport Terms of Use by one month's notice in writing to the Airline.
- 12.2 If the Airline remedies the default referred to in **clause 16.1** within the notice period, AAL must withdraw that notice.
- 12.3 If AAL lawfully terminates the Airline's rights of use under this Schedule by virtue of a default by the Airline then AAL shall be entitled to terminate each and every Related Agreement and for such purpose any notice of default given by AAL pursuant to **clause 12.1** of this Schedule may (if it so specifically states) constitute a notice of default pursuant to the Related Agreements.

## 13. DISPUTE RESOLUTION

- 13.1 Any disputes that arise between the parties 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:
  - 13.1.1 either party may submit a "notice of dispute" to the other party setting out all reasonable details and particulars of the dispute;
  - 13.1.2 the parties must meet within 10 working 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;
  - 13.1.3 if the dispute is not resolved within 5 working days of the first meeting held pursuant to **clause 13.1.3** then the dispute shall be referred to the Managing Directors or Executive General Managers (as applicable) (or persons holding substantially the same office or position) of the parties who shall use their reasonable endeavours to resolve the dispute on a mutually acceptable basis; and
  - 13.1.4 if the dispute is not resolved within 5 working days of referral to the Managing Director or Executive General Manager (as the case may be) of the parties pursuant to **clause 13.1.3** 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.

## 14. INTEREST

If the Airline does not pay an amount under this Deed by the date that it is due, it must pay interest on that amount:

- 14.1 at the Interest Rate;
- 14.2 from the date the payment was due until the date the payment is made.



## APPENDIX 1

### METHODOLOGY FOR DETERMINATION OF PFC

The methodology for calculating the PFC is based on the Australian Competition & Consumer Commission's ("**ACCC**") decision titled "Adelaide Airport: Proposal to Pass Through the Price Cap the Costs of a Multi-User Integrated Terminal" subject to modifications mutually agreed between the parties and described in this Deed and **Appendices 1 to 6** (both inclusive) of this Deed.

The fundamental principle underlying the calculation of the PFC is that the net present value at AAL's weighted average cost of capital ("**WACC**") of the cash flows to AAL from the MUIT are equal to zero.

The methodology is an analysis of the cash outflows and cash inflows to AAL, based on the assumptions set out in the following table.

<b>Assumption</b>	<b>Value</b>
PFC Collection period	15 years
Base Year	2002
WACC	See Appendix 4
Aeronautical component of the MUIT Cost	[85%]
Percentage of incremental new terminal operating expenses aeronautically related (Non-rechargeable)	[85%] as per PFC List
Percentage of rechargeable incremental new terminal operating expenses	100%
International PFC (\$'02)	[6.84]
Regional PFC (\$'02)	[1.17]

#### **Calculation of the Domestic PFC**

It is assumed that the international and regional PFC is fixed for the purposes of calculating the PFC on domestic passengers.

#### **Calculation Methodology**

1. Traffic forecasts for the PFC period by international, regional and domestic categories are produced for each year of the PFC period;
2. Revenue from international and regional passengers are derived from the assumed international and regional passengers at their respective PFC rates for each year of a Recovery Period;
3. Revenue from domestic passengers is estimated using an estimated Domestic PFC;
4. This revenue is totalled to produce the cash flow by period;
5. Aeronautically related capital expenditure by each year a Recovery Period is deducted from the cash flow;
6. Aeronautically related incremental operating costs of the new terminal are then deducted from the net cash flow by year;
7. This generates the total cash flow for each year of a Recovery Period;
8. This net cash flow is then discounted at the WACC by period and totalled to produce the total NPV of the project to AAL;
9. The Domestic PFC is then adjusted such that the total NPV is zero.

**APPENDIX 2**

**DELAY CAUSING EVENTS AND PROVISIONAL SUMS AND AAL DIRECT COSTS**

**1. DELAY CAUSING EVENTS**

- 1.1 For the purposes of clause 1.1.7(c)(i) of this Schedule 2, the Delay Causing Events under clause 36 of the Design and Construct Contract shall be limited to the following:
- 1.1.1 (Not Applicable);
  - 1.1.2 (Not Applicable);
  - 1.1.3 (not applicable);
  - 1.1.4 civil commotion, tempest and earthquake;
  - 1.1.5 Force Majeure to the extent not covered by paragraphs (a) to (d) or (f) to (j) of clause 36 of the Design and Construct Contract;
  - 1.1.6 any construction industry wide industrial dispute, action, strike or lockout not occurring only in respect of the Site but on a State, national or international basis and provided that the industrial dispute, action, strike or lockout has not been caused by the Contractor and results in the Works being delayed for at least three consecutive working days;
  - 1.1.7 a change in the legislative requirements which could not reasonably have been anticipated by the Contractor at the time of signing the Contract;
  - 1.1.8 delay by any municipal, public or statutory authority beyond the control of and not caused by the Contractor;
  - 1.1.9 (not applicable);
  - 1.1.10 (not applicable).
- 1.2 For the purposes of this clause 1, Force Majeure means the following events or circumstances to the extent that same are not within the control of a party and which by the exercise of reasonable care, that party is not reasonably able to prevent or overcome (but excluding Site Conditions specified in Clause 12):
- 1.2.1 Act of God, flood or lightning strike;
  - 1.2.2 act of the enemy, war, blockade or insurrection;
  - 1.2.3 fire or explosion, including radioactive and toxic explosions;
  - 1.2.4 any epidemic or quarantine; or
  - 1.2.5 acts of terrorism.

## 2 PROVISIONAL SUMS

2.1 For the purposes of clause 1.1.7(c)(iii) of this Schedule 2, the provisional sums under clause 11 of the Design and Construct Contract are to be determined on the basis that NTCC as principal and the Contractor under the Design and Construct Contract have agreed:

- 2 -

- 2.1.1 the Works (as defined in the Design and Construct Contract) under the Design and Construct Contract include the procurement and installation of the Prime Cost Items by the Contractor;
  - 2.1.2 the Contractor shall be responsible for the documentation, procurement, supply, installation and integration of the Prime Cost Items within the Works;
  - 2.1.3 the provisional sums have been allocated to each of the Prime Cost Items and have been calculated on the basis of the cost of acquisition of the Prime Cost Items by the Contractor;
  - 2.1.4 the Initial Guaranteed Maximum Price includes the provisional sums allocated to the Prime Cost Items and also includes an amount for all of the other works to be undertaken by the Contractor in connection with the acquisition installation co-ordination and integration of the Prime Cost Items with the Works and the Reset Guaranteed Maximum Price will include also such provisional sums unless such Prime Cost Items have been put to tender and a subcontract has been entered into prior to determination of the Reset Guaranteed Maximum Price;
  - 2.1.5 the Contractor will liaise with NTCC to ensure that it acquires the Prime Cost Items at a competitive market price and NTCC shall give a written direction to the Contractor specifying the amount to be expended by the Contractor against the provisional sum in respect of each Prime Cost Item after proper investigation and assessment of the alternative options for each Prime Cost Item.
- 2.2 In the event that the actual cost to the Contractor in respect of the acquisition of a Prime Cost Item is greater or less than the provisional sum allocated against such Prime Cost Item in the Design and Construct Contract, then the amount unexpended or the amount of the difference (as the case may be) shall be certified by the Superintendent and shall be deducted from or added to the Initial Guaranteed Maximum Price, or Reset Guaranteed Maximum Price. The acquisition cost of Prime Cost Items are to be taken to be the net cost to the Contractor (disregarding any deduction of cash discount for prompt payment) to the point of delivery to the Contractor. The Contractor is responsible for all other costs including (without limitation) costs of carriage and fixing.
- 2.3 Where any adjustment is made pursuant to the preceding provisions of this clause, that adjustment (unless the Superintendent pursuant to the Design and Construct Contract otherwise determines) shall not include any amount on account of profit to or attendance on the part of the Contractor.
- 2.4 For the purposes of the abovementioned provision, the Prime Cost Items are as follows:
- 2.4.1 retail airconditioning;
  - 2.4.2 additional airline lounge area,
- and the parties acknowledge that neither of these Prime Cost Items are aeronautically related.

**3. AAL DIRECT COSTS**

- 3.1 Amounts reasonably incurred and paid by AAL (but not exceeding \$25.7 million in aggregate) which directly relate to the MUIT in the following categories:
  - 3.1.1 preliminary items and works;
  - 3.1.2 public information board;
  - 3.1.3 marketing and advertising costs;
  - 3.1.4 pre-opening costs;
  - 3.1.5 insurance, comprising contract works insurance and business interruption insurance that is project specific to the MUIT;
  - 3.1.6 professional fees and expenses reasonably and directly incurred in relation to the development, design and construction of the MUIT, but excluding any such fee or expense to the extent that it relates to financing or disputes and/or threatened or actual litigation or arbitration; and
  - 3.1.7 Contingency, but limited to costs in the categories specified above in paragraphs 3.1 to 3.6 (both inclusive).
  
- 3.2 In order to remove any doubt, only costs that are directly aeronautically related (or the proportion of such cost that is aeronautically related) will be included in the MUIT Cost Recoverable.

**APPENDIX 3**

**WACC / CAPM PARAMETER VALUES**

**(Insert the pre-tax real weighted average cost of capital (WACC), which is to be rounded to two decimal points)**

WACC/CAPM parameter	Value/Calculation
Inflation rate (f) %	[2.54]
Debt proportion (D/V) %	68
Equity proportion (E/V) %	32
Real Risk Free Rate (Rfr) %	[3.37]
Nominal Risk Free Rate, Rfn = (1+Rfr)(1+f) %	[6.00]
Australian Market Risk Premium	6.0
Asset Beta (pa)	0.61
Debt Beta, pd = (Kdn-Rfn-0.5%)/MRP	0.13
Equity Beta, pe = pa + (pa-pd) * {1-[Kdn*(T)/(1+Kdn)]} * (D/E)	1.60
Tax Rate (T) %	30
Debt Risk Margin (Dm) %	1.3
Nominal Cost of Debt (Kdn) % {[(Rfr-1)*(1+f)]-1}+Dm	[7.30]
Imputation Credit Utilisation, Gamma (y) %	50%
Post-tax nominal Cost of Equity Ke = Rfn+(pe*Mrp)	[15.61]
Post-tax nominal WACC (WACCnpo)% Ke[(1-T)/(1-T(1-y))].E/V + Kdn(1-T)D/V	[7.59]
<b>Pre tax real WACC</b>	<b>[8.10%]</b>

APPENDIX 4

PFC LIST

OPERATING COSTS ATTRIBUTABLE TO THE PFC

This PFC list is to be reviewed to identify any changes in the categories of operating costs and the relevant percentage of each category which are attributable to the PFC having regard to changes in the final design of the MUIT and using the ACCC Based Methodology

(a) MAINTENANCE

(a) Information Technology

General support and maintenance of IT systems including FIDS and TIMS

Maintenance of PCs

Support, maintenance and operational lease of common user terminal equipment

**[approx. 100% of IT items attributable to PFC]**

(b) Communications

Communications maintenance

**[approx. 83% attributable to PFC]**

(c) Taxiways and Aprons

Incidental Crack Patching for MUIT apron and MUIT related taxiways (taxiways J and K)

**[100% attributable to PFC]**

(d) Terminal

Mechanical Services - Air Conditioning and Ventilation **[approx. 90% attributable to PFC]**

- routine preventative maintenance
- air filter replacement
- water treatment for condenser, chillers and heating hot water systems
- chiller annual services and maintenance
- mechanical services switchboards "Thermovision" photography and minor switchboard remedial works
- air handling, fan coil unit and exhaust fans breakdown
- condenser, chilled and heating hot water pump, pipework and valve breakdown maintenance

- building management system breakdown maintenance
- chiller, boilers and cooling towers (excludes major component replacement i.e. compressors and tube bundles)

**Aircraft Ground Support Equipment [Nil attributable to PFC]**

- 400Hz frequency converter comprehensive breakdown maintenance agreement excluding parts
- pre-conditioned air system

**Lighting [approx. 90% attributable to PFC]**

- lamp and luminaire component replacement
- emergency and exit lighting testing and component replacement

**Electrical Services - Terminal**

- access control closed circuit television and MATV checking and component replacement **[100% attributable to PFC]**
- diesel generator preventative maintenance **[approx. 83% attributable to PFC]**

**Vertical Transportation Services [100% attributable to PFC]**

- lifts comprehensive maintenance
- escalators comprehensive maintenance
- moving walkways (4 off 40m) comprehensive maintenance Fire

**Protection Services [approx. 83% attributable to PFC]**

- fire protection and detection systems
- automatic fire sprinkler system
- public address system bi-annual testing and component replacement Baggage

**Handling System [100% attributable to PFC]**

- routine maintenance
- callouts
- spare parts
- administration

**HV and LV electrical reticulation [approx. 83% attributable to PFC]**

- low voltage switchboard "Thermovision" photography and minor remedial works  
General building maintenance [**approx. 83% attributable to PFC**]

**(e) Aerobridges**

Aerobridge maintenance (13 aerobridges) [**100% attributable to PFC**]

**(f) Mains Service**

Transformer oil sampling and checking [**approx. 83% attributable to PFC**] High voltage switch gear maintenance and testing [**approx. 83% attributable to PFC**]

Water and sewer [**approx. 83% attributable to PFC**]

**(g) Grounds/Landscaping**

Cleaning and rubbish collection [**100% attributable to PFC**]

**(h) Lighting and Visual Aids**

Nose-in guidance system [**100% attributable to PFC**]

Replacement of apron flood light lamps and sundry components [**100% attributable to PFC**]

Taxiway lighting [**100% attributable to PFC**]

**(i) Roads**

Overlay works (excluding CAPEX) [**95% attributable to PFC**] Incidental crack patching and line marking [**95% attributable to PFC**] Road sweeping [**95% attributable to PFC**]

**(b) UTILITIES AND RATES AND TAXES**

**(a) Electricity supply**

Mechanical services [**approx. 83% attributable to PFC**]

Electrical services [**approx. 83% attributable to PFC**]

Lifts [**100% attributable to PFC**]

Escalators [**100% attributable to PFC**]

Moving walkways [**100% attributable to PFC**]

Fire protection services [**approx. 83% attributable to PFC**]

**(b) Gas**



Mechanical services [**approx. 83% attributable to PFC**]

**(c) Water and sewerage charges [approx. 83% attributable to PFC]**

**(d) Contract cleaning [approx. 83% attributable to PFC]**

**(e) Window Cleaning [approx. 83% attributable to PFC]**

**(f) Trade waste**

Compliance audit [**Nil attributable to PFC**]

Grease arrestor [**Nil attributable to PFC**]

Backflow protection valves [**approx. 83% attributable to PFC**]

**(g) Telephone and telecommunications [approx. 83% attributable to PFC]**

**(h) Rates and Taxes**

If separately assessed on public areas in the Terminal, 100% attributable to the PFC.  
If assessed on the Terminal as a whole, approximately 83% attributable to the PFC

**(c) LABOUR**

**(a) Salaries and wages basic [100% attributable to PFC]**

Duty manager

Information desk

Engineer

**(b) On-costs [100% attributable to PFC]**

Payroll tax

Workcover

Superannuation Annual

leave (normal) Annual

leave (shift) Annual leave

loading Long service

leave

(d) **ADMINISTRATION**

**Insurance [approx. 83% attributable to PFC]**

Total value replacement cost

Revenue loss Removal of debris

Fire service levy Stamp duty

Commercial-in-Confidence

APPENDIX 5

DERIVATION OF THE PFC - DISCOUNTED CASH FLOW ANALYSIS

Year end October 31		2002	2003	2004	2005	2006	2007	2008	2009	2010
Year	Totals	1	2	3	4	5	6	7	8	9
International pax	6,600,551	237,665	237,993	249,399	260,372	271,829	283,789	296,276	309,312	322,922
Domestic pax	106,502,737	3,757,312	4,040,943	4,250,000	4,428,500	4,614,498	4,808,307	5,010,255	5,220,686	5,439,955
Regional pax	6,794,648	273,133	297,319	309,106	315,288	321,594	328,026	334,586	341,278	348,104
<b>Total passengers</b>	<b>119,897,935</b>	<b>4,268,110</b>	<b>4,576,254</b>	<b>4,808,505</b>	<b>5,004,161</b>	<b>5,207,920</b>	<b>5,420,121</b>	<b>5,641,118</b>	<b>5,871,276</b>	<b>6,110,980</b>
International revenue	38,417,705	-	-	-	-	1,859,805	1,941,637	2,027,069	2,116,260	2,209,375
Domestic revenue	451,230,809	-	-	-	-	23,128,919	24,100,333	25,112,546	26,167,274	27,266,299
Regional revenue	6,553,307	-	-	-	-	376,353	383,880	391,558	399,389	407,377
<b>PFC Revenue (\$)</b>	<b>496,201,821</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>25,365,077</b>	<b>26,425,850</b>	<b>27,531,172</b>	<b>28,682,923</b>	<b>29,883,051</b>
MUIT Cost Recoverable (\$)	(197,911,460)	(10,822,920)	(7,121,048)	(59,949,437)	(120,018,056)	-	-	-	-	-
Discount factor (1/r)		1.000	0.925	0.856	0.792	0.732	0.677	0.627	0.580	0.536
Real Operating Expenses (\$)	(108,750,540)	-	-	-	-	(6,242,077)	(7,240,491)	(7,311,160)	(7,313,695)	(7,316,280)
Net Cash Flow (\$)	189,539,820	(10,822,920)	(7,121,048)	(59,949,437)	(120,018,056)	19,123,000	19,185,359	20,220,012	21,369,228	22,566,771
<b>PV of Net Cash Flow (\$)</b>	<b>0</b>	<b>(10,822,920)</b>	<b>(6,587,463)</b>	<b>(51,301,932)</b>	<b>(95,010,041)</b>	<b>14,004,037</b>	<b>12,996,950</b>	<b>12,671,477</b>	<b>12,388,222</b>	<b>12,102,187</b>
Pre-tax real WACC applied		8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%
International PFC applied		\$ -	\$ -	\$ -	\$ -	\$ 6.84	\$ 6.84	\$ 6.84	\$ 6.84	\$ 6.84
Domestic PFC applied		\$ -	\$ -	\$ -	\$ -	\$ 5.01	\$ 5.01	\$ 5.01	\$ 5.01	\$ 5.01
Regional PFC applied		\$ -	\$ -	\$ -	\$ -	\$ 1.17	\$ 1.17	\$ 1.17	\$ 1.17	\$ 1.17

**Commercial-in-Confidence**

Year end October 31	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Year	10	11	12	13	14	15	16	17	18	19
International pax	337,352	352,754	368,507	384,721	401,649	419,322	437,627	456,445	476,073	496,544
Domestic pax	5,646,012	5,815,393	5,991,837	6,177,584	6,369,089	6,566,531	6,770,093	6,979,966	7,196,345	7,419,432
Regional pax	355,301	363,118	371,107	379,271	387,615	396,142	404,858	413,764	422,867	432,170
<b>Total passengers</b>	<b>6,338,666</b>	<b>6,531,265</b>	<b>6,731,450</b>	<b>6,941,576</b>	<b>7,158,353</b>	<b>7,381,995</b>	<b>7,612,578</b>	<b>7,850,176</b>	<b>8,095,285</b>	<b>8,348,146</b>
International revenue	2,308,107	2,413,485	2,521,262	2,632,197	2,748,014	2,868,926	2,994,173	3,122,922	3,257,208	3,397,267
Domestic revenue	28,299,106	29,148,079	30,032,456	30,963,462	31,923,330	32,912,953	33,933,254	34,985,185	36,069,726	37,187,887
Regional revenue	415,800	424,948	434,297	443,851	453,616	463,596	473,795	484,218	494,871	505,758
<b>PFC Revenue (\$)</b>	<b>31,023,013</b>	<b>31,986,512</b>	<b>32,988,014</b>	<b>34,039,511</b>	<b>35,124,959</b>	<b>36,245,475</b>	<b>37,401,222</b>	<b>38,592,325</b>	<b>39,821,805</b>	<b>41,090,913</b>
MUIT Cost Recoverable (\$)	-	-	-	-	-	-	-	-	-	-
Discount factor (1/r)	0.496	0.459	0.425	0.393	0.363	0.336	0.311	0.288	0.266	0.246
Real Operating Expenses (\$)	(7,318,917)	(7,321,605)	(7,324,345)	(7,327,138)	(7,329,984)	(7,332,884)	(7,335,838)	(7,338,847)	(7,341,911)	(7,355,367)
Net Cash Flow (\$)	23,704,096	24,664,907	25,663,669	26,712,373	27,794,975	28,912,590	30,065,383	31,253,478	32,479,893	33,735,546
<b>PV of Net Cash Flow (\$)</b>	<b>11,759,589</b>	<b>11,319,378</b>	<b>10,895,223</b>	<b>10,490,692</b>	<b>10,097,928</b>	<b>9,716,890</b>	<b>9,347,196</b>	<b>8,988,501</b>	<b>8,641,274</b>	<b>8,302,813</b>
Pre-tax real WACC applied	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%
International PFC applied	\$ 6.84	\$ 6.84	\$ 6.84	\$ 6.84	\$ 6.84	\$ 6.84	\$ 6.84	\$ 6.84	\$ 6.84	\$ 6.84
Domestic PFC applied	\$ 5.01	\$ 5.01	\$ 5.01	\$ 5.01	\$ 5.01	\$ 5.01	\$ 5.01	\$ 5.01	\$ 5.01	\$ 5.01
Regional PFC applied	\$ 1.17	\$ 1.17	\$ 1.17	\$ 1.17	\$ 1.17	\$ 1.17	\$ 1.17	\$ 1.17	\$ 1.17	\$ 1.17

[All amounts in real 2002 dollars]

## APPENDIX 6

### ADJUSTMENTS TO THE PFC

#### 1. PFC Adjustment Schedule

Event	Timing of Reset Date	Revised Variables
Indicative PFC Calculation	Execution of PFC Deed	
Provisional PFC Calculation	Three (3) months prior to anticipated Operational Date	<ul style="list-style-type: none"> <li>• Nominal Risk Free Rate</li> <li>• Real Risk Free Rate</li> <li>• Real Operating Expenses forecasts</li> <li>• Passenger forecasts Expected MUIT Cost</li> <li>• PFC List</li> <li>• Expected MUIT Cost Recoverable</li> <li>• International and Regional PFC</li> </ul>
First PFC Calculation	On or around the Operational Date	<ul style="list-style-type: none"> <li>• Actual MUIT Cost Recoverable</li> </ul>
Annual Reset	On each 12 month anniversary of the Operational Date	<ul style="list-style-type: none"> <li>• Actual Inflation Rate</li> </ul>
Five Year Reset	On the 5, 10 and 20 year anniversaries of the Operational Date (and each 5 year anniversary thereafter)	<ul style="list-style-type: none"> <li>• Nominal Risk Free Rate</li> <li>• Real Risk Free Rate</li> <li>• Actual Passenger numbers prior to Reset Date</li> <li>• Passenger forecasts</li> <li>• Real Operating Expenses forecasts</li> </ul>
Extraordinary Event Reset	When an Extraordinary Event occurs	<ul style="list-style-type: none"> <li>• To be agreed at the time, and based on the methodology and principles governing the Indicative PFC Calculation</li> </ul>

#### 2. PFC Calculations

##### 2.1 Indicative, Provisional and First PFC

- (a) The Indicative, Provisional and First PFCs are calculated as set out in clauses 6, 7 and 8 of the PFC Deed.
- (b) MUIT Cost Recoverable is to be set and reset by Rider Hunt in a fair and independent manner after finalisation of design and certainty as to the final "as built" dimensions of the MUIT, having regard to any changes in the categories of costs and the relevant percentage of each category which are attributable to the PFC, and will be reset using the same methodology as used in setting the Indicative PFC Rate. For the avoidance of doubt, the parties acknowledge that areas from which AAL or its Related Bodies Corporate derive rental income (other than nominal priority licence fees) are not aeronautically related.

### **2.3 Annual Adjustments**

AAL will annually adjust the PFC by the Inflation Rate in the most recent quarter ending no less than three (3) months prior to the next adjustment date. The first annual adjustment date will be the 12 month anniversary of the Operational Date, and each subsequent annual adjustment date will occur every 12 months.

AAL will notify the RPT Operator of the adjusted PFC and provide supporting calculations three (3) months prior to each annual adjustment date. The adjusted PFC will be collected from all Airline Passengers processed through a Terminal on and from the annual adjustment date.

### **2.4 Five Year Resets**

The Nominal Risk Free Rate, Real Risk Free Rate, Real Operating Expenses and passenger forecasts will be revised every five years on a forward looking basis, such that any foreseeable over or under recovery of the MUIT Cost Recoverable is minimised.

The PFC will be adjusted to take into account over or under recovery resulting from actual passenger numbers being higher or lower than those forecast.

The retrospective adjustment for passengers is achieved by recalculating the net cash flows to AAL including:

- revised cash flows comprising all actual PFC revenue (inclusive of domestic PFC revenue) up to the applicable Reset Date plus forecast Regional and International revenues for the remainder of the First Recovery Period; and
- revised cash flows consisting of Real Operating Expenses as originally forecast up to the Reset Date (i.e. no adjustment for excess expenditure or savings) plus forecast Real Operating Expenses for the remainder of the First Recovery Period.

The revised net cash flows in each period are then discounted at the WACC applicable for period. The discounted cash flows are then totalled to produce the total NPV of the net recoveries already received at that Reset Date plus net forecast recoveries (excluding domestic PFC). The PFC for Domestic Passengers is then adjusted such that when levied against the forecast Domestic Passengers for the remainder of the First Recovery Period, the total NPV to AAL of the MUIT is zero.

However, the PFC will not be adjusted for retrospective over or under recovery due to Real Operating Expenses, the Nominal Risk Free Rate or the Real Risk Free Rate diverging from forecasts.

The following three examples set out how the PFC would be adjusted at the Five Year Reset Date in 2011 in the following circumstances:

- actual passenger numbers are below forecasts;
- actual Operating Expenses are above forecasts; and
- the Nominal Risk Free Rate decreases.

**Example 1**

Total PAX down 10% during the first Five Year Reset Period, then revert to original forecasts for remainder of PFC Recovery Period. Forecasts do not adjust from the Five Year Reset Period starting in 2011, but the PFC is adjusted at the Reset Date in 2011 to compensate for under recovery in first Five Year Reset Period.

Year end October 31		2002	2003	2004	2005	2006	2007	2008	2009	2010
Year	Totals	1	2	3	4	5	6	7	8	9
International pax	6,452,138	237,665	237,993	249,399	260,372	244,646	255,410	266,648	278,381	290,630
Domestic pax	103,993,367	3,757,312	4,040,943	4,250,000	4,428,500	4,153,048	4,327,476	4,509,230	4,698,818	4,895,960
Regional pax	6,627,289	273,133	297,319	309,106	315,288	289,434	295,223	301,128	307,150	313,293
<b>Total passengers</b>	<b>117,072,794</b>	<b>4,268,110</b>	<b>4,576,254</b>	<b>4,808,505</b>	<b>5,004,161</b>	<b>4,687,128</b>	<b>4,878,109</b>	<b>5,077,006</b>	<b>5,284,149</b>	<b>5,499,882</b>
International revenue	39,343,432					1,673,825	1,747,473	1,824,362	1,904,634	1,988,437
Domestic revenue	460,997,368					20,816,027	21,690,300	22,601,291	23,550,547	24,539,669
Regional revenue	6,673,019					338,718	345,492	352,402	359,450	366,639
<b>PFC Revenue (\$)</b>	<b>507,013,819</b>					<b>22,828,569</b>	<b>23,783,265</b>	<b>24,778,055</b>	<b>25,814,631</b>	<b>26,894,746</b>
MUIT Cost Recoverable (\$)	(197,911,461)	(10,822,920)	(7,121,048)	(59,949,437)	(120,018,056)					

Year end October 31	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Year	10	11	12	13	14	15	16	17	18	19
International pax	337,352	352,754	368,507	384,721	401,649	419,322	437,627	456,445	476,073	496,544
Domestic pax	5,646,012	5,815,393	5,991,837	6,177,584	6,369,089	6,566,531	6,770,093	6,979,966	7,196,345	7,419,432
Regional pax	355,301	363,118	371,107	379,271	387,615	396,142	404,858	413,764	422,867	432,170
<b>Total passengers</b>	<b>6,338,666</b>	<b>6,531,265</b>	<b>6,731,450</b>	<b>6,941,576</b>	<b>7,158,353</b>	<b>7,381,995</b>	<b>7,612,578</b>	<b>7,850,176</b>	<b>8,095,285</b>	<b>8,348,146</b>
International revenue	2,466,628	2,579,243	2,694,422	2,812,976	2,936,747	3,065,964	3,199,812	3,337,404	3,480,913	3,630,592
Domestic revenue	30,241,977	31,149,236	32,094,330	33,089,254	34,115,021	35,172,587	36,262,937	37,387,088	38,546,088	39,741,017
Regional revenue	444,357	454,133	464,124	474,335	484,770	495,435	506,335	517,474	528,859	540,494
<b>PFC Revenue (\$)</b>	<b>33,152,962</b>	<b>34,182,613</b>	<b>35,252,876</b>	<b>36,376,566</b>	<b>37,536,539</b>	<b>38,733,986</b>	<b>39,969,084</b>	<b>41,241,967</b>	<b>42,555,859</b>	<b>43,912,102</b>
MUIT Cost Recoverable (\$)										
Discount factor (1/r)	0.496	0.459	0.425	0.393	0.363	0.336	0.311	0.288	0.266	0.246
Real Operating Expenses (\$)	(7,318,917)	(7,321,605)	(7,324,345)	(7,327,138)	(7,329,984)	(7,332,884)	(7,335,838)	(7,338,847)	(7,341,911)	(7,355,367)
Net Cash Flow (\$)	25,834,045	26,861,008	27,928,531	29,049,428	30,206,555	31,401,102	32,633,246	33,903,119	35,213,948	36,556,735
<b>PV of Net Cash Flow (\$)</b>	<b>12,816,256</b>	<b>12,327,226</b>	<b>11,856,744</b>	<b>11,408,519</b>	<b>10,974,056</b>	<b>10,553,224</b>	<b>10,145,533</b>	<b>9,750,537</b>	<b>9,368,670</b>	<b>8,997,149</b>
Pre-tax real WACC applied	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%
International PFC applied	\$ 7.31	\$ 7.31	\$ 7.31	\$ 7.31	\$ 7.31	\$ 7.31	\$ 7.31	\$ 7.31	\$ 7.31	\$ 7.31
Domestic PFC applied	\$ 5.36	\$ 5.36	\$ 5.36	\$ 5.36	\$ 5.36	\$ 5.36	\$ 5.36	\$ 5.36	\$ 5.36	\$ 5.36
Regional PFC applied	\$ 1.25	\$ 1.25	\$ 1.25	\$ 1.25	\$ 1.25	\$ 1.25	\$ 1.25	\$ 1.25	\$ 1.25	\$ 1.25

[All amounts in real 2002 dollars]

Discount factor (1/r)		1.000	0.925	0.856	0.792	0.732	0.677	0.627	0.580	0.536
Real Operating Expenses (\$)	(108,750,540)					(6,242,077)	(7,240,491)	(7,311,160)	(7,313,695)	(7,316,280)
Net Cash Flow (\$)	200,351,818	(10,822,920)	(7,121,048)	(59,949,437)	(120,018,056)	16,586,492	16,542,774	17,466,895	18,500,936	19,578,466
<b>PV of Net Cash Flow (\$)</b>	<b>(0)</b>	<b>(10,822,920)</b>	<b>(6,587,463)</b>	<b>(51,301,932)</b>	<b>(95,010,041)</b>	<b>12,146,517</b>	<b>11,206,755</b>	<b>10,946,154</b>	<b>10,725,408</b>	<b>10,499,608</b>
Pre-tax real WACC applied		8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%
International PFC applied	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6.84	\$ 6.84	\$ 6.84	\$ 6.84	\$ 6.84
Domestic PFC applied	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5.01	\$ 5.01	\$ 5.01	\$ 5.01	\$ 5.01
Regional PFC applied	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1.17	\$ 1.17	\$ 1.17	\$ 1.17	\$ 1.17

**Example 2**

Opex up 10% throughout the Recovery Period. Forecasts adjust from the Five Year Reset Period starting in 2011 such that Opex under-recovery is limited to the first Five Year Reset Period (2006-2011).

Year end October 31		2002	2003	2004	2005	2006	2007	2008	2009	2010
	Totals	1	2	3	4	5	6	7	8	9
Year	6,600,551	237,665	237,993	249,399	260,372	271,829	283,789	296,276	309,312	322,922
International pax	106,502,737	3,757,312	4,040,943	4,250,000	4,428,500	4,614,498	4,808,307	5,010,255	5,220,686	5,439,955
Domestic pax	6,794,648	273,133	297,319	309,106	315,288	321,594	328,026	334,586	341,278	348,104
Regional pax	<b>119,897,935</b>	<b>4,268,110</b>	<b>4,576,254</b>	<b>4,808,505</b>	<b>5,004,161</b>	<b>5,207,920</b>	<b>5,420,121</b>	<b>5,641,118</b>	<b>5,871,276</b>	<b>6,110,980</b>
<b>Total passengers</b>	39,008,413					1,859,805	1,941,637	2,027,069	2,116,260	2,209,375
International revenue										
Domestic revenue	458,022,582					23,128,919	24,100,333	25,112,546	26,167,274	27,266,299
Regional revenue	6,649,338					376,353	383,880	391,558	399,389	407,377
<b>PFC Revenue (\$)</b>	<b>503,680,333</b>					<b>25,365,077</b>	<b>26,425,850</b>	<b>27,531,172</b>	<b>28,682,923</b>	<b>29,883,051</b>
MUIT Cost Recoverable (\$)	(197,911,461)	(10,822,920)	(7,121,048)	(59,949,437)	(120,018,056)					

Year end October 31	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Year	10	11	12	13	14	15	16	17	18	19
International pax	337,352	352,754	368,507	384,721	401,649	419,322	437,627	456,445	476,073	496,544
Domestic pax	5,646,012	5,815,383	5,991,837	6,177,584	6,369,089	6,566,531	6,770,093	6,979,966	7,196,345	7,419,432
Regional pax	355,301	363,118	371,107	379,271	387,615	396,142	404,858	413,764	422,867	432,170
<b>Total passengers</b>	<b>6,338,666</b>	<b>6,531,265</b>	<b>6,731,450</b>	<b>6,941,576</b>	<b>7,159,353</b>	<b>7,381,995</b>	<b>7,612,578</b>	<b>7,850,176</b>	<b>8,095,285</b>	<b>8,348,146</b>
International revenue	2,356,346	2,463,927	2,573,956	2,687,210	2,805,447	2,928,887	3,056,751	3,188,191	3,325,283	3,468,270
Domestic revenue	28,889,666	29,756,356	30,659,189	31,609,624	32,589,522	33,599,797	34,641,391	35,715,274	36,822,448	37,963,944
Regional revenue	424,491	433,829	443,374	453,128	463,097	473,285	483,697	494,338	505,214	516,328
<b>PFC Revenue (\$)</b>	<b>31,670,503</b>	<b>32,654,112</b>	<b>33,676,519</b>	<b>34,749,962</b>	<b>35,858,066</b>	<b>37,001,969</b>	<b>38,181,839</b>	<b>39,397,804</b>	<b>40,652,945</b>	<b>41,948,543</b>
MUIT Cost Recoverable (\$)										
Discount factor (1/r)	0.496	0.459	0.425	0.393	0.363	0.336	0.311	0.288	0.266	0.246
Real Operating Expenses (\$)	(8,050,808)	(8,053,765)	(8,056,780)	(8,059,852)	(8,062,983)	(8,066,173)	(8,069,422)	(8,072,732)		
<b>Net Cash Flow (\$)</b>	<b>23,619,695</b>	<b>24,600,347</b>	<b>25,619,739</b>	<b>26,690,110</b>	<b>27,795,083</b>	<b>28,935,796</b>	<b>30,112,417</b>	<b>31,325,072</b>	<b>32,576,842</b>	<b>33,857,639</b>
<b>PV of Net Cash Flow (\$)</b>	<b>11,717,718</b>	<b>11,289,749</b>	<b>10,876,573</b>	<b>10,481,949</b>	<b>10,097,967</b>	<b>9,724,689</b>	<b>9,361,818</b>	<b>9,009,091</b>	<b>8,667,068</b>	<b>8,332,862</b>
Pre-tax real WACC applied	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%
International PFC applied	\$ 6.98	\$ 6.98	\$ 6.98	\$ 6.98	\$ 6.98	\$ 6.98	\$ 6.98	\$ 6.98	\$ 6.98	\$ 6.98
Domestic PFC applied	\$ 5.12	\$ 5.12	\$ 5.12	\$ 5.12	\$ 5.12	\$ 5.12	\$ 5.12	\$ 5.12	\$ 5.12	\$ 5.12
Regional PFC applied	\$ 1.19	\$ 1.19	\$ 1.19	\$ 1.19	\$ 1.19	\$ 1.19	\$ 1.19	\$ 1.19	\$ 1.19	\$ 1.19

[All amounts in real 2002 dollars]

Discount factor (1/r)		1.000	0.925	0.856	0.792	0.732	0.677	0.627	0.580	0.536
Real Operating Expenses (\$)	(119,625,594)					(6,866,285)	(7,964,540)	(8,042,276)	(8,045,064)	(8,047,908)
<b>Net Cash Flow (\$)</b>	<b>186,143,278</b>	<b>(10,822,920)</b>	<b>(7,121,048)</b>	<b>(59,949,437)</b>	<b>(120,018,056)</b>	<b>18,498,792</b>	<b>18,461,310</b>	<b>19,488,896</b>	<b>20,637,859</b>	<b>21,835,143</b>
<b>PV of Net Cash Flow (\$)</b>	<b>(2,222,144)</b>	<b>(10,822,920)</b>	<b>(6,587,463)</b>	<b>(51,301,932)</b>	<b>(95,010,041)</b>	<b>13,546,921</b>	<b>12,506,450</b>	<b>12,213,301</b>	<b>11,964,231</b>	<b>11,709,827</b>
Pre-tax real WACC applied	-%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%
International PFC applied	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6.84	\$ 6.84	\$ 6.84	\$ 6.84	\$ 6.84
Domestic PFC applied	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5.01	\$ 5.01	\$ 5.01	\$ 5.01	\$ 5.01
Regional PFC applied	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1.17	\$ 1.17	\$ 1.17	\$ 1.17	\$ 1.17



**Example 3**

Nominal Risk Free Rate decreases by 1.00% from the Five Year Reset Date in 2011 through to the end of the Recovery Period. The Real Risk Free Rate is also adjusted to hold inflation constant.

Year end October 31		2002	2003	2004	2005	2006	2007	2008	2009	2010
Year	Totals	1	2	3	4	5	6	7	8	9
International pax	6,600,551	237,665	237,993	249,399	260,372	271,829	283,789	296,276	309,312	322,922
Domestic pax	106,502,737	3,757,312	4,040,943	4,250,000	4,428,500	4,614,498	4,808,307	5,010,255	5,220,686	5,439,955
Regional pax	6,794,648	273,133	297,319	309,106	315,288	321,594	328,026	334,586	341,278	348,104
<b>Total passengers</b>	<b>119,897,935</b>	<b>4,268,110</b>	<b>4,576,254</b>	<b>4,809,505</b>	<b>5,004,161</b>	<b>5,207,920</b>	<b>5,420,121</b>	<b>5,641,118</b>	<b>5,871,276</b>	<b>6,110,980</b>
International revenue	37,328,145					1,859,805	1,941,637	2,027,069	2,116,260	2,209,375
Domestic revenue	438,662,823					23,128,919	24,100,333	25,112,546	26,167,274	27,266,299
Regional revenue	6,376,180					376,353	383,880	391,558	399,389	407,377
<b>PFC Revenue (\$)</b>	<b>482,367,148</b>					<b>25,365,077</b>	<b>26,425,850</b>	<b>27,531,172</b>	<b>28,682,923</b>	<b>29,883,051</b>
MUIT Cost Recoverable (\$)	(197,911,461)	(10,822,920)	(7,121,048)	(59,949,437)	(120,018,056)					

Year end October 31	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Year	10	11	12	13	14	15	16	17	18	19
International pax	337,352	352,754	368,507	384,721	401,649	419,322	437,627	456,445	476,073	496,544
Domestic pax	5,646,012	5,815,393	5,991,837	6,177,584	6,369,089	6,566,531	6,770,093	6,979,966	7,196,345	7,419,432
Regional pax	355,301	363,118	371,107	379,271	387,615	396,142	404,858	413,764	422,867	432,170
<b>Total passengers</b>	<b>6,338,665</b>	<b>6,531,265</b>	<b>6,731,450</b>	<b>6,941,576</b>	<b>7,158,353</b>	<b>7,381,995</b>	<b>7,612,578</b>	<b>7,850,176</b>	<b>8,095,285</b>	<b>8,348,146</b>
International revenue	2,219,129	2,320,445	2,424,067	2,530,720	2,642,078	2,759,329	2,878,747	3,002,533	3,131,642	3,266,303
Domestic revenue	27,208,290	28,022,479	28,872,705	29,767,756	30,680,559	31,641,966	32,622,867	33,634,176	34,676,835	35,751,817
Regional revenue	399,771	408,566	417,555	426,741	436,129	445,724	455,530	465,552	475,794	486,281
<b>PFC Revenue (\$)</b>	<b>29,825,191</b>	<b>30,751,490</b>	<b>31,714,326</b>	<b>32,725,225</b>	<b>33,768,766</b>	<b>34,846,019</b>	<b>35,957,144</b>	<b>37,102,261</b>	<b>38,284,271</b>	<b>39,504,381</b>
MUIT Cost Recoverable (\$)										
Discount factor (1/r)	0.501	0.468	0.437	0.408	0.381	0.356	0.332	0.310	0.290	0.271
Real Operating Expenses (\$)	(7,318,917)	(7,321,605)	(7,324,345)	(7,327,138)	(7,329,984)	(7,332,884)	(7,335,838)	(7,338,847)	(7,341,911)	(7,345,067)
Net Cash Flow (\$)	22,506,274	23,429,886	24,389,981	25,398,087	26,438,781	27,513,135	28,621,306	29,763,414	30,942,360	32,149,015
<b>PV of Net Cash Flow (\$)</b>	<b>11,272,760</b>	<b>10,960,466</b>	<b>10,656,203</b>	<b>10,363,925</b>	<b>10,076,202</b>	<b>9,793,270</b>	<b>9,515,011</b>	<b>9,241,336</b>	<b>8,973,000</b>	<b>8,707,312</b>
Pre-tax real WACC applied	7.07%	7.07%	7.07%	7.07%	7.07%	7.07%	7.07%	7.07%	7.07%	7.07%
International PFC applied	\$ 6.58	\$ 6.58	\$ 6.58	\$ 6.58	\$ 6.58	\$ 6.58	\$ 6.58	\$ 6.58	\$ 6.58	\$ 6.58
Domestic PFC applied	\$ 4.82	\$ 4.82	\$ 4.82	\$ 4.82	\$ 4.82	\$ 4.82	\$ 4.82	\$ 4.82	\$ 4.82	\$ 4.82
Regional PFC applied	\$ 1.13	\$ 1.13	\$ 1.13	\$ 1.13	\$ 1.13	\$ 1.13	\$ 1.13	\$ 1.13	\$ 1.13	\$ 1.13

[All amounts in real 2002 dollars]

Discount factor (1/r)		1.000	0.925	0.856	0.792	0.732	0.677	0.627	0.580	0.536
Real Operating Expenses (\$)	(108,750,540)					(6,242,077)	(7,240,491)	(7,311,160)	(7,313,695)	(7,316,280)
Net Cash Flow (\$)	175,705,147	(10,822,920)	(7,121,048)	(59,949,437)	(120,018,056)	19,123,000	19,185,358	20,220,012	21,369,228	22,566,771
<b>PV of Net Cash Flow (\$)</b>		<b>(10,822,920)</b>	<b>(6,587,463)</b>	<b>(51,301,932)</b>	<b>(95,010,041)</b>	<b>14,004,037</b>	<b>12,996,950</b>	<b>12,671,477</b>	<b>12,388,222</b>	<b>12,102,187</b>
Pre-tax real WACC applied	-%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%	8.10%
International PFC applied	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6.84	\$ 6.84	\$ 6.84	\$ 6.84	\$ 6.84
Domestic PFC applied	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5.01	\$ 5.01	\$ 5.01	\$ 5.01	\$ 5.01
Regional PFC applied	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1.17	\$ 1.17	\$ 1.17	\$ 1.17	\$ 1.17

Passenger forecasts and real Operating Expenses forecasts for the upcoming Five Yearly reset period are to be agreed four (4) months prior to each Five Year Reset Date. The Nominal Risk Free Rate, the Real Risk Free Rate and the resulting PFC is calculated by AAL and notified to the Airline no less than three months prior to each Five Year Reset Date.

Either party may request a review of the MUIT Cost Recoverable and the Operating Expenses attributable to the PFC as a consequence of material or significant changes to the relationship between the public areas and those for which AAL or a Related Body Corporate receives direct revenue since the last Five Year Reset.

The PFC List specified in Appendix 4 will be reset by agreement between the parties if (and only if) it is required by either party having regard to material or significant changes to the items attributable to the PFC List since the last Five Year Reset, and any such reset must be undertaken in a fair and independent manner, having regard to any change in the categories of costs and the relevant percentage of each category which is attributable to the PFC, and will be reset using the ACCC Based Methodology.

**2.4 Extraordinary Events**

If an Extraordinary Event occurs, AAL may request the Airline, in writing, to approve a variation of the PFC. The Airline may give or withhold its approval to such a request in its reasonable discretion. Any

- 6 -

dispute in relation to this clause shall be dealt with under clause 17 of this Deed. If the matter is not resolved by mutual agreement under the procedure in clause 17 of this Deed, then the matter shall be

determined by independent binding arbitration on the same terms as applicable pursuant to clause 31 of the Lease made between AAL and the Airline on or about the date of this Deed, save and except that for such purpose the provisions of clause 31 of the Lease shall be deemed to be varied to:

- 2.4.1 require arbitration as opposed to expert determination;
- 2.4.2 delete references to the "Expert" and substitute reference to the "Arbitrator" in lieu of same;
  
- 2.4.3 amend clause 31.8 to specify that clause 31 does constitute an arbitration agreement within the meaning of the *Commercial Arbitration Act 1985 (SA)*;
  
- 2.4.4 in clause 31.4(b), insert at the start of the sentence "subject to any requirements of the *Commercial Arbitration Act 1985 (SA)*".

**3. End of First Recovery Period**

PFC to be adjusted as per the Five Year resets except the retrospective adjustment will calculate the NPV over a period of 20 years. This revised calculation method is required to minimise any MUIT Cost Recoverable that is under or over recovered during the First Recovery Period.

## TABLE OF CONTENTS

1.	<b>INTERPRETATION.....</b>	<b>1</b>
	1.2 Definitions/Abbreviations.....	1
	1.3 Headings.....	7
2.	<b>AAL'S SERVICE PHILOSOPHY .....</b>	<b>7</b>
	2.1 AAL's service philosophy .....	7
	2.2 Performance principles.....	7
	2.3 AAL's Commitment .....	8
	2.4 AAL's Commitment to Consultation .....	8
	2.5 Reason for Performance Measures.....	8
	2.6 Performance Measures are identified.....	8
	2.7 Aeronautical Services reflect AAL investment in Adelaide Airport .....	8
	2.8 How AAL conducts the Measures .....	9
	2.9 General relationship principles .....	10
3.	<b>FACILITIES AND SERVICES TO BE PROVIDED BY AAL.....</b>	<b>10</b>
	3.1 Use of Adelaide Airport .....	10
	3.2 Delivery of Services .....	10
	3.3 Applicable Costs .....	10
	3.4 Other Airport Services and Charges.....	10
	3.5 Excluded Services.....	10
	3.6 Variations to Terms of Use.....	11
	3.7 Requirement to Pay .....	11
	3.8 CUTE & CUSS.....	11
	3.9 Thunderstorm Management System.....	12
4.	<b>OBLIGATIONS OF THE PARTIES.....</b>	<b>12</b>
	4.1 Use of Adelaide Airport .....	12
	4.2 The Operator:.....	13
	4.3 Breach of Confidentiality .....	13
	4.4 Use of Common User facilities .....	14
	4.5 Ground handling.....	13
	4.6 Closed Charter Operations & Freighters.....	13
5.	<b>PRIORITY OF USE OF THE AIRPORT .....</b>	<b>14</b>
	5.1 Access .....	14
	5.2 Unplanned interruptions and shutdowns .....	15
	5.3 Planned interruptions and shutdowns.....	15
	5.4 Liability for planned or unplanned interruptions and shutdowns.....	15
	5.5 Interruptions by Aircraft Operators.....	15
6.	<b>ADELAIDE AIRPORT SCHEDULING RULES .....</b>	<b>15</b>
	6.1 AAL may make and change Scheduling Rules.....	15
	6.2 How AAL will change Scheduling Rules .....	15
	6.3 Compliance with Scheduling Rules .....	16
	6.4 IATA Schedule Co-ordinated Airport .....	16
7.	<b>CONSULTATION.....</b>	<b>16</b>
8.	<b>INFORMATION SHARING .....</b>	<b>17</b>
	8.1 Information to be provided to AAL .....	17
	8.2 Why AAL needs statistical information .....	16
	8.3 For occasional users .....	17

8.4	For regular users.....	17
8.5	Other information .....	18
8.6	Method of delivery of information .....	19
<b>9.</b>	<b>PAYMENT OF CHARGES.....</b>	<b>20</b>
9.1	Payment of charges .....	20
9.2	Liability and Lien for the Charges .....	20
9.3	Investment in Aeronautical Services.....	22
9.4	Annual CPI Adjustment .....	22
9.5	Review of Aeronautical Charges Every Five (5) Years .....	22
9.6	PFC AND ADDITIONAL PFC .....	24
9.7	Terminal Expansion Charge .....	24
9.9	Government Mandated Services .....	24
9.9	Changes to Government Mandated Charges .....	24
9.10	Recovery of Government Mandated Costs through the Government Mandated Charges.....	25
9.11	AAL's Management of Government Mandated Charges and Government Mandated Services .....	25
9.12	An RPT Operators provision of Government Mandated Services .....	25
9.13	Invoicing and Payment of the Charges.....	26
9.14	Interest and Recovery Costs on Unpaid Charges.....	26
9.15	Refusal Of Access.....	26
9.16	Right Of Detention.....	26
9.17	Cross Default.....	25
9.18	Disputed Accounts .....	26
9.19	Movement Of Parked Aircraft .....	27
9.20	No Set-Off .....	28
9.21	Navigation, Rescue, En-Route and Meteorological Charges .....	28
9.22	Apron Service Charges .....	28
9.23	Parking Charges .....	28
9.24	Rebates.....	28
<b>10.</b>	<b>FORCE MAJEURE EVENT .....</b>	<b>29</b>
10.1	Non Performance .....	29
10.2	Notice of Effect of Force Majeure Event .....	29
10.3	Performance to Resume .....	29
10.4	No Prejudice .....	29
<b>11.</b>	<b>GOODS AND SERVICES TAX (GST) .....</b>	<b>28</b>
11.1	Definitions .....	28
11.2	Consideration inclusive of GST .....	29
11.3	Consideration exclusive of GST .....	30
11.4	Additional amount on account of GST .....	30
11.5	Timing of additional amount .....	30
11.6	Tax Invoice.....	30
<b>12.</b>	<b>NOTICES.....</b>	<b>30</b>
12.1	Form of notice .....	30
12.2	Delivery of notices.....	30
12.3	When effective .....	31
12.4	Receipt - post.....	31
12.5	Receipt - fax.....	31
12.6	Receipt - email .....	31
12.7	Receipt - general.....	31

<b>13.</b>	<b>INDEMNITIES AND RELEASES .....</b>	<b>30</b>
13.1	The Aircraft Owner and Aircraft Operator to indemnify AAL.....	31
13.2	The Aircraft Owner and Aircraft Operator's risk .....	32
13.3	The Aircraft Owner and Aircraft Operator to release AAL .....	32
13.4	Survival of indemnities .....	33
13.5	Enforcement of indemnities .....	33
<b>14.</b>	<b>INSURANCES .....</b>	<b>33</b>
14.1	Aircraft Operator's insurances .....	33
14.2	Additional obligations .....	33
14.3	AAL insurances .....	34
14.4	Claims on insurances .....	34
14.5	Acts affecting insurances .....	34
14.6	Noting interests on insurance policies .....	34
<b>15.</b>	<b>CONFIDENTIALITY .....</b>	<b>34</b>
15.1	Acknowledgment.....	34
15.2	Obligation of confidentiality .....	34
15.3	Permitted disclosure.....	35
15.4	Conditions of permitted disclosure to representatives.....	35
15.5	Notification of breach.....	35
15.6	Damages and other remedies .....	35
15.7	Survival after expiry and termination .....	36
15.8	Other agreements .....	36
<b>16.</b>	<b>PRIVACY AND DATA PROTECTION .....</b>	<b>36</b>
16.1	Application .....	36
16.2	AAL's Obligations.....	36
16.3	AAL's Rights.....	36
16.4	Aircraft Operator Consent .....	36
16.5	Aircraft Operator Acknowledgments .....	36
<b>17.</b>	<b>AIRPORT SECURITY AND EMERGENCY PROVISIONS.....</b>	<b>38</b>
17.1	Airport Security.....	38
17.2	Adelaide Airport Security Program .....	38
17.3	Aviation Security Identification Card (ASIC) .....	38
17.4	ASIC application security checks .....	38
17.5	ASIC conditions of use .....	39
17.6	Screening Authority for Adelaide Airport.....	39
17.7	Adelaide Airport Committees.....	39
17.8	Adelaide Airport exercises and training .....	39
17.9	Building or construction works in restricted or controlled areas .....	40
<b>18.</b>	<b>DISPUTE RESOLUTION .....</b>	<b>40</b>

<b>SCHEDULE 1</b>	<b>Notification of Aircraft Details</b>
<b>SCHEDULE 2</b>	<b>Airport Scheduling Rules</b>
<b>SCHEDULE 3</b>	<b>Statistical Information</b>
<b>SCHEDULE 4</b>	<b>Contact Details</b>
<b>SCHEDULE 5</b>	<b>Performance Measures</b>
<b>SCHEDULE 6</b>	<b>Insurance Policy Requirements</b>
<b>SCHEDULE 7</b>	<b>Adelaide Airport Supplementary Terms of Use for Passenger Facility Charge</b>