Form number: 97-0711
Licence number: 599D/0364/96

Land Titles Office use only

LEASE

Real Property Act 190

5340961P

Office of State

OFFICE OF STATE REVENUE
1996/97 STAMP DUTY (N.S.W. TREASURY) P28
DUTY $ 2 — 1ST REC № 40236384

(A) **PROPERTY LEASED**
Show no more than 20 References to Title.
Specify the part or premises if appropriate.

Folio Identifiers 2/535537 and 1/582467 in New South Wales and Title References 17457085, 18265246 and 18287103 in Queensland

(B) **LODGED BY**

L.T.O. BOX	Name, Address or DX and Telephone
599D	MINTER ELLISON 44 Martin Place, SYDNEY DX 117 Sydney Telephone: (02) 9210 4444 SL 7 REFERENCE (max. 15 characters): [redacted]10692766

(C) **LESSOR** COMMONWEALTH OF AUSTRALIA

(D) The lessor leases to the lessee the property described above subject to the following ENCUMBRANCES

1. 2247659 2. 3. 4.

(E) **LESSEE** L QUEENSLAND AIRPORTS LIMITED ACN 077 200 821

(F) **TENANCY:**

(G) 1. **TERM:** 50 years

2. **COMMENCING DATE:** 29 May 1998

3. **TERMINATING DATE:** 28 May 2048

4. With an **OPTION TO RENEW** for a period of 49 years set out in clause 20

~~5. With an **OPTION TO PURCHASE** set out in~~

6. Together with and reserving the **RIGHTS** set out in clause 1.3.

7. Incorporates the provisions set out in **SCHEDULE** hereto.

~~8. Incorporates the provisions set out in **MEMORANDUM NO** filed in the Land Titles Office.~~

s 47F

CHECKED BY (office use only) RSO

Released under the FOI Act 1982 by the Department of Infrastructure, Transport, Regional Development and Arts

28 MAY 1998 We certify this dealing correct for the purposes of the Real Property Act 00.

SIGNED by THE HONOURABLE JOHN JOSEPH FAHEY, MP in his capacity as the Minister for Finance and Administration for and on behalf of the Commonwealth of Australia in the presence of)

s 47F

THE HONOURABLE JOHN JOSEPH FAHEY, MP

Signature of witness

s 47F

Name of witness (print)

Signed by s 47F as attorney for **QUEENSLAND AIRPORTS LIMITED** pursuant to Power of Attorney registered Book 4200 Number 62 in the presence of:)

s 47F

s 47F

Witness

s 47F

Name of Witness (print)

STATUTORY DECLARATION

I solemnly and sincerely declare that the time for the exercise of the Option to Renew/Purchase in expired Lease No. ..... has ended and the lessee under that lease has not exercised the option.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths Act, 1900.

Made and subscribed at ..... in the State of ..... on ..... 19..... in the presence of

Released under the FOI Act 1982 by the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts

Form number: 97-07L
Licence number: 599D/0364/96

Land Titles Office use only

LEASE

Real Property Act 1900

Office of State Revenue use only

(A) **PROPERTY LEASED**
Show no more than 20 References to Title.
Specify the part or premises if appropriate.

Folio Identifiers 2/535537 and 1/582467 in New South Wales and Title References 17457085, 18265246 and 18287103 in Queensland

(B) **LODGED BY**

L.T.O. BOX	Name, Address or DX and Telephone
599D	MINTER ELLISON 44 Martin Place, SYDNEY DX 117 Sydney Telephone: (02) 9210 4444 REFERENCE (max. 15 characters): DEM:10692766

(C) **LESSOR** COMMONWEALTH OF AUSTRALIA

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s 47F

CHECKED BY (office use only)

Released under the FOI Act 1982 by the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts

(H) DATE 28 MAY 1998 We certify this dealing correct for the purposes of the Real Property Act 1900.

SIGNED by **THE HONOURABLE JOHN JOSEPH FAHEY, MP** in his capacity as the Minister for Finance and Administration for and on behalf of the **Commonwealth of Australia** in the presence of)

THE HONOURABLE
JOHN JOSEPH FAHEY, MP

s 47F

Signature of witness

s 47F

Name of witness (print)

Signed by s 47F as attorney for **QUEENSLAND AIRPORTS LIMITED** pursuant to Power of Attorney registered Book 4200 Number 62 in the presence of:)

s 47F

Witness

s 47F

Name of Witness (print)

s 47F

(I) **STATUTORY DECLARATION**

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I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths Act, 1900.

Made and subscribed at ..... in the State of ..... on ..... 19..... in the presence of

s 47F

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SCHEDULE

1. DEMISE

1.1 Lease and concurrent lease

In consideration of the payment by the Lessee to the Lessor of a premium which is not refundable in any circumstances, the Lessor grants to the Lessee pursuant to the *Airports (Transitional) Act 1996* a Lease of the Airport Site (including the Structures) for the Term. This Lease operates as a concurrent lease over all that part of the Airport Site which is the subject of leases existing as at the Grant Time.

1.2 Acknowledgment

The Lessee acknowledges that no component of the premium is to be regarded as consideration for any benefit the Lessee might receive from any future agreement that the parties might reach which results in:

(a) the Airport Site not being required to be used as an airport; and/or

(b) the conversion of the whole or any part of the Lease to freehold.

1.3 Reservation of Lessor's rights

The Lessor reserves to itself:

(a) all mining rights and interests in minerals on the Airport Site; and

(b) provided that it is not inconsistent with the development of the Airport Site in accordance with a Master Plan, the right to grant any easements over or rights of access or rights of way on, over, under, through or across the Airport Site for:

(i) the purpose of the supply of electricity, gas, telecommunications cables, water, sewerage, drainage or like services; and

(ii) the provision of transport or other services to the public,

such rights not to be to the exclusion of the right of the Lessee to also grant such rights where it would otherwise have the power to do so.

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this Lease, unless a contrary intention appears:

'Airports Act' means the *Airports Act 1996*;

'Airport-Management Agreement' means an airport-management agreement as defined in the Airports Act;

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'Airport-Management Company' means an airport-management company as defined in the Airports Act;

'Airport Site' means the land comprised in Folio Identifiers 2/535537 and 1/582467 in New South Wales and in Title References 17457085, 18265246 and 18287103 in Queensland (including the Structures thereon) which at Grant Time is named Coolangatta Airport;

'Business Day' means a day which is not a Saturday, Sunday or public holiday in the State of Queensland;

'Claims' means any claims, losses, suits, proceedings, actions, causes of action, demands, judgments, executions, liabilities or responsibilities for any Damages and for any Injuries

'Commonwealth' means the Commonwealth of Australia but does not include any Commonwealth bodies which are separate legal entities;

'Costs' means all expenses, losses, charges and payments including any professional consultant and legal fees (on a 'solicitor and own client' basis);

'Damages' means any loss, Costs or damage whatsoever including, but not limited to, direct, indirect, incidental, consequential or special damages, damage to property, to the Airport Site or to the environment of the Airport Site, or the diminution in value of the Airport Site or any part thereof;

'FAC' means the Federal Airports Corporation;

'FAC Land' means land which vests in the Commonwealth pursuant to a declaration of the Minister pursuant to section 11 of the Airports (Transitional) Act 1996;

'Force Majeure Event' means any event which is beyond the reasonable control of the Lessee and which bona fide prevents the Lessee from performing the Lessee's Covenants under subclause 3.1(a)(i), subclause 3.1(a)(ii) or subclause 13.6 where that event could not have been prevented, overcome or remedied by the exercise of a standard of care and diligence consistent with that of a prudent person undertaking the obligation, including the expenditure of all reasonable sums of money;

'Governmental Authority' means the Commonwealth government or any government of any State or Territory of Australia, administrative body, governmental body, department or agency of any such government or local government authority;

'Grant Time' means the time at which the Commonwealth grants this Lease to the Lessee, such time being the time on 29 May 1998 immediately after the FAC Land for Coolangatta Airport vests in the Commonwealth;

'Injury' means any injury to the Airport Site or to the environment of the Airport Site or personal injury, or bodily injury, including death resulting therefrom and whether the death occurs before or after the expiry or earlier determination of this Lease;

'Land Tax' means any tax levied or imposed by a Governmental Authority on land;

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'Lease' means this lease as amended from time to time;

'Lessee's Covenants' means the obligations imposed on the Lessee in this Lease;

'Lessor' means the Commonwealth as owner of the Airport Site and landlord of this Lease;

'Loan Security' means any mortgage, charge, security interest, mortgage by way of sub-demise, or other encumbrance of whatever nature;

'Master Plan' means a final master plan as defined in the Airports Act;

'Rates' means all rates (including water rates and sewerage rates), and levies to defray expenses levied or imposed by a Governmental Authority on land or on owners or occupiers of land in relation to their ownership or occupation of that land. ;

'Specified Rate' means interest at a rate of 4% per annum higher than that ordinarily charged by the principal bank of the Commonwealth on overdraft current accounts (or the nearest equivalent) not exceeding $50,000. A certificate issued to the Lessor and signed by the manager or the assistant manager for the time being of the principal bank will be prima facie evidence of the Specified Rate.;

'State' means the state of the Queensland;

'Structures' means all fixtures (including buildings and other improvements of whatever nature) affixed to the Airport Site, whether constructed before or after the grant of this Lease, and includes without limitation such items as runways, taxiways, aprons, roads and dams on the Airport Site;

'Taxes' means all taxes (including stamp duty) costs, charges, expenses, duties, impositions, fees and penalties of whatever nature levied or imposed by a Governmental Authority in respect of instruments, transactions or activities relating to or carried out on the Airport Site;

'Term' means a term of 50 years commencing at Grant Time.

2.2 Interpretation

In this Lease unless the context otherwise requires:

(a) a reference to a clause is to a clause of this Lease and includes all subclauses;

(b) words in the singular include the plural and vice versa;

(c) words importing one gender include each of the other genders;

(d) where the context permits, a reference to 'Lessor', 'Lessee', an organisation, body or person includes their employees, officers and agents as well as their respective successors in title and assigns;

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(e) references to parties, recitals, clauses, subclauses or attachments are references to parties, clauses, subclauses, attachments to or of this Lease and a reference to this Lease includes any attachment;

(f) references to this Lease or any other deed, agreement, instrument or document will be deemed to include references to this Lease or such other deed, agreement, instrument or document as amended, novated, supplemented, varied or replaced from time to time;

(g) headings in this Lease are for convenience only and are not part of, or to be used in the interpretation or construction of, this Lease;

(h) 'person' includes a corporation and a body politic;

(i) a reference to legislation includes statutes, regulations, ordinances, by-laws or other legislative instruments and all amendments, consolidations or replacements thereof;

(j) where any word or phrase is given a defined meaning any other part of speech or grammatical form in respect of such word or phrase has a corresponding meaning;

(k) a reference to anything (including without limitation any amount) is to the whole and each part of that thing;

(l) where the day on or by which any sum is payable under this Lease or any act, matter or thing is to be done is a day other than a Business Day, such sum will be paid and such act, matter or thing will be done on the immediately preceding Business Day;

(m) if any provision of this Lease or its application to any person or circumstance is, or becomes, invalid or unenforceable, the remaining provisions are not affected and each provision of this Lease is valid and enforceable to the fullest extent permitted by law;

(n) in the interpretation of this Lease, no rules of construction apply to the disadvantage of any party on the basis that it put forward this Lease;

(o) terms used in this Lease and defined in the Corporations Law have the meaning given to them in the Corporations Law; and

(p) no provision of this Lease operates as a merger of the rights and remedies of the parties under this Lease.

2.3 Lessee not Lessor's agent

Nothing in this Lease, whether express or implied, constitutes the Lessee the agent of the Lessor in respect of any matter or action taken.

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2.4 Airport-Management Agreements and subleases

The fact that the Lessee enters into an Airport-Management Agreement or sub-lease does not excuse the Lessee from any of its obligations under this Lease and the Lessor holds the Lessee responsible for any acts or omissions of an Airport-Management Company or sub-lessee.

3. ACCESS TO AND USE OF AIRPORT SITE

3.1 Lessee must give access

The Lessee:

(a) must at all times:

(i) subject to subclause 19.5, provide for the use of the Airport Site as an airport;

(ii) subject to subclause 19.5, provide for access to the airport by interstate and international air transport;

(iii) provide for access to the airport by intrastate air transport;

(iv) not use, or permit to be used, the Airport Site for any unlawful purpose or in breach of legislation; and

(v) not use any name other than Coolangatta Airport for the Airport Site without the prior written consent of the Lessor;

(b) may:

(i) permit the Airport Site to be used for other lawful purposes that are not inconsistent with its use as an airport; and

(ii) subject to subclause 5.10 and clause 14, construct, alter, remove, add to or demolish the Structures.

3.2 Refusal to give access in certain circumstances

The Lessee shall not be in default of its obligations under subclauses 3.1(a)(ii) and (iii) if it:

(a) complies with a demand management scheme under the Airports Act; or

(b) refuses to give access to the Airport Site to all or any of the aircraft of an aircraft owner or operator:

(i) where the owner or operator of the aircraft has failed to pay to the Lessee within 21 days after the due date any amount due to the Lessee by the aircraft owner or operator for the use of the Airport Site; and

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(ii) where the Lessee has notified the Lessor of its intention to refuse access at least 14 days in advance of the first day on which it intends to refuse access.

4. RELEASE AND INDEMNITY

Notwithstanding any other provision of this Lease, as and from Grant Time, the Lessee takes and is subject to the same responsibilities with regard to person and property and otherwise to which the Lessee would be subject if during the Term the Lessee were the owner of the freehold of the Airport Site and the Lessee:

(a) hereby releases the Lessor from and against all Claims by the Lessee in respect of any Damages, Costs or Injury which the Lessee may incur or sustain by reason of any act or omission on the part of the Lessor or the FAC or the performance of this Lease or the use or occupation of the Airport Site by the Lessee;

(b) hereby indemnifies the Lessor from and against all Claims, Damages or Costs incurred or sustained by the Lessor, or for which the Lessor may become liable, in respect of any Claims, Damages, Costs or Injury to any person by reason of any act or omission on the part of the Lessee or by the performance of this Lease or the use or occupation of the Airport Site by the Lessee or any other person (whether before or after Grant Time), but this indemnity will not apply where the Claims, Damages, Costs or Injury are incurred or sustained by the Lessor as a result of the acts or omissions of the Commonwealth, its servants, agents, employees, contractors or licensees in carrying out any of their functions on the Airport Site after Grant Time; and

(c) must, in any and every event in which the Lessor is made a party to any Claim to which the Lessee's obligation to indemnify and hold the Lessor harmless under any provision of this Lease extends, if so requested by the Lessor, defend such Claim in the name of the Lessor and must pay all costs of the Lessor in connection with the Claim provided that the Lessee may, in any such event, compromise, pay or satisfy any such claim with the consent of the Lessor.

The obligations of the Lessee under this clause continue after the expiration or earlier determination of this Lease in respect of any act, deed or thing happening before such expiration or determination.

5. INSURANCE

5.1 Insurance required at Grant Time

The parties acknowledge that at Grant Time the Lessee has effected certain policies of insurance on terms and conditions acceptable to the Lessor.

5.2 Maintenance of insurance and subsequent policies

The Lessee must maintain the policies of insurance referred to in subclause 5.1 and, upon the reasonable request of the Lessor in writing, must effect variations to those policies or take out further policies with insurers acceptable to the Lessor.

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5.3 Coverage not available

If the cover effected under any policy of insurance becomes obsolete or is no longer available the Lessee must promptly obtain insurance providing for similar coverage which is satisfactory to the Lessor acting reasonably. If no such similar cover is available then a mutually agreeable replacement for such cover is to be effected by the Lessee.

5.4 Insurance for construction work

Where the Lessee or any other person performs construction work (**'Works'**) upon the Airport Site the Lessee must itself take out (or ensure that any person who performs such Works takes out) a policy of insurance for loss or damage to the Works and the Lessee must ensure that the Lessor is noted as insured on such policy. Such policy must remain in force until the last to expire of any defects liability periods stipulated in the relevant building contract for the Works.

5.5 Duplicates to Lessor

Duplicate (or certified) copies of all policies and any duly signed placing slips and endorsement slips or other evidence satisfactory to the Lessor together with all renewal certificates must be sent to the Lessor not less than 21 days (or such other period as the Lessor may agree) before the due date for renewal thereof. The Lessee must from time to time provide such evidence as the Lessor may reasonably require that any policy is in full force and effect and as to the terms thereof.

5.6 Proof of payment

The Lessee must before the due date pay all premiums and other moneys payable in respect of any policy (including stamp duty) and must provide to the reasonable satisfaction of the Lessor satisfactory proof of payment thereof.

5.7 Preservation of policies

The Lessee must not at any time during the Term do or omit to do or permit to be done or be omitted anything whereby any policy may be cancelled, vitiated, rendered void or voidable, adversely affected or limited in any respect.

5.8 Lessor's rights

If any insurance policy is cancelled or threatened to be cancelled or refused to be renewed or the coverage refused or cancelled in any way or the Lessee fails to comply with any of the requirements of this clause 5, the Lessor may take any action it considers necessary or desirable to fulfil the Lessee's obligations (including, without limitation, effecting any policy or paying the premium or other monies payable in respect of any policy) and recover from the Lessee all costs and expenses incurred in so doing. By the Lessor taking such action the Lessee will not be relieved of any of its obligations under this clause 5.

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5.9 Lessee remains responsible

Delivery to and examination by the Lessor of any policy of insurance, certificate or other document relating to insurance shall in no way relieve the Lessee of any of its obligations under this clause 5.

5.10 Proceeds of insurance

Subject to clause 14(b), all insurance proceeds paid out for the damage or destruction of any Structures must be used either for:

(a) the re-building or re-instatement of those damaged or destroyed Structures; or

(b) in the event that the Lessee chooses not to re-instate the damaged or destroyed Structures, the building of such other Structures as the Lessor approves.

6. ENVIRONMENT

6.1 Meaning of Environment of the Airport Site

For the purposes of subclause 2.1 and subclauses 6.2, 6.3 and 6.4, the expression 'the environment of the Airport Site' includes, without limitation, the water, ground water, soil, subsoils, air, biota or habitat and sites of heritage value or of significance to Aboriginal or Torres Strait Islander people on, above or below the Airport Site and the Structures.

6.2 Maintenance of Environment of the Airport Site

Throughout the Term the Lessee must maintain the environment of the Airport Site in accordance with any obligation imposed on it by legislation which from time to time applies to the environment of the Airport Site and at the expiration or earlier determination of the Term the Lessee must yield up the environment of the Airport Site in a condition that complies with such obligation.

6.3 Release and indemnity for environmental damage

Notwithstanding and in addition to clause 4 the Lessee:

(a) hereby releases the Commonwealth from all Claims by the Lessee and indemnifies the Commonwealth against all Claims by any other person in respect of any Damages, Costs or Injury which the Lessee or others may incur or sustain in connection with any Damage or Injury to the environment of the Airport Site arising out of the use or occupation of the Airport Site before Grant Time by the Commonwealth, the FAC or any other person; and

(b) hereby releases the Lessor from all Claims against the Lessor and indemnifies the Lessor against all Claims against the Lessor by any person other than the Lessee in respect of any Damages, Costs or Injury which the Lessee or others may incur or sustain in connection with any Damage or Injury to the environment of the Airport Site which arises out of or during the use or occupation of the Airport Site by the Lessee or any other person after Grant Time, but this release and indemnity will not apply where the Claims, s 47F

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Damages, Costs or Injury are incurred or sustained by the Lessor as a result of the acts or omissions of the Commonwealth, its servants, agents, employees, contractors or licensees in carrying out any of their functions on the Airport Site after Grant Time.

6.4 No liability of Lessor

Without limiting subclause 6.3, the Lessor has no liability to the Lessee in the event that the Lessee is required to expend monies on remedial action to have the environment of the Airport Site comply with any obligations imposed on it by legislation.

7. LEGISLATION, LICENCES AND STATUTORY POWERS

7.1 Legislation and notices

The Lessee must, at its own expense, comply with all legislation (including the Airports Act) from time to time relating to the Airport Site and the Structures or to the use or occupation of the Airport Site and the Structures and with all requirements in notices and orders given or made (whether issued to either the Lessee or the Lessor) by a Governmental Authority.

7.2 Licences

The Lessee must, at its own expense, obtain and maintain (or cause to be obtained and maintained) at all times all licences and approvals required in relation to the airport and the Airport Site and must produce when required by the Lessor proof of compliance by the Lessee with its obligations under this subclause.

8. RIGHT OF INSPECTION

The Lessee must permit the Lessor (or its nominees) to have access to the Airport Site for the purpose of ascertaining whether the Lessee is complying with the Lessee's Covenants at a time agreed between the parties or, in the absence of agreement, within five (5) Business Days of service of notice from the Lessor stipulating the day on which the Lessor will be carrying out an inspection or, in the case of an emergency, at any time.

9. MAINTENANCE AND REPAIR

9.1 Maintenance of Site

Subject to the subclause 9.2, the Lessee must keep and maintain the Airport Site including the Structures in good and substantial repair at all times during the Term (fair wear and tear excepted) and at the expiration or earlier determination of the Term, vacate and yield up the Airport Site and the Structures in that state of repair and condition and in accordance with the Lessee's Covenants. The Lessee accepts the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Airport Site including the Structures during the Term.

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9.2 Maintenance of runways and pavements

The Lessee must maintain the runways, taxiways, pavements and all parts of the airport essential for safe access by air transport to a standard no less than the standard at the commencement of the Lease.

9.3 Expert determination of disputes

Any dispute between the Lessor and the Lessee in relation to subclauses 9.1 or 9.2 may be referred by either party to an expert and the written determination of the expert will be conclusive and binding on the parties and the Lessor and the Lessee must share equally the fees and expenses of such expert. In the event that the parties cannot agree upon an expert, the expert shall upon the written request of either party be appointed by the President of the Institute of Engineers Australia (Queensland Division) or an equivalent body.

10. SUB-LEASING

10.1 The Lessee must not grant any sub-lease or licence which is inconsistent with any prohibition on sub-leasing or licensing set out in the regulations to the Airports Act or, unless the Lessor agrees otherwise in writing, with any written commitment sought and obtained from the Lessee by the Lessor in relation to sub-leasing which specifies this clause 10.

10.2 Without limiting subclause 10(a), the Lessee must not permit a sub-lease or licence granted under this Lease to be held by a trust without the written approval of the Lessor.

11. COSTS

11.1 Stamp Duty and registration fees

(a) The Lessee must pay any stamp duty imposed by legislation on this Lease and any counterpart, together with any registration costs of the Lease if registered.

(b) Where stamp duty is not imposed by legislation at the time this Lease is executed, the Lessee must present the Lease to the relevant State Governmental Authority and must pay to that Governmental Authority an amount equivalent to that which would have been payable if it were a dutiable instrument under the law of the State.

11.2 Administrative costs

Within twenty-28 days of receiving notice from the Lessor, the Lessee must pay to the Lessor the Lessor's reasonable costs of administering this Lease, including all matters relating to the monitoring by the Lessor of the Lessee's compliance with the Lessee's Covenants. For the avoidance of doubt, the Lessee's obligation under this subclause shall not include any costs arising out of the Lessor performing any functions or powers pursuant to any legislation.

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11.3 Costs for default

The Lessee must pay to the Lessor on demand, all the Costs which the Lessor incurs or for which it becomes liable in consequence of or in connection with or arising out of any default by the Lessee in performing the Lessee's Covenants or any event that is or may be an event of termination under subclause 19.1.

12. COSTS OF AIRPORT ENVIRONMENT OFFICER

12.1 Purpose of clause 12

The purpose of this clause 12 is to provide for the Lessee to pay to the Commonwealth all unrecovered Airport Environment Officer Costs incurred by the Commonwealth in the period commencing on the day immediately following Grant Time and ending on either:

(a) the date on which the Commonwealth ceases to be responsible for the Airport Environment Officer Costs; or

(b) the date of the expiry or earlier termination of the Lease,

whichever is the earlier.

12.2 Annual payment in advance by the Lessee

(a) Within 20 Business Days of the commencement of each Payment Period, the Commonwealth will provide to the Lessee a written notice (**'Notice'**) which states:

(i) the Commonwealth's estimate of the amount of the Airport Environment Officer's Costs for the Payment Period;

(ii) the Commonwealth's estimate of the amount of the Recovered Costs for the Payment Period; and

(iii) the payment amount, being the difference between the amount stated under paragraph (i) and the amount stated under paragraph (ii) (the **'Payment Amount'**).

(b) The Lessee will pay to the Commonwealth an amount equal to the Payment Amount within 15 Business Days of receipt of the Notice.

(c) The parties agree that the Payment Amount for the Initial Payment Period is $150,000.00, such amount to be paid by the Lessee to the Commonwealth immediately upon Grant Time.

12.3 Annual reconciliation

(a) Within 30 Business Days of the end of each Payment Period, the Commonwealth will provide to the Lessee a written statement for that Payment Period (the **'Reconciliation Statement'**) which:

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(i) states the actual Airport Environment Officer Costs for the Payment Period (**'Actual Airport Environment Officer Costs'**);

(ii) states the actual Recovered Costs for the Payment Period (**'Actual Recovered Costs'**);

(iii) states the reconciliation payment, calculated as follows:

Reconciliation Payment = (Actual Airport Environment Officer Costs) minus (Actual Recovered Costs) less (the Payment Amount paid by the Lessee to the Commonwealth in respect of the Payment Period).

Provided that if (Actual Airport Environment Officer Costs - Actual Recovered Costs) is a negative amount, that amount will be deemed to be zero; and

(iv) contains such other information or attaches such other documentation reasonably necessary to evidence or support the Reconciliation Payment.

(b) If the Reconciliation Payment is a positive amount, the Lessee will pay to the Commonwealth an amount equal to the Reconciliation Payment within 15 Business Days of receipt of the Reconciliation Statement.

(c) If the Reconciliation Payment is a negative amount, the Commonwealth will pay to the Lessee on delivery of the Reconciliation Statement an amount calculated by multiplying the Reconciliation Payment by minus one (-1).

12.4 Obligation of the Lessor to consult

The Commonwealth will consult with the Lessee in relation to methods of minimising costs incurred by the Airport Environment Officer carrying out its functions under the Airport (Environment Protection) Regulations including, where appropriate, the provision of such accommodation and other resources directly by the Lessee.

12.5 Efficiency review by the Lessor

(a) Prior to 30 June 1999, and thereafter at such times as it considers necessary the Commonwealth will conduct an efficiency review to determine whether the Airport (Environment Protection) Regulations are functioning effectively and whether the Airport Environment Officer has conducted its regulatory functions in a cost efficient manner. In carrying out such a review the Commonwealth will consult with the Lessee and take into account any matters that the Lessee reasonably requests the Commonwealth to consider in the review. The Commonwealth will give the Lessee an opportunity to comment on the final results of the review and consult with the Lessee in implementing any changes resulting from the review.

(b) If the Lessee reasonably requires an efficiency review at any other time it may request the Commonwealth to carry out such a review provided that the Lessee does not request such a review more often than once every 12 months. Where the Lessee requests the Commonwealth to conduct a review it will be

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responsible for the Commonwealth's reasonable costs of conducting the review.

12.6 Definitions

'Airport Environment Officer' means the person appointed under clause 10.01 of the Airports (Environment Protection) Regulations as the Airport Environment Officer for the purpose of those Regulations.

'Airport Environment Officer Costs' means all fees, costs, expenses and outgoings reasonably incurred by the Commonwealth in retaining the Airport Environment Officer in respect of the Airport Site, including, without limitation, all fees, costs, expenses and outgoings paid by or on behalf of the Commonwealth to the Airport Environment Officer for:

(a) performing any of its duties, functions or responsibilities under the Airports (Environment Protection) Regulations in respect of the Airport Site; and/or

(b) performing or doing any act or thing reasonably incidental to any of the Environmental Officer functions, duties or responsibilities referred to in paragraph (i),

but excluding:

(c) any administrative or legal costs of the Commonwealth; and

(d) any legal costs incurred by the Airport Environment Officer in implementing, enforcing or defending its decisions made in the course of it carrying out its regulatory functions,

'Payment Period' means:

(a) the period commencing on the day immediately following Grant Time and ending on 30 June 1999 (**'Initial Payment Period'**); and

(b) each 12 month period thereafter.

'Recovered Costs' means any fees paid to the Airport Environment Officer under any regulations that may be made under the Airports (Environment Protection) Regulations.

13. DEVELOPMENT DURING TERM OF LEASE

13.1 Development of airport site

Throughout the Term the Lessee must develop the Airport Site at its own cost and expense having regard to:

(a) the actual and anticipated future growth in, and pattern of, traffic demand for the Airport Site;

(b) the quality standards reasonably expected of such an airport in Australia; and

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(c) Good Business Practice.

13.2 Non-compliance by Lessee

If the Lessor believes that the Lessee is not complying with its obligations under subclause 13.1, it may give written notice to the Lessee requiring the Lessee to provide it with a detailed plan or plans referred to in subclause 13.3. The Lessor may only give a notice to the Lessee under this subclause 13.2 once every 5 years and in any event, not before 1 July 1999.

13.3 Provision of plan to Lessor

(a) Subject to subclause 13.8, within 120 Business Days of the receipt of a written notice under subclause 13.2 the Lessee must provide the Lessor with a plan required to bring the Airport Site up to a standard consistent with that required by subclause 13.1 within 5 years.

(b) The relevant plan must contain at least the equivalent detail to that required of a major development plan under section 91 of the Airports Act. For the avoidance of doubt any plan lodged by the Lessee with the Lessor under this clause 13 will not constitute a major development plan or master plan for the purposes of the Airports Act.

13.4 Advice by Lessor on receipt of plan

The Lessor must advise the Lessee within 60 Business Days of receipt of a plan under subclause 13.3 whether it believes that giving effect to the plan provided under subclause 13.3(a) will bring the Airport Site up to a standard consistent with that required by subclause 13.1 and:

(a) if so, the Lessee must forthwith commence to give effect to the plan; or

(b) if not, the Lessee must provide a further plan within 60 Business Days of the date of the Lessor's advice.

13.5 Further plans

The provisions of subclause 13.4 will apply to any further plan provided by the Lessee under subclause 13.4 as if it were the original plan provided under subclause 13.3.

No review or approval by the Lessor of a plan submitted by the Lessee under subclause 13.4 will in any way fetter or constrain the exercise of any power, function, duty or discretion imposed upon:

(a) the Minister by the Airports Act; or

(b) any other person by any law of the Commonwealth.

13.6 Effect to be given to plan

The Lessee must give effect to a plan approved by the Lessor under subclause 13.4.

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13.7 Failure to comply with plan

(a) The parties agree that if the Lessee fails to comply with any part of this clause 13 damages will not be an adequate remedy to the Lessor.

(b) Without prejudice to any other right or remedy which the Lessor may have, if the Lessee fails to comply with subclause 13.6:

(i) the Lessor may take such action as is necessary to give effect to the plan, in which event the Lessee will indemnify the Lessor against all claims, costs, losses or damages suffered or incurred by the Lessor arising out of or in connection with any act or omission in the course of giving effect to, or purporting to give effect to, the plan; and

(ii) the Lessee irrevocably appoints the Lessor as its agent for the purpose of giving effect to the plan and must itself do, or procure to be done by any Airport Management Company or any other person, whatever is reasonably necessary to enable the Lessor to give effect to the plan.

(c) In giving effect to the plan under this clause the Lessor must:

(i) use reasonable endeavours to mitigate the costs, losses and damages which may be suffered or incurred by the Lessor; and

(ii) not exercise any of its rights under subclause 13.7(b) in respect of any matter or thing which is the subject of any incomplete dispute resolution proceedings under subclause 13.9.

13.8 Dispute between parties

Any dispute or difference which arises between the parties as to any matter under this clause 13 including (without limitation) whether:

(a) the Lessee has complied with subclause 13.1; or

(b) any plan provided by the Lessee under subclause 13.3 or 13.4 is sufficient to remedy its non-observance of subclause 13.1; or

(c) the Lessee is giving effect to a plan approved by the Lessor under subclause 13.4,

will be resolved in accordance with subclause 13.9.

13.9 Arbitration

(a) If a dispute or difference of the type described in subclause 13.8 arises either the Lessor or the Lessee may refer the matter for determination in accordance with this clause by giving written notice to the other party (the '**Arbitration Notice**') that it requires the dispute or difference to be referred to arbitration.

(b) Upon receipt by the other party of the Arbitration Notice such dispute or difference will then be and is hereby referred to arbitration.

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(c) Any arbitration under paragraph (b) must be conducted by an arbitrator agreed between the parties, or failing such agreement, within 20 days after receipt by the other party of the Arbitration Notice, then by an arbitrator to be selected by the President for the time being of the Institute of Arbitrators, Australia or an equivalent body.

(d) It is the intention of the parties that the arbitrator appointed to determine a dispute must have a technical understanding of the issues in contest and must have an appropriate level of understanding of the industry area.

(e) The place of any arbitration shall be Canberra.

(f) Any arbitrator appointed under this clause will have power to grant all legal, equitable and statutory remedies.

13.10 Lessor's rights discretionary

The rights conferred by this clause 13 upon the Lessor may be exercised or not, at the Lessor's absolute discretion.

13.11 Definition

'Good Business Practice' means the good business practices expected of an airport operator having regard to the duties and obligation of the Lessee including, without limitation, providing appropriate facilities for the comfort, ease of access, expeditious movement and efficient use of the Airport Site by passengers and other users.

14. BUILDING IN THE LAST TEN YEARS OF THE LEASE

If the Lessee has not exercised the option to renew pursuant to clause 20 the Lessee must:

(a) not, nor may it permit or allow others during the last 10 years of the Term to, demolish or remove any Structures without the prior written consent of the Lessor; and

(b) unless the Lessor otherwise agrees, re-build with all due expedition any Structure damaged or destroyed during the last 10 years of the Term to a standard agreed to by the Lessor and where agreement is not reached within 28 days of such Structure being destroyed or damaged to such standard as is specified by the Lessor acting reasonably.

15. EXPIRATION OR EARLIER DETERMINATION OF LEASE

15.1 Option over assets

(a) The Lessee hereby grants the Lessor an option to purchase the following:

(i) those items of non-fixed plant and equipment, vehicles, machinery, appliances, office equipment, computer systems, computer

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programmes, and technology owned by the Lessee and used exclusively at or in relation to the Airport Site (**'Equipment'**);

(ii) the Lessee's interest as lessee/bailee in any lease/bailment of Equipment (**'Equipment Leases'**);

(iii) the Lessee's interest in any Airport-Management Agreement or any other contract entered into by the Lessee in relation to the operation of the Airport Site or for the supply of goods or services at or in relation to the Airport Site (**'Contracts'**); and

(iv) all other tangible personal property used by the Lessee in connection with the management, operation or maintenance of the Airport Site, together with the Lessee's interest in any computer programmes, computer systems, technology or intellectual property used in connection with the Airport Site (**'Other Airport Assets'**),

(together the **'Option Assets'**).

(b) In order for the Lessor to be able to operate the Airport Site immediately upon the expiration (where the option to renew is not exercised pursuant to clause 20) or sooner determination of the Term, the Lessor (or its nominee) may, by notice in writing to the Lessee, exercise its option by requiring the Lessee to sell to the Lessor (or its nominee) one or more of the Option Assets nominated in writing by the Lessor (**'Purchased Assets'**).

(c) If the Lessor exercises its option, the terms of the resulting sale must be determined in accordance with subclause 15.3.

(d) The Lessee must ensure that all Equipment Leases, Contracts and Other Airport Assets are capable of being assigned to the Lessor.

15.2 Details to be provided to Lessor

At any time and from time to time (but not more often than once a year) the Lessee, upon written request from the Lessor, must provide the Lessor with such details of one or more of the categories of the Option Assets as may be nominated by the Lessor.

15.3 Price of Purchased Assets

If the Lessor exercises its option, the following provisions will apply:

(a) the purchase price of the Purchased Assets must be an amount determined by a valuation of the Purchased Assets, such valuation to be conducted as follows:

(i) the valuer must be a person nominated by the Lessor and approved by the Lessee (such approval not to be unreasonably withheld). If the Lessor and the Lessee fail to agree on the identity of such valuer, either of them may request the President of the Australian Institute of Valuers and Land Economists (Inc) (Queensland Division) or an equivalent body to appoint a valuer who is appropriately qualified or

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experienced in the valuation of property of the kind comprising the Purchased Assets;

(ii) the valuer's fees and expenses must be shared equally by the Lessor and the Lessee;

(iii) the valuation must be determined on the basis of the Market Value of the relevant assets. 'Market Value' shall be the price at which the Purchased Assets might reasonably be expected to be sold at the date of the Lessor's notice of exercise of its option, assuming:

(A) a willing seller and a willing buyer;

(B) that a reasonable period has been allowed for the sale, taking into account the nature of the property and the state of the market;

(C) that the Purchased Assets were freely exposed to the open market; and

(D) that no account is taken of any higher price that may be paid by a purchaser with a special interest;

(iv) the parties must procure that the valuer prepares and delivers to them a valuation report (**'Valuation Report'**) setting out his or her valuation of the Purchased Assets;

(b) on the date which is 30 days after the date of the Valuation Report, the purchase price (determined as outlined above) must be paid by the Lessor to the Lessee;

(c) title and risk to the Purchased Assets will pass to the Lessor upon the expiration or earlier determination of this Lease where notice under subclause 15.1(b) is given to the Lessee on or before the expiration or earlier determination of this Lease. Where notice is given after the expiration or earlier determination of this Lease, on the date upon which notice is served on the Lessee;

(d) the Lessor may, at its sole discretion, set off against any amounts payable by it as a result of the Lessor exercising its option, any amounts payable by the Lessee to the Lessor under or in respect of this Lease; and

(e) promptly after the Lessor exercises its option, the Lessee shall remove from the Airport Site at its expense those Option Assets that are not Purchased Assets.

15.4 Assignment

The parties acknowledge that the Lessor's rights under this clause 15 are assignable.

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15.5 Loan Security subordinate

Any Loan Security granted by the Lessee must be granted, if permitted, subject to this clause 15.

15.6 Reasonable efforts of Lessee

Upon the expiration or earlier determination of this Lease, the Lessee must promptly and at its own expense use all reasonable efforts to assist in the transfer to the Lessor of all things necessary for the Lessor to continue operating the Airport Site as an airport including:

(a) all documents (whether hard copies or in electronic form) owned by the Lessee and used for the operation of the Airport Site including, without limitation, as-built plans, operational manuals and specifications plans and diagrams relating to the Airport Site, the Structures, plant and equipment as well as leases, sub-leases, licences and related correspondence;

(b) effecting an assignment of the Lessee's rights and obligations under relevant agreements (including leases) to the extent possible, in respect of which the Lessee must effect an assignment to the Lessor and to the extent that any agreement cannot be assigned to the Lessor, the Lessee must (subject to the Lessor or its nominee agreeing to assume any ongoing liability on the part of the Lessee under the agreement) continue to hold it for the benefit of the Lessor; and

(c) assisting in the transfer of all necessary licences, permits and authorities (including business names).

15.7 Expiration or earlier determination of Lease

Upon the expiration or earlier determination of this Lease the Lessee must forthwith vacate the Airport Site.

16. LOAN SECURITY

The Lessee must not create a Loan Security over this Lease, the Airport Site or the Structures without obtaining the prior written consent of the Lessor.

17. QUIET ENJOYMENT

Except as provided for in this Lease, the Lessor covenants with the Lessee that the Lessee will have quiet enjoyment during the Term without interruption by the Lessor.

18. NON DEROGATION

Except as provided for in this Lease, the Lessor must not dedicate land or transfer, grant or create any easement, privilege or other right to any other person which will derogate from the enjoyment of rights conferred on the Lessee by this Lease.

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19. TERMINATION

19.1 Termination rights

Save where the Lessor agrees, or Commonwealth legislation provides otherwise, if:

(a) Commonwealth legislation requires a licence to operate the airport and such licence is suspended or cancelled other than due to an administrative oversight; or

(b) the Lessee breaches subclause 3.1(a)(i) or subclause 3.1(a)(ii),

the Lessor is entitled 2 days after the said suspension cancellation or breach to serve notice of termination of this Lease on the Lessee and this Lease will terminate upon receipt of the notice by the Lessee and the Lessee will forthwith vacate the Airport Site.

19.2 Lessor may remedy

(a) Where the Lessor believes that:

(i) a licence referred to in subclause 19.1(a) may be suspended or cancelled; or

(ii) the Lessee may breach its obligations under subclause 3.1(a)(i) or subclause 3.1(a)(ii),

the Lessor may take such action as it considers necessary (except for entering into possession of the Airport Site for the purpose of operating the Airport Site as an airport for interstate and international air transport) to prevent or cure such a situation.

(b) Where:

(i) a licence referred to in subclause 19.1(a) has been suspended or cancelled; or

(ii) the Lessee has breached its obligations under subclause 3.1(a)(i) or subclause 3.1(a)(ii),

the Lessor may take any of the actions it is able to take under subclause 19.2(a) and in addition the Lessor may either itself or through its agents, enter into immediate possession of the Airport Site for the purpose of carrying out all of the functions that the Lessor considers necessary to operate the Airport Site as an airport for interstate and international air transport.

(c) Where the Lessor enters into possession under subclause 19.2(b) the Lessee must do all things necessary to:

(i) assist the Lessor to take possession of the Airport Site;

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(ii) allow the Lessor to use all of its Option Assets which the Lessor considers necessary or desirable to use for the purpose of operating the Airport Site as an airport,

and the Lessee appoints the Lessor (or its nominee) to be its true and lawful attorney, to execute and sign in the name of the Lessee all documents that the Lessor considers necessary or desirable to assist it to operate the Airport Site as an airport, a sufficient proof of which will be the statutory declaration of any duly authorised officer of the Lessor and the Lessee consents to it being registered for this purpose.

(d) Where the Lessor takes any action under subclause 19.2(a) or (b) or enters into possession under subclause 19.2(b), the Lessee must indemnify the Lessor against all Claims, Costs, Injury and Damages incurred by the Lessor in taking such action. Any of the rights of the Lessor under subclause 19.2 are without prejudice to the Lessor's rights under subclause 19.1.

19.3 Lessee to notify and remedy

(a) Forthwith upon notice being received by the Lessee or any other person either to show cause why a licence required by Commonwealth legislation to operate the airport should not be suspended or cancelled or that such licence has been suspended or cancelled, the Lessee must forthwith give to the Lessor a copy of that notice.

(b) Where the notice received by the Lessee in subclause 17.3(a) is a notice of suspension or a notice to show cause why a licence required by Commonwealth legislation to operate the airport should not be suspended or cancelled, the Lessee must forthwith provide to the Lessor details of how and within what time-frame it intends to take action to rectify the matters set out in the notice and the Lessee must take all necessary action to rectify the matters set out in the notice in the shortest time possible and in any event no later than the earliest of:

(i) the period specified in the notice received by the Lessee under (a) above;

(ii) the time-frame provided by the Lessee to the Lessor under (b) above; or

(iii) 28 days.

(c) The obligations of the Lessee under subclause 19.3(b) are without prejudice to any rights that the Lessor has under subclauses 19.1 or 19.2.

19.4 Additional Lessor's rights on termination

If the Lease is terminated by the operation of the Airports Act or under subclause 19.1 such termination will be without prejudice to, or limitation of, any rights of the Lessor under this Lease or at law and without releasing the Lessee from liability for breach of the Lessee's Covenants.

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19.5 Force Majeure Event

(a) If performance by the Lessee of its obligation under subclause 3.1(a)(i) or 3.1(a)(ii) or subclause 13.6 is prevented due to any Force Majeure Event, then the Lessee must forthwith give notice to the Lessor specifying the event which it claims is preventing the Lessee from fulfilling its obligation and advising how long the Lessee expects the event will last, what steps the Lessee is taking or will take to overcome the event, how long the Lessee expects it will be delayed before it will be able to resume performance of its obligation, and such other information as the Lessor may require. The Lessee will be excused performance of such obligation for so long as the prevention lasts, but only if the Lessee takes with all due expedition all reasonable steps to overcome such prevention at the earliest possible time.

(b) If the Lessee becomes aware of circumstances which, if they come to pass, may become a Force Majeure Event, it must forthwith notify the Lessor and provide such information relating thereto as the Lessor may require.

(c) The Lessee must when directed to do so by the Lessor confer with it in relation to any circumstance which may become a Force Majeure Event or any event that the Lessee claims to be a Force Majeure Event.

(d) The Lessor may, after first consulting with the Lessee, take whatever action it considers necessary in order to avoid or lessen the impact of or overcome a Force Majeure Event and the Lessee must indemnify the Lessor against all Claims, Costs, Injury and Damages incurred by the Lessor in taking such action.

20. OPTION TO RENEW

If the Lessee wishes to renew the Lease of the Airport Site for a further term of 49 years the Lessee must, during the 40th year of the Term, give to the Lessor notice of its intention to renew the Lease and if at the time of giving notice and at the expiration of the Term the Lessee has remedied any default under this Lease of which the Lessor has given the Lessee notice, the Lessor must grant to the Lessee a new lease of the Airport Site (without payment by the Lessee of any further premium) for a further term of 49 years, on the same terms as this Lease amended as follows:

(a) by excluding this clause;

(b) by deleting from line one of clause 14 the words 'If the Lessee has not exercised the option to renew pursuant to clause 20';

(c) by deleting from the definition 'Term' in subclause 2.1 the words '50 years commencing at Grant Time' and substituting the words '49 years'; and

(d) by deleting from line two of clause 15.1(b) the words '(where the option to renew is not exercised pursuant to clause 20)'.

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21. WAIVER

No consent or waiver, whether express or implied, to any breach of this Lease by either the Lessor or the Lessee is to be construed as a consent or waiver to any other breach.

22. LESSEE'S ACKNOWLEDGMENTS

The Lessee acknowledges that:

(a) it has not been induced to enter into this Lease by reason of any promise, representation, warranty, guarantee or undertaking as to the use to which the Airport Site or the Structures may be put or by reason of any other matter whatsoever made or given by or on behalf of the Lessor;

(b) it accepts the Airport Site and the Structures in their respective condition as at the Grant Time and that the Lessor has not made any representation or warranty as to their condition or compliance with legislation; and

(c) it meets the requirements of all relevant legislation in relation to the grant of this Lease.

23. PROVISION OF INFORMATION

Where the Lessor acting reasonably gives notice to the Lessee stating that it requires information relating to any matter under this Lease, the Lessee must provide such information to the Lessor within the time stated in the notice.

24. NOTICES

24.1 Service of notice

Any notice, given or served under this Lease will be duly given to or served on the:

(a) Lessor if in writing signed by the Lessee and addressed to:

(i) Secretary
Department of Transport and Regional Development Trace Building,
Level 3,
22 Cooyong Street
CANBERRA ACT 2601
GPO Box 594
Facsimile: (02) 6274 7804

(or to such other person or to such other address as may be notified by the Lessor in writing to the Lessee from time to time) and delivered by hand or sent by person to person registered mail or facsimile transmission;

(b) Lessee if in writing signed by or on behalf of the Lessor and addressed to:

(i) Queensland Airports Limited
PO Box 374
COOLANGATTA QLD 4225

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Attention: s 47F
Fax: 075 55891146

(or to such other person or to such other address as may be notified by the Lessee in writing to the Lessor from time to time) and delivered by hand or sent by person to person registered mail or facsimile transmission.

24.2 Receipt of notice

A notice is deemed to be received if:

(a) delivered personally, on the date of delivery;

(b) sent by person to person registered mail, on the date that the acknowledgment of the delivery is completed by the recipient; and

(c) sent by facsimile, on the completion of transmission without evidence of garbling or incomplete transmission.

25. INTEREST ON OVERDUE MONEYS

Without prejudice to any other rights, powers or remedies of the Lessor under this Lease the Lessee must pay to the Lessor interest at the Specified Rate on money payable by the Lessee to the Lessor. Such interest must be computed from the due date for payment of the money until payment of such money in full. Due date for payment will be 28 days after receipt by the Lessee of notice of payment due.

26. RATES AND LAND TAX AND taxes

26.1 Payment of Rates and Land Tax and Taxes

The Lessee must pay, on or before the due date, all Rates, Land Tax and Taxes without contribution from the Lessor.

26.2 Ex Gratia payment in lieu of Rates and Land Tax

(a) Where Rates are not payable under subclause 26.1 because the Airport Site is owned by the Commonwealth, the Lessee must promptly pay to the relevant Governmental Authority such amount as may be notified to the Lessee by such Governmental Authority as being equivalent to the amount which would be payable for rates as if such rates were leviable or payable in respect of those parts of the Airport Site:

(i) which are sub-leased to tenants; or

(ii) on which trading or financial operations are undertaken including but not limited to retail outlets and concessions, car parks and valet car parks, golf courses and turf farms, but excluding runways, taxiways, aprons, roads, vacant land, buffer zones and grass verges, and land identified in the airport Master Plan for these purposes,

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unless these areas are occupied by the Commonwealth or an authority constituted under Commonwealth law which is excluded from paying rates by Commonwealth policy or law. The Lessee must use all reasonable endeavours to enter into an agreement with the relevant Governmental Authority, body or person to make such payments.

(b) Where Land Tax is not payable under subclause 26.1 because the Airport Site is owned by the Commonwealth, payments in lieu of Land Tax must be made by the Lessee in respect of those parts of the Airport Site:

(i) which are sub-leased to tenants; or

(ii) on which trading or financial operations are undertaken including, but not limited to, retail outlets and concessions, car parks and valet car parks, golf courses and turf farms, but excluding runways, taxiways, aprons, roads, vacant land, buffer zones and grass verges, and land identified in the airport Master Plan for these purposes,

unless these areas are occupied by the Commonwealth or an authority constituted under Commonwealth law which is excluded from making payments by Commonwealth policy or law. Unless otherwise directed by the Lessor, the Lessee will make payments promptly in lieu of land tax at the relevant State rate to the Commonwealth addressed as provided for in subclause 24.1.

These payments in lieu of Land Tax will be levied on a financial year basis. The Lessee must submit an assessment of the payment in lieu of land tax to the Commonwealth on 31 August of the current financial year with this payment due 30 days later. Land value assessment for the purposes of making payments in lieu of land tax are required at least every three years.

(c) Where Taxes such as stamp duty, payroll tax, financial institutions duty and debits tax imposed by a Governmental Authority are not payable by the Lessee because they are Taxes on transactions, instruments or activities on or related to the Airport Site owned by the Commonwealth, the Lessee must pay to the relevant Governmental Authority such amount as is equivalent to the amount which would be payable for such Taxes if such Taxes were leviable or payable.

27. POWER OF ATTORNEY

The Lessee appoints the Lessor (or its nominee) to be its true and lawful attorney, to execute and sign in the name of the Lessee a transfer or a surrender of this Lease at any time after this Lease shall have been terminated or the power to re-enter has become exercisable, a sufficient proof of which will be the statutory declaration of any duly authorised officer of the Lessor and the Lessee consents to it being registered for this purpose.

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28. ENTIRE AGREEMENT

The terms of this Lease constitute the entire agreement between the parties for the subject matter referred to in this Lease and all prior arrangements, agreements, representations and undertakings will have no effect. No modification or alteration of any clause of this Lease will be valid except in writing signed by each party.

29. FURTHER ASSURANCES

The parties must do all things necessary to give effect to any provision of this Lease.

30. GOVERNING LAW

This Lease is governed by and construed in accordance with the laws of Queensland.

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ORIGINAL

1549	49
VOLUME	FOLIO

12 APR 1999

COMMONWEALTH OF AUSTRALIA

CROWN LEASE
(Cover sheet)

AIRPORTS (TRANSITIONAL) ACT 1996

S. ROBERTSON
DEPUTY REGISTRAR-GENERAL

1. LAND

DISTRICT/DIVISION	SECTION	BLOCK	DEPOSITED PLAN	AREA
PIALLIGO	28	3	9214	
	17	3	9214	
MAJURA		587, 594	7661	149.23 HECTARES
		595, 614	8177	
		660	9213	

2. LESSEE'S NAME AND ADDRESS

CANBERRA INTERNATIONAL AIRPORT PTY LIMITED (ACN 080 361 548), a company duly incorporated in the Australian Capital Territory and having its registered office at level 2 Perpetual Trustees Building, 10 Rudd St, Canberra in the Australian Capital Territory.

3 TERM

COMMENCEMENT DATE: 29 May 1998

GRANT DATE: 29 May 1998

TERM: 50 years

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COMMONWEALTH OF AUSTRALIA

CROWN LEASE

AIRPORT LEASE FOR CANBERRA AIRPORT

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THIS LEASE is made the twenty-eighth day of May 1998

BETWEEN:

COMMONWEALTH OF AUSTRALIA ("**Lessor**")

AND

CANBERRA INTERNATIONAL AIRPORT PTY LIMITED (ACN 080 361 548), a company duly incorporated in the Australian Capital Territory and having its registered office situated at Level 2, Perpetual Trustees Building, 10 Rudd Street, Canberra in the Australian Capital Territory. ("**Lessee**")

1. DEMISE

1.1 Lease and concurrent lease

In consideration of the payment by the Lessee to the Lessor of a premium which is not refundable in any circumstances, the Lessor grants to the Lessee pursuant to the *Airports (Transitional) Act 1996* a Lease of the Airport Site (including the Structures) together with the right of access to the Lessee to Block 3 Section 17 Division of Pialligo using the right of access delineated on the Deposited Plan 9214, for the Term. This Lease operates as a concurrent lease over all that part of the Airport Site which is the subject of leases existing as at the Grant Time.

1.2 Acknowledgment

The Lessee acknowledges that no component of the premium is to be regarded as consideration for any benefit the Lessee might receive from any future agreement that the parties might reach which results in:

(a) the Airport Site not being required to be used as an airport: and/or

(b) the conversion of the whole or any part of the Lease to freehold.

1.3 Reservation of Lessor's rights

The Lessor reserves to itself:

(a) all mining rights and interests in minerals on the Airport Site; and

(b) provided that it is not inconsistent with the development of the Airport Site in accordance with a Master Plan, the right to grant any easements over or rights of access or rights of way on, over, under, through or across the Airport Site for:

(i) the purpose of the supply of electricity, gas, telecommunications cables, water, sewerage, drainage or like services; and

(ii) the provision of transport or other services to the public,

such rights not to be to the exclusion of the right of the Lessee to also grant such rights where it would otherwise have the power to do so.

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2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this Lease, unless a contrary intention appears:

'Airports Act' means the *Airports Act 1996*.

'Airport-Management Agreement' means an airport-management agreement as defined in the Airports Act.

'Airport-Management Company' means an airport-management company as defined in the Airports Act.

'Airport Site' means the site (including the Structures thereon) which at Grant Time is named Canberra Airport and the boundaries of which are as specified in regulations made pursuant to the Airports Act, a copy of relevant extracts of which regulations is attached to this Lease.

'Business Day' means a day which is not a Saturday, Sunday or public holiday in the Australian Capital Territory.

'Claims' means any claims, losses, suits, proceedings, actions, causes of action, demands, judgments, executions, liabilities or responsibilities for any Damages and for any Injuries.

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

'Costs' means all expenses, losses, charges and payments including any professional consultant and legal fees (on a "solicitor and own client" basis).

'Damages' means any loss, Costs or damage whatsoever including, but not limited to, direct, indirect, incidental, consequential or special damages, damage to property, to the Airport Site or to the environment of the Airport Site, or the diminution in value of the Airport Site or any part thereof.

'FAC' means the Federal Airports Corporation.

'FAC Land' means land which vests in the Commonwealth pursuant to a declaration of the Minister pursuant to section 11 of the *Airports (Transitional) Act 1996*.

'Fairbairn sub-lease' means a sub-lease of the Fairbairn sub-leased Area which the Lessee grants to the Commonwealth after the grant of this Lease.

'Fairbairn sub-leased Area' means that part of the Airport Site which is sub-leased by the Lessee to the Commonwealth for Defence purposes.

'Force Majeure Event' means any event which is beyond the reasonable control of the Lessee and which bona fide prevents the Lessee from performing the Lessee's Covenants under sub-clause 3.1(a)(i), sub-clause 3.1(a)(ii) or sub-clause 13.6 where that event could not have been prevented, overcome or remedied by the exercise of a standard of care and diligence consistent with that of a prudent person undertaking the obligation, including the expenditure of all reasonable sums of money.

'Governmental Authority' means the Commonwealth government or any government of any State or Territory of Australia, administrative body, governmental body, department or agency of any such government or local government authority.

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'Grant Time' means the time at which the Commonwealth grants this Lease to the Lessee, such time being the time on 29 May 1998 immediately after the FAC Land for Canberra Airport vests in the Commonwealth.

'Injury' means any injury to the Airport Site or to the environment of the Airport Site or personal injury, or bodily injury, including death resulting therefrom and whether the death occurs before or after the expiry or earlier determination of this Lease.

'Land Tax' means any tax levied or imposed by a Governmental Authority on land.

'Lease' means this lease as amended from time to time.

'Lessee's Covenants' means the obligations imposed on the Lessee in this Lease.

'Lessor' means the Commonwealth as owner of the Airport Site and landlord of this Lease.

'Loan Security' means any mortgage, charge, security interest, mortgage by way of sub-demise, or other encumbrance of whatever nature.

'Master Plan' means a final master plan as defined in the Airports Act.

'Rates' means all rates (including water rates and sewerage rates), and levies to defray expenses levied or imposed by a Governmental Authority on land or on owners or occupiers of land in relation to their ownership or occupation of that land.

'Specified Rate' means interest at a rate of four (4) percent per annum higher than that ordinarily charged by the principal bank of the Commonwealth on overdraft current accounts (or the nearest equivalent) not exceeding fifty thousand dollars ($50,000). A certificate issued to the Lessor and signed by the manager or the assistant manager for the time being of the principal bank will be prima facie evidence of the Specified Rate.

'Structures' means all fixtures (including buildings and other improvements of whatever nature) affixed to the Airport Site, whether constructed before or after the grant of this Lease, and includes without limitation such items as runways, taxiways, aprons, roads and dams on the Airport Site.

'Taxes' means all taxes (including stamp duty) costs, charges, expenses, duties, impositions, fees and penalties of whatever nature levied or imposed by a Governmental Authority in respect of instruments, transactions or activities relating to or carried out on the Airport Site.

'Term' means a term of fifty (50) years commencing at Grant Time.

2.2 Interpretation

In this Lease unless the context otherwise requires:

(a) a reference to a clause is to a clause of this Lease and includes all sub-clauses;

(b) words in the singular include the plural and vice versa;

(c) words importing one gender include each of the other genders;

(d) where the context permits, a reference to 'Lessor', 'Lessee', an organisation, body or person includes their employees, officers and agents as well as their respective successors in title and assigns;

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(e) references to parties, recitals, clauses, sub-clauses or attachments are references to parties, clauses, sub-clauses, attachments to or of this Lease and a reference to this Lease includes any attachment;

(f) references to this Lease or any other deed, agreement, instrument or document will be deemed to include references to this Lease or such other deed, agreement, instrument or document as amended, novated, supplemented, varied or replaced from time to time;

(g) headings in this Lease are for convenience only and are not part of, or to be used in the interpretation or construction of, this Lease;

(h) "person" includes a corporation and a body politic;

(i) a reference to legislation includes statutes, regulations, ordinances, by-laws or other legislative instruments and all amendments, consolidations or replacements thereof;

(j) where any word or phrase is given a defined meaning any other part of speech or grammatical form in respect of such word or phrase has a corresponding meaning;

(k) a reference to anything (including without limitation any amount) is to the whole and each part of that thing;

(l) where the day on or by which any sum is payable under this Lease or any act, matter or thing is to be done is a day other than a Business Day, such sum will be paid and such act, matter or thing will be done on the immediately preceding Business Day;

(m) if any provision of this Lease or its application to any person or circumstance is, or becomes, invalid or unenforceable, the remaining provisions are not affected and each provision of this Lease is valid and enforceable to the fullest extent permitted by law;

(n) in the interpretation of this Lease, no rules of construction apply to the disadvantage of any party on the basis that it put forward this Lease;

(o) terms used in this Lease and defined in the Corporations Law have the meaning given to them in the Corporations Law; and

(p) no provision of this Lease operates as a merger of the rights and remedies of the parties under this Lease.

2.3 Lessee not Lessor's agent

Nothing in this Lease, whether express or implied, constitutes the Lessee the agent of the Lessor in respect of any matter or action taken.

2.4 Airport-Management Agreements and sub-leases

The fact that the Lessee enters into an Airport-Management Agreement or sub-lease does not excuse the Lessee from any of its obligations under this Lease and the Lessor holds the Lessee responsible for any acts or omissions of an Airport-Management Company or sub-lessee.

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3. ACCESS TO AND USE OF AIRPORT SITE

3.1 Lessee must give access

The Lessee:

(a) must at all times:

(i) subject to sub-clause 19.5, provide for the use of the Airport Site as an airport;

(ii) subject to sub-clause 19.5, provide for access to the airport by interstate and international air transport;

(iii) provide for access to the airport by intrastate air transport;

(iv) not use, or permit to be used, the Airport Site for any unlawful purpose or in breach of legislation; and

(v) not use any name other than Canberra Airport for the Airport Site without the prior written consent of the Lessor:

(b) may:

(i) permit the Airport Site to be used for other lawful purposes that are not inconsistent with its use as an airport; and

(ii) subject to sub-clause 5.10 and clause 14, construct, alter, remove, add to or demolish the Structures.

3.2 Refusal to give access in certain circumstances

The Lessee shall not be in default of its obligations under sub-clauses 3.1(a)(ii) and (iii) if it:

(a) complies with a demand management scheme under the Airports Act: or

(b) refuses to give access to the Airport Site to all or any of the aircraft of an aircraft owner or operator:

(i) where the owner or operator of the aircraft has failed to pay to the Lessee within twenty-one (21) days after the due date any amount due to the Lessee by the aircraft owner or operator for the use of the Airport Site; and

(ii) where the Lessee has notified the Lessor of its intention to refuse access at least fourteen (14) days in advance of the first day on which it intends to refuse access.

4. RELEASE AND INDEMNITY

Notwithstanding any other provision of this Lease, as and from Grant Time, the Lessee takes and is subject to the same responsibilities with regard to person and property and otherwise to which the Lessee would be subject if during the Term the Lessee were the owner of the freehold of the Airport Site and the Lessee:

(a) hereby releases the Lessor from and against all Claims by the Lessee in respect of any Damages, Costs or Injury which the Lessee may incur or sustain by reason of any act or omission on the part of the Lessor or the FAC or the

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performance of this Lease or the use or occupation of the Airport Site by the Lessee;

(b) hereby indemnifies the Lessor from and against all Claims, Damages or Costs incurred or sustained by the Lessor, or for which the Lessor may become liable, in respect of any Claims, Damages, Costs or Injury to any person by reason of any act or omission on the part of the Lessee or by the performance of this Lease or the use or occupation of the Airport Site by the Lessee or any other person (whether before or after Grant Time), but this indemnity will not apply where the Claims, Damages, Costs or Injury are incurred or sustained by the Lessor as a result of the acts or omissions of the Commonwealth, its servants, agents, employees, contractors or licensees in carrying out any of their functions on the Airport Site after Grant Time; and

(c) must, in any and every event in which the Lessor is made a party to any Claim to which the Lessee's obligation to indemnify and hold the Lessor harmless under any provision of this Lease extends, if so requested by the Lessor, defend such Claim in the name of the Lessor and must pay all costs of the Lessor in connection with the Claim provided that the Lessee may, in any such event, compromise, pay or satisfy any such claim with the consent of the Lessor.

The obligations of the Lessee under this clause continue after the expiration or earlier determination of this Lease in respect of any act, deed or thing happening before such expiration or determination.

5. INSURANCE

5.1 Insurance required at Grant Time

The parties acknowledge that at Grant Time the Lessee has effected certain policies of insurance on terms and conditions acceptable to the Lessor.

5.2 Maintenance of insurance and subsequent policies

The Lessee must maintain the policies of insurance referred to in sub-clause 5.1 and, upon the reasonable request of the Lessor in writing, must effect variations to those policies or take out further policies with insurers acceptable to the Lessor.

5.3 Coverage not available

If the cover effected under any policy of insurance becomes obsolete or is no longer available the Lessee must promptly obtain insurance providing for similar coverage which is satisfactory to the Lessor acting reasonably. If no such similar cover is available then a mutually agreeable replacement for such cover is to be effected by the Lessee.

5.4 Insurance for construction work

Where the Lessee or any other person performs construction work (**'Works'**) upon the Airport Site the Lessee must itself take out (or ensure that any person who performs such Works takes out) a policy of insurance for loss or damage to the Works and the Lessee must ensure that the Lessor is noted as insured on such policy. Such policy must remain in force until the last to expire of any defects liability periods stipulated in the relevant building contract for the Works.

5.5 Duplicates to Lessor

Duplicate (or certified) copies of all policies and any duly signed placing slips and endorsement slips or other evidence satisfactory to the Lessor together with all renewal

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certificates must be sent to the Lessor not less than twenty one (21) days (or such other period as the Lessor may agree) before the due date for renewal thereof. The Lessee must from time to time provide such evidence as the Lessor may reasonably require that any policy is in full force and effect and as to the terms thereof.

5.6 Proof of payment

The Lessee must before the due date pay all premiums and other moneys payable in respect of any policy (including stamp duty) and must provide to the reasonable satisfaction of the Lessor satisfactory proof of payment thereof.

5.7 Preservation of policies

The Lessee must not at any time during the Term do or omit to do or permit to be done or be omitted anything whereby any policy may be cancelled, vitiated, rendered void or voidable, adversely affected or limited in any respect.

5.8 Lessor's rights

If any insurance policy is cancelled or threatened to be cancelled or refused to be renewed or the coverage refused or cancelled in any way or the Lessee fails to comply with any of the requirements of this clause 5, the Lessor may take any action it considers necessary or desirable to fulfil the Lessee's obligations (including, without limitation, effecting any policy or paying the premium or other monies payable in respect of any policy) and recover from the Lessee all costs and expenses incurred in so doing. By the Lessor taking such action the Lessee will not be relieved of any of its obligations under this clause 5.

5.9 Lessee remains responsible

Delivery to and examination by the Lessor of any policy of insurance, certificate or other document relating to insurance shall in no way relieve the Lessee of any of its obligations under this clause 5.

5.10 Proceeds of insurance

Subject to clause 14(b), all insurance proceeds paid out for the damage or destruction of any Structures must be used either for:

(a) the re-building or re-instatement of those damaged or destroyed Structures; or

(b) in the event that the Lessee chooses not to re-instate the damaged or destroyed Structures, the building of such other Structures as the Lessor approves.

6. ENVIRONMENT

6.1 Meaning of Environment of the Airport Site

For the purposes of sub-clause 2.1 and sub-clauses 6.2, 6.3 and 6.4, the expression "the environment of the Airport Site" includes, without limitation, the water, ground water, soil, subsoils, air, biota or habitat and sites of heritage value or of significance to Aboriginal or Torres Strait Islander people on, above or below the Airport Site and the Structures.

6.2 Maintenance of Environment of the Airport Site

Throughout the Term the Lessee must maintain the environment of the Airport Site in accordance with any obligation imposed on it by legislation which from time to time applies to the environment of the Airport Site and at the expiration or earlier

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determination of the Term the Lessee must yield up the environment of the Airport Site in a condition that complies with such obligation.

6.3 Release and indemnity for environmental damage

Notwithstanding and in addition to clause 4 the Lessee:

(a) hereby releases the Commonwealth from all Claims by the Lessee and indemnifies the Commonwealth against all Claims by any other person in respect of any Damages, Costs or Injury which the Lessee or others may incur or sustain in connection with any Damage or Injury to the environment of the Airport Site arising out of the use or occupation of the Airport Site before Grant Time by the Commonwealth, the FAC or any other person; and

(b) hereby releases the Lessor from all Claims against the Lessor and indemnifies the Lessor against all Claims against the Lessor by any person other than the Lessee in respect of any Damages, Costs or Injury which the Lessee or others may incur or sustain in connection with any Damage or Injury to the environment of the Airport Site which arises out of or during the use or occupation of the Airport Site by the Lessee or any other person after Grant Time, but this release and indemnity will not apply where the Claims, Damages, Costs or Injury are incurred or sustained by the Lessor as a result of the acts or omissions of the Commonwealth, its servants, agents, employees, contractors or licensees in carrying out any of their functions on the Airport Site after Grant Time.

6.4 No liability of Lessor

Without limiting sub-clause 6.3, the Lessor has no liability to the Lessee in the event that the Lessee is required to expend monies on remedial action to have the environment of the Airport Site comply with any obligations imposed on it by legislation.

7. LEGISLATION, LICENCES AND STATUTORY POWERS

7.1 Legislation and notices

The Lessee must, at its own expense, comply with all legislation (including the Airports Act) from time to time relating to the Airport Site and the Structures or to the use or occupation of the Airport Site and the Structures and with all requirements in notices and orders given or made (whether issued to either the Lessee or the Lessor) by a Governmental Authority.

7.2 Licences

The Lessee must, at its own expense, obtain and maintain (or cause to be obtained and maintained) at all times all licences and approvals required in relation to the airport and the Airport Site and must produce when required by the Lessor proof of compliance by the Lessee with its obligations under this sub-clause.

8. RIGHT OF INSPECTION

The Lessee must permit the Lessor (or its nominees) to have access to the Airport Site for the purpose of ascertaining whether the Lessee is complying with the Lessee's Covenants at a time agreed between the parties or, in the absence of agreement, within five (5) Business Days of service of notice from the Lessor stipulating the day on which the Lessor will be carrying out an inspection or, in the case of an emergency, at any time.

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9. MAINTENANCE AND REPAIR

9.1 Maintenance of Site

Subject to the sub-clause 9.2 the Lessee must keep and maintain the Airport Site including the Structures in good and substantial repair at all times during the Term (fair wear and tear excepted) and at the expiration or earlier determination of the Term, vacate and yield up the Airport Site and the Structures in that state of repair and condition and in accordance with the Lessee's Covenants. The Lessee accepts the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Airport Site including the Structures during the Term. This obligation will not apply to the Fairbairn sub-leased Area during the term of the Fairbairn sub-lease.

9.2 Maintenance of runways and pavements

The Lessee must maintain the runways, taxiways, pavements and all parts of the airport essential for safe access by air transport to a standard no less than the standard at the commencement of the Lease. This obligation will not apply to the pavements on the Fairbairn sub-leased Area during the term of the Fairbairn sub-lease. From the expiry of the Fairbairn sub-lease, the Lessee must maintain those pavements to a standard no less than the standard at the expiry of the term of the Fairbairn sub-lease.

9.3 Expert determination of disputes

Any dispute between the Lessor and the Lessee in relation to sub-clauses 9.1 or 9.2 may be referred by either party to an expert and the written determination of the expert will be conclusive and binding on the parties and the Lessor and the Lessee must share equally the fees and expenses of such expert. In the event that the parties cannot agree upon an expert, the expert shall upon the written request of either party be appointed by the President of the Institute of Engineers Australia (Australian Capital Territory Division) or an equivalent body.

10. SUB-LEASING

(a) The Lessee must not grant any sub-lease or licence which is inconsistent with any prohibition on sub-leasing or licensing set out in the regulations to the Airports Act or, unless the Lessor agrees otherwise in writing, with any written commitment sought and obtained from the Lessee by the Lessor in relation to sub-leasing which specifies this clause 10.

(b) Without limiting sub-clause 10(a), the Lessee must not permit a sub-lease or licence granted under this Lease to be held by a trust without the written approval of the Lessor.

11. COSTS

11.1 Stamp Duty and registration fees

(a) The Lessee must pay any stamp duty imposed by legislation on this Lease and any counterpart, together with any registration costs of the Lease if registered.

(b) Where stamp duty is not imposed by legislation at the time this Lease is executed, the Lessee must present the Lease to the relevant Governmental Authority and must pay to that Governmental Authority an amount equivalent to that which would have been payable if it were a dutiable instrument under the law of the State.

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11.2 Administrative costs

Within twenty-eight (28) days of receiving notice from the Lessor, the Lessee must pay to the Lessor the Lessor's reasonable costs of administering this Lease, including all matters relating to the monitoring by the Lessor of the Lessee's compliance with the Lessee's Covenants. For the avoidance of doubt, the Lessee's obligation under this sub-clause shall not include any costs arising out of the Lessor performing any functions or powers pursuant to any legislation.

11.3 Costs for default

The Lessee must pay to the Lessor on demand, all the Costs which the Lessor incurs or for which it becomes liable in consequence of or in connection with or arising out of any default by the Lessee in performing the Lessee's Covenants or any event that is or may be an event of termination under sub-clause 19.1.

12. COSTS OF AIRPORT ENVIRONMENT OFFICER

12.1 Purpose of clause 12

The purpose of this clause 12 is to provide for the Lessee to pay to the Commonwealth all unrecovered Airport Environment Officer Costs incurred by the Commonwealth in the period commencing on the day immediately following Grant Time and ending on either:

(a) the date on which the Commonwealth ceases to be responsible for the Airport Environment Officer Costs; or

(b) the date of the expiry or earlier termination of the Lease,

whichever is the earlier.

12.2 Annual payment in advance by the Lessee

(a) Within 20 Business Days of the commencement of each Payment Period, the Commonwealth will provide to the Lessee a written notice (**'Notice'**) which states:

(i) the Commonwealth's estimate of the amount of the Airport Environment Officer's Costs for the Payment Period;

(ii) the Commonwealth's estimate of the amount of the Recovered Costs for the Payment Period; and

(iii) the payment amount, being the difference between the amount stated under paragraph (i) and the amount stated under paragraph (ii) (the **'Payment Amount'**).

(b) The Lessee will pay to the Commonwealth an amount equal to the Payment Amount within 15 Business Days of receipt of the Notice.

(c) The parties agree that the Payment Amount for the Initial Payment Period is $75,000.00, such amount to be paid by the Lessee to the Commonwealth immediately upon Grant Time.

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12.3 Annual reconciliation

(a) Within 30 Business Days of the end of each Payment Period, the Commonwealth will provide to the Lessee a written statement for that Payment Period (the **'Reconciliation Statement'**) which:

(i) states the actual Airport Environment Officer Costs for the Payment Period (**'Actual Airport Environment Officer Costs'**);

(ii) states the actual Recovered Costs for the Payment Period (**'Actual Recovered Costs'**);

(iii) states the reconciliation payment, calculated as follows:

Reconciliation Payment = (Actual Airport Environment Officer Costs) minus (Actual Recovered Costs) less (the Payment Amount paid by the Lessee to the Commonwealth in respect of the Payment Period).

Provided that if (Actual Airport Environment Officer Costs - Actual Recovered Costs) is a negative amount. that amount will be deemed to be zero; and

(iv) contains such other information or attaches such other documentation reasonably necessary to evidence or support the Reconciliation Payment.

(b) If the Reconciliation Payment is a positive amount, the Lessee will pay to the Commonwealth an amount equal to the Reconciliation Payment within 15 Business Days of receipt of the Reconciliation Statement.

(c) If the Reconciliation Payment is a negative amount, the Commonwealth will pay to the Lessee on delivery of the Reconciliation Statement an amount calculated by multiplying the Reconciliation Payment by minus one (-1).

12.4 Obligation of the Lessor to consult

The Commonwealth will consult with the Lessee in relation to methods of minimising costs incurred by the Airport Environment Officer carrying out its functions under the Airport (Environment Protection) Regulations including, where appropriate, the provision of such accommodation and other resources directly by the Lessee.

12.5 Efficiency review by the Lessor

(a) Prior to 30 June 1999, and thereafter at such times as it considers necessary the Commonwealth will conduct an efficiency review to determine whether the Airport (Environment Protection) Regulations are functioning effectively and whether the Airport Environment Officer has conducted its regulatory functions in a cost efficient manner. In carrying out such a review the Commonwealth will consult with the Lessee and take into account any matters that the Lessee reasonably requests the Commonwealth to consider in the review. The Commonwealth will give the Lessee an opportunity to comment on the final results of the review and consult with the Lessee in implementing any changes resulting from the review.

(b) If the Lessee reasonably requires an efficiency review at any other time it may request the Commonwealth to carry out such a review provided that the Lessee does not request such a review more often than once every twelve months. Where the Lessee requests the Commonwealth to conduct a review it will be responsible for the Commonwealth's reasonable costs of conducting the review.

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12.6 Definitions

'Airport Environment Officer' means the person appointed under clause 10.01 of the Airports (Environment Protection) Regulations as the Airport Environment Officer for the purpose of those Regulations.

'Airport Environment Officer Costs' means all fees, costs, expenses and outgoings reasonably incurred by the Commonwealth in retaining the Airport Environment Officer in respect of the Airport Site, including, without limitation, all fees, costs, expenses and outgoings paid by or on behalf of the Commonwealth to the Airport Environment Officer for:

(a) performing any of its duties, functions or responsibilities under the Airports (Environment Protection) Regulations in respect of the Airport Site; and/or

(b) performing or doing any act or thing reasonably incidental to any of the Environmental Officer functions, duties or responsibilities referred to in paragraph (i),

but excluding

(c) any administrative or legal costs of the Commonwealth; and

(d) any legal costs incurred by the Airport Environment Officer in implementing, enforcing or defending its decisions made in the course of it carrying out its regulatory functions,

'Payment Period' means:

(a) the period commencing on the day immediately following Grant Time and ending on 30 June 1999 (**'Initial Payment Period'**); and

(b) each 12 month period thereafter.

'Recovered Costs' means any fees paid to the Airport Environment Officer under any regulations that may be made under the Airports (Environment Protection) Regulations.

13. DEVELOPMENT DURING TERM OF LEASE

13.1 Development of airport site

Throughout the Term the Lessee must develop the Airport Site at its own cost and expense having regard to:

(a) the actual and anticipated future growth in, and pattern of, traffic demand for the Airport Site;

(b) the quality standards reasonably expected of such an airport in Australia; and

(c) Good Business Practice.

13.2 Non-compliance by Lessee

If the Lessor believes that the Lessee is not complying with its obligations under sub-clause 13.1, it may give written notice to the Lessee requiring the Lessee to provide it with a detailed plan or plans referred to in sub-clause 13.3. The Lessor may only give a notice to the Lessee under this sub-clause 13.2 once every 5 years and in any event, not before 1 July 1999.

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13.3 Provision of plan to Lessor

(a) Subject to sub-clause 13.8, within 120 Business Days of the receipt of a written notice under sub-clause 13.2 the Lessee must provide the Lessor with a plan required to bring the Airport Site up to a standard consistent with that required by sub-clause 13.1 within 5 years.

(b) The relevant plan must contain at least the equivalent detail to that required of a major development plan under section 91 of the Airports Act. For the avoidance of doubt any plan lodged by the Lessee with the Lessor under this clause 13 will not constitute a major development plan or master plan for the purposes of the Airports Act.

13.4 Advice by Lessor on receipt of plan

The Lessor must advise the Lessee within 60 Business Days of receipt of a plan under sub-clause 13.3 whether it believes that giving effect to the plan provided under sub-clause 13.3(a) will bring the Airport Site up to a standard consistent with that required by sub-clause 13.1 and:

(a) if so, the Lessee must forthwith commence to give effect to the plan; or

(b) if not, the Lessee must provide a further plan within 60 Business Days of the date of the Lessor's advice.

13.5 Further plans

The provisions of sub-clause 13.4 will apply to any further plan provided by the Lessee under sub-clause 13.4 as if it were the original plan provided under sub-clause 13.3.

No review or approval by the Lessor of a plan submitted by the Lessee under sub-clause 13.4 will in any way fetter or constrain the exercise of any power, function, duty or discretion imposed upon:

(a) the Minister by the Airports Act; or

(b) any other person by any law of the Commonwealth.

13.6 Effect to be given to plan

The Lessee must give effect to a plan approved by the Lessor under sub-clause 13.4.

13.7 Failure to comply with plan

(a) The parties agree that if the Lessee fails to comply with any part of this clause 13 damages will not be an adequate remedy to the Lessor.

(b) Without prejudice to any other right or remedy which the Lessor may have, if the Lessee fails to comply with sub-clause 13.6:

(i) the Lessor may take such action as is necessary to give effect to the plan, in which event the Lessee will indemnify the Lessor against all claims, costs, losses or damages suffered or incurred by the Lessor arising out of or in connection with any act or omission in the course of giving effect to, or purporting to give effect to, the plan; and

(ii) the Lessee irrevocably appoints the Lessor as its agent for the purpose of giving effect to the plan and must itself do, or procure to be done by any

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Airport Management Company or any other person, whatever is reasonably necessary to enable the Lessor to give effect to the plan.

(c) In giving effect to the plan under this clause the Lessor must:

(i) use reasonable endeavours to mitigate the costs, losses and damages which may be suffered or incurred by the Lessor; and

(ii) not exercise any of its rights under sub-clause 13.7(b) in respect of any matter or thing which is the subject of any incomplete dispute resolution proceedings under sub-clause 13.9.

13.8 Dispute between parties

Any dispute or difference which arises between the parties as to any matter under this clause 13 including (without limitation) whether:

(a) the Lessee has complied with sub-clause 13.1; or

(b) any plan provided by the Lessee under sub-clause 13.3 or 13.4 is sufficient to remedy its non-observance of sub-clause 13.1; or

(c) the Lessee is giving effect to a plan approved by the Lessor under sub-clause 13.4,

will be resolved in accordance with sub-clause 13.9.

13.9 Arbitration

(a) If a dispute or difference of the type described in sub-clause 13.8 arises either the Lessor or the Lessee may refer the matter for determination in accordance with this clause by giving written notice to the other party (the **'Arbitration Notice'**) that it requires the dispute or difference to be referred to arbitration.

(b) Upon receipt by the other party of the Arbitration Notice such dispute or difference will then be and is hereby referred to arbitration.

(c) Any arbitration under paragraph (b) must be conducted by an arbitrator agreed between the parties, or failing such agreement, within 20 days after receipt by the other party of the Arbitration Notice, then by an arbitrator to be selected by the President for the time being of the Institute of Arbitrators, Australia or an equivalent body.

(d) It is the intention of the parties that the arbitrator appointed to determine a dispute must have a technical understanding of the issues in contest and must have an appropriate level of understanding of the industry area.

(e) The place of any arbitration shall be Canberra.

(f) Any arbitrator appointed under this clause will have power to grant all legal, equitable and statutory remedies.

13.10 Lessor's rights discretionary

The rights conferred by this clause 13 upon the Lessor may be exercised or not, at the Lessor's absolute discretion.

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13.11 Definition

'Good Business Practice' means the good business practices expected of an airport operator having regard to the duties and obligation of the Lessee including, without limitation, providing appropriate facilities for the comfort, ease of access, expeditious movement and efficient use of the Airport Site by passengers and other users.

14. BUILDING IN THE LAST TEN YEARS OF THE LEASE

If the Lessee has not exercised the option to renew pursuant to clause 20 the Lessee must:

(a) not, nor may it permit or allow others during the last ten (10) years of the Term to, demolish or remove any Structures without the prior written consent of the Lessor; and

(b) unless the Lessor otherwise agrees, re-build with all due expedition any Structure damaged or destroyed during the last ten (10) years of the Term to a standard agreed to by the Lessor and where agreement is not reached within twenty-eight (28) days of such Structure being destroyed or damaged to such standard as is specified by the Lessor acting reasonably.

15. EXPIRATION OR EARLIER DETERMINATION OF LEASE

15.1 Option over assets

(a) The Lessee hereby grants the Lessor an option to purchase the following:

(i) those items of non-fixed plant and equipment, vehicles, machinery, appliances, office equipment, computer systems, computer programmes, and technology owned by the Lessee and used exclusively at or in relation to the Airport Site (**'Equipment'**):

(ii) the Lessee's interest as lessee/bailee in any lease/bailment of Equipment (**'Equipment Leases'**):

(iii) the Lessee's interest in any Airport-Management Agreement or any other contract entered into by the Lessee in relation to the operation of the Airport Site or for the supply of goods or services at or in relation to the Airport Site (**'Contracts'**); and

(iv) all other tangible personal property used by the Lessee in connection with the management, operation or maintenance of the Airport Site, together with the Lessee's interest in any computer programmes, computer systems, technology or intellectual property used in connection with the Airport Site (**'Other Airport Assets'**),

(together the **'Option Assets'**).

(b) In order for the Lessor to be able to operate the Airport Site immediately upon the expiration (where the option to renew is not exercised pursuant to Clause 20) or sooner determination of the Term, the Lessor (or its nominee) may, by notice in writing to the Lessee, exercise its option by requiring the Lessee to sell to the Lessor (or its nominee) one or more of the Option Assets nominated in writing by the Lessor (**'Purchased Assets'**).

(c) If the Lessor exercises its option, the terms of the resulting sale must be determined in accordance with sub-clause 15.3.

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(d) The Lessee must ensure that all Equipment Leases, Contracts and Other Airport Assets are capable of being assigned to the Lessor.

15.2 Details to be provided to Lessor

At any time and from time to time (but not more often than once a year) the Lessee, upon written request from the Lessor, must provide the Lessor with such details of one or more of the categories of the Option Assets as may be nominated by the Lessor.

15.3 Price of Purchased Assets

If the Lessor exercises its option, the following provisions will apply:

(a) the purchase price of the Purchased Assets must be an amount determined by a valuation of the Purchased Assets, such valuation to be conducted as follows:

(i) the valuer must be a person nominated by the Lessor and approved by the Lessee (such approval not to be unreasonably withheld). If the Lessor and the Lessee fail to agree on the identity of such valuer, either of them may request the President of the Australian Institute of Valuers and Land Economists (Inc) (Australian Capital Territory Division) or an equivalent body to appoint a valuer who is appropriately qualified or experienced in the valuation of property of the kind comprising the Purchased Assets;

(ii) the valuer's fees and expenses must be shared equally by the Lessor and the Lessee;

(iii) the valuation must be determined on the basis of the Market Value of the relevant assets. "Market Value" shall be the price at which the Purchased Assets might reasonably be expected to be sold at the date of the Lessor's notice of exercise of its option, assuming:

A. a willing seller and a willing buyer;

B. that a reasonable period has been allowed for the sale, taking into account the nature of the property and the state of the market;

C. that the Purchased Assets were freely exposed to the open market; and

D. that no account is taken of any higher price that may be paid by a purchaser with a special interest;

(iv) the parties must procure that the valuer prepares and delivers to them a valuation report (**'Valuation Report'**) setting out his or her valuation of the Purchased Assets;

(b) on the date which is thirty (30) days after the date of the Valuation Report, the purchase price (determined as outlined above) must be paid by the Lessor to the Lessee;

(c) title and risk to the Purchased Assets will pass to the Lessor upon the expiration or earlier determination of this Lease where notice under sub-clause 15.1(b) is given to the Lessee on or before the expiration or earlier determination of this Lease. Where notice is given after the expiration or earlier determination of this Lease, on the date upon which notice is served on the Lessee;

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(d) the Lessor may, at its sole discretion, set off against any amounts payable by it as a result of the Lessor exercising its option, any amounts payable by the Lessee to the Lessor under or in respect of this Lease; and

(e) promptly after the Lessor exercises its option, the Lessee shall remove from the Airport Site at its expense those Option Assets that are not Purchased Assets.

15.4 Assignment

The parties acknowledge that the Lessor's rights under this clause 15 are assignable.

15.5 Loan Security subordinate

Any Loan Security granted by the Lessee must be granted, if permitted, subject to this clause 15.

15.6 Reasonable efforts of Lessee

Upon the expiration or earlier determination of this Lease, the Lessee must promptly and at its own expense use all reasonable efforts to assist in the transfer to the Lessor of all things necessary for the Lessor to continue operating the Airport Site as an airport including:

(a) all documents (whether hard copies or in electronic form) owned by the Lessee and used for the operation of the Airport Site including, without limitation, as-built plans, operational manuals and specifications plans and diagrams relating to the Airport Site, the Structures, plant and equipment as well as leases, sub-leases, licences and related correspondence;

(b) effecting an assignment of the Lessee's rights and obligations under relevant agreements (including leases) to the extent possible, in respect of which the Lessee must effect an assignment to the Lessor and to the extent that any agreement cannot be assigned to the Lessor, the Lessee must (subject to the Lessor or its nominee agreeing to assume any ongoing liability on the part of the Lessee under the agreement) continue to hold it for the benefit of the Lessor; and

(c) assisting in the transfer of all necessary licences, permits and authorities (including business names).

15.7 Expiration or earlier determination of Lease

Upon the expiration or earlier determination of this Lease the Lessee must forthwith vacate the Airport Site.

16. LOAN SECURITY

The Lessee must not create a Loan Security over this Lease, the Airport Site or the Structures without obtaining the prior written consent of the Lessor.

17. QUIET ENJOYMENT

Except as provided for in this Lease, the Lessor covenants with the Lessee that the Lessee will have quiet enjoyment during the Term without interruption by the Lessor.

18. NON DEROGATION

Except as provided for in this Lease, the Lessor must not dedicate land or transfer, grant or create any easement, privilege or other right to any other person which will derogate from the enjoyment of rights conferred on the Lessee by this Lease.

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19. TERMINATION

19.1 Termination rights

Save where the Lessor agrees, or Commonwealth legislation provides otherwise, if:

(a) Commonwealth legislation requires a licence to operate the airport and such licence is suspended or cancelled other than due to an administrative oversight; or

(b) the Lessee breaches sub-clause 3.1(a)(i) or sub-clause 3.1(a)(ii),

the Lessor is entitled two (2) days after the said suspension cancellation or breach to serve notice of termination of this Lease on the Lessee and this Lease will terminate upon receipt of the notice by the Lessee and the Lessee will forthwith vacate the Airport Site.

19.2 Lessor may remedy

(a) Where the Lessor believes that:

(i) a licence referred to in sub-clause 19.1(a) may be suspended or cancelled; or

(ii) the Lessee may breach its obligations under sub-clause 3.1(a)(i) or sub-clause 3.1(a)(ii),

the Lessor may take such action as it considers necessary (except for entering into possession of the Airport Site for the purpose of operating the Airport Site as an airport for interstate and international air transport) to prevent or cure such a situation.

(b) Where:

(i) a licence referred to in sub-clause 19.1(a) has been suspended or cancelled; or

(ii) the Lessee has breached its obligations under sub-clause 3.1(a)(i) or sub-clause 3.1(a)(ii),

the Lessor may take any of the actions it is able to take under sub-clause 19.2(a) and in addition the Lessor may either itself or through its agents, enter into immediate possession of the Airport Site for the purpose of carrying out all of the functions that the Lessor considers necessary to operate the Airport Site as an airport for interstate and international air transport.

(c) Where the Lessor enters into possession under sub-clause 19.2(b) the Lessee must do all things necessary to:

(i) assist the Lessor to take possession of the Airport Site;

(ii) allow the Lessor to use all of its Option Assets which the Lessor considers necessary or desirable to use for the purpose of operating the Airport Site as an airport,

and the Lessee appoints the Lessor (or its nominee) to be its true and lawful attorney, to execute and sign in the name of the Lessee all documents that the Lessor considers necessary or desirable to assist it to operate the Airport Site as an airport, a sufficient proof of which will be the statutory declaration of any

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duly authorised officer of the Lessor and the Lessee consents to it being registered for this purpose.

(d) Where the Lessor takes any action under sub-clause 19.2(a) or (b) or enters into possession under sub-clause 19.2(b), the Lessee must indemnify the Lessor against all Claims, Costs, Injury and Damages incurred by the Lessor in taking such action. Any of the rights of the Lessor under sub-clause 19.2 are without prejudice to the Lessor's rights under sub-clause 19.1.

19.3 Lessee to notify and remedy

(a) Forthwith upon notice being received by the Lessee or any other person either to show cause why a licence required by Commonwealth legislation to operate the airport should not be suspended or cancelled or that such licence has been suspended or cancelled, the Lessee must forthwith give to the Lessor a copy of that notice.

(b) Where the notice received by the Lessee in sub-clause 19.3(a) is a notice of suspension or a notice to show cause why a licence required by Commonwealth legislation to operate the airport should not be suspended or cancelled, the Lessee must forthwith provide to the Lessor details of how and within what time-frame it intends to take action to rectify the matters set out in the notice and the Lessee must take all necessary action to rectify the matters set out in the notice in the shortest time possible and in any event no later than the earliest of:

(i) the period specified in the notice received by the Lessee under (a) above;

(ii) the time-frame provided by the Lessee to the Lessor under (b) above; or

(iii) twenty-eight (28) days.

(c) The obligations of the Lessee under sub-clause 19.3(b) are without prejudice to any rights that the Lessor has under sub-clauses 19.1 or 19.2.

19.4 Additional Lessor's rights on termination

If the Lease is terminated by the operation of the Airports Act or under sub-clause 19.1 such termination will be without prejudice to, or limitation of, any rights of the Lessor under this Lease or at law and without releasing the Lessee from liability for breach of the Lessee's Covenants.

19.5 Force Majeure Event

(a) If performance by the Lessee of its obligation under sub-clause 3.1(a)(i) or 3.1(a)(ii) or sub-clause 13.6 is prevented due to any Force Majeure Event, then the Lessee must forthwith give notice to the Lessor specifying the event which it claims is preventing the Lessee from fulfilling its obligation and advising how long the Lessee expects the event will last, what steps the Lessee is taking or will take to overcome the event, how long the Lessee expects it will be delayed before it will be able to resume performance of its obligation, and such other information as the Lessor may require. The Lessee will be excused performance of such obligation for so long as the prevention lasts, but only if the Lessee takes with all due expedition all reasonable steps to overcome such prevention at the earliest possible time.

(b) If the Lessee becomes aware of circumstances which, if they come to pass, may become a Force Majeure Event, it must forthwith notify the Lessor and provide such information relating thereto as the Lessor may require.

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(c) The Lessee must when directed to do so by the Lessor confer with it in relation to any circumstance which may become a Force Majeure Event or any event that the Lessee claims to be a Force Majeure Event.

(d) The Lessor may, after first consulting with the Lessee, take whatever action it considers necessary in order to avoid or lessen the impact of or overcome a Force Majeure Event and the Lessee must indemnify the Lessor against all Claims, Costs, Injury and Damages incurred by the Lessor in taking such action.

20. OPTION TO RENEW

If the Lessee wishes to renew the Lease of the Airport Site for a further term of forty-nine (49) years the Lessee must, during the fortieth (40th) year of the Term, give to the Lessor notice of its intention to renew the Lease and if at the time of giving notice and at the expiration of the Term the Lessee has remedied any default under this Lease of which the Lessor has given the Lessee notice, the Lessor must grant to the Lessee a new lease of the Airport Site (without payment by the Lessee of any further premium) for a further term of forty-nine (49) years, on the same terms as this Lease amended as follows:

(a) by excluding this clause;

(b) by deleting from line one of clause 14 the words "If the Lessee has not exercised the option to renew pursuant to clause 20";

(c) by deleting from the definition 'Term' in sub-clause 2.1 the words "fifty (50) years commencing at Grant Time" and substituting the words "forty-nine (49) years"; and

(d) by deleting from line two of clause 15.1(b) the words "(where the option to renew is not exercised pursuant to Clause 20)".

21. WAIVER

No consent or waiver, whether express or implied, to any breach of this Lease by either the Lessor or the Lessee is to be construed as a consent or waiver to any other breach.

22. LESSEE'S ACKNOWLEDGMENTS

The Lessee acknowledges that:

(a) it has not been induced to enter into this Lease by reason of any promise, representation, warranty, guarantee or undertaking as to the use to which the Airport Site or the Structures may be put or by reason of any other matter whatsoever made or given by or on behalf of the Lessor;

(b) it accepts the Airport Site and the Structures in their respective condition as at the Grant Time and that the Lessor has not made any representation or warranty as to their condition or compliance with legislation; and

(c) it meets the requirements of all relevant legislation in relation to the grant of this Lease.

23. PROVISION OF INFORMATION

Where the Lessor acting reasonably gives notice to the Lessee stating that it requires information relating to any matter under this Lease, the Lessee must provide such information to the Lessor within the time stated in the notice.

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24. NOTICES

24.1 Service of notice

Any notice, given or served under this Lease will be duly given to or served on the

(a) Lessor if in writing signed by the Lessee and addressed to:

Secretary
Department of Transport and Regional Development
Trace Building, Level 3
22 Cooyong Street
CANBERRA A C T 2601
G P O Box 594

Facsimile: (02) 6274 7804

(or to such other person or to such other address as may be notified by the Lessor in writing to the Lessee from time to time) and delivered by hand or sent by person to person registered mail or facsimile transmission;

(b) Lessee if in writing signed by or on behalf of the Lessor and addressed to:

Canberra International Airport Pty Limited
Level 2
Perpetual Trustees Building
10 Rudd Street
CANBERRA A C T 2601

Attention: s 47F

Facsimile: (02) 6230 6011

(or to such other person or to such other address as may be notified by the Lessee in writing to the Lessor from time to time) and delivered by hand or sent by person to person registered mail or facsimile transmission.

24.2 Receipt of notice

A notice is deemed to be received if:

(a) delivered personally, on the date of delivery;

(b) sent by person to person registered mail, on the date that the acknowledgment of the delivery is completed by the recipient; and

(c) sent by facsimile, on the completion of transmission without evidence of garbling or incomplete transmission.

25. INTEREST ON OVERDUE MONEYS

Without prejudice to any other rights, powers or remedies of the Lessor under this Lease the Lessee must pay to the Lessor interest at the Specified Rate on money payable by the Lessee to the Lessor. Such interest must be computed from the due date for payment of the money until payment of such money in full. Due date for payment will be twenty-eight (28) days after receipt by the Lessee of notice of payment due.

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26. RATES AND LAND TAX AND TAXES

26.1 Payment of Rates and Land Tax and Taxes

The Lessee must pay, on or before the due date, all Rates, Land Tax and Taxes without contribution from the Lessor.

26.2 Ex Gratia payment in lieu of Rates and Land Tax

(a) Where Rates are not payable under sub-clause 26.1 because the Airport Site is owned by the Commonwealth, the Lessee must promptly pay to the relevant Governmental Authority such amount as may be notified to the Lessee by such Governmental Authority as being equivalent to the amount which would be payable for rates as if such rates were leviable or payable in respect of those parts of the Airport Site:

(i) which are sub-leased to tenants; or

(ii) on which trading or financial operations are undertaken including but not limited to retail outlets and concessions, car parks and valet car parks, golf courses and turf farms, but excluding runways, taxiways, aprons, roads, vacant land, buffer zones and grass verges, and land identified in the airport Master Plan for these purposes,

unless these areas are occupied by the Commonwealth or an authority constituted under Commonwealth law which is excluded from paying rates by Commonwealth policy or law. The Lessee must use all reasonable endeavours to enter into an agreement with the relevant Governmental Authority, body or person to make such payments.

(b) Where Land Tax is not payable under sub-clause 26.1 because the Airport Site is owned by the Commonwealth, payments in lieu of Land Tax must be made by the Lessee in respect of those parts of the Airport Site:

(i) which are sub-leased to tenants; or

(ii) on which trading or financial operations are undertaken including, but not limited to, retail outlets and concessions, car parks and valet car parks, golf courses and turf farms, but excluding runways, taxiways, aprons, roads, vacant land, buffer zones and grass verges, and land identified in the airport Master Plan for these purposes,

unless these areas are occupied by the Commonwealth or an authority constituted under Commonwealth law which is excluded from making payments by Commonwealth policy or law. Unless otherwise directed by the Lessor, the Lessee will make payments promptly in lieu of land tax at the relevant Territory rate to the Commonwealth addressed as provided for in sub-clause 24.1.

These payments in lieu of Land Tax will be levied on a financial year basis. The Lessee must submit an assessment of the payment in lieu of land tax to the Commonwealth on 31 August of the current financial year with this payment due 30 days later. Land value assessment for the purposes of making payments in lieu of land tax are required at least every three years.

(c) Where Taxes such as stamp duty, payroll tax, financial institutions duty and debits tax imposed by a Governmental Authority are not payable by the Lessee because they are Taxes on transactions, instruments or activities on or related to the Airport Site owned by the Commonwealth, the Lessee must pay to the

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relevant Governmental Authority such amount as is equivalent to the amount which would be payable for such Taxes if such Taxes were leviable or payable.

27. POWER OF ATTORNEY

The Lessee appoints the Lessor (or its nominee) to be its true and lawful attorney, to execute and sign in the name of the Lessee a transfer or a surrender of this Lease at any time after this Lease shall have been terminated or the power to re-enter has become exercisable, a sufficient proof of which will be the statutory declaration of any duly authorised officer of the Lessor and the Lessee consents to it being registered for this purpose.

28. ENTIRE AGREEMENT

The terms of this Lease constitute the entire agreement between the parties for the subject matter referred to in this Lease and all prior arrangements, agreements, representations and undertakings will have no effect. No modification or alteration of any clause of this Lease will be valid except in writing signed by each party.

29. FURTHER ASSURANCES

The parties must do all things necessary to give effect to any provision of this Lease.

30. GOVERNING LAW

This Lease is governed by and construed in accordance with the laws of the Australian Capital Territory.

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SIGNED as a Deed.

SIGNED by **THE HONOURABLE JOHN JOSEPH FAHEY, MP** in his capacity as the Minister for Finance and Administration for and on behalf of the Commonwealth of Australia in the presence of:)

.....
(*Signature*)

s 47F [redacted] .....
(*Signature of witness*)

s 47F [redacted]
(*Name of witness in full*)

THE COMMON SEAL of **CANBERRA INTERNATIONAL AIRPORT PTY LIMITED** (ACN 080 361 548) was affixed by the authority of the Board of Directors in the presence of:

s 47F [redacted] .....
(*Signature of Secretary~~/Director~~*)

s 47F [redacted] .....
(*Signature of Director*)

s 47F [redacted] .....
(*Name of Secretary/~~Director in~~ full*)

s 47F [redacted] .....
(*Name of Director in full*)

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DEED OF VARIATION OF THE AIRPORT LEASE FOR CANBERRA AIRPORT

Released under the FOI Act 1982 by the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts

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DEED OF VARIATION OF THE AIRPORT LEASE FOR CANBERRA AIRPORT

Date

This Deed is dated the 21st day of DECEMBER 2006.

Parties

This Deed is made between and binds the following parties:

Commonwealth of Australia represented by the Department of Transport and Regional Services 111 Alinga Street, Canberra City ACT 2601, telephone 6274 7111, Attention: The Secretary

(the **Commonwealth** and **Lessor**)

Canberra International Airport Pty Limited (ABN 14 080 361 548) 2 Brindabella Circuit, Brindabella Business Park, ACT 2609, Telephone 6275 2222 Attention s 47F (the **Lessee**)

Context

This Deed is made in the following context:

A. By lease dated 28 May 1998 the Commonwealth granted to the Lessee a lease commencing at Grant Time (the **Lease**).

B. The Commonwealth and the Lessee have agreed to amend the Lease as provided for by this Deed.

Operative Provisions

In consideration of the mutual promises contained in this Deed, the parties agree as follows:

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1. Interpretation

1.1.1. In this Deed words defined in the Lease have (unless defined in this Deed) the same meaning when used in this Deed:

Deed means this Deed of Variation of the Lease;

2. Commencement

2.1.1. The variations effected by this Deed take effect immediately upon the execution of the Deed.

3. Amendment of the Lease

3.1.1. The Lease is amended by the insertion of a new clause 3A as follows:

3A ADDITIONAL ACCESS TO AND USE OF AIRPORT SITE

3A.1 Additional Aircraft Access

a. Subject to requirements under any Safety Regulations, clauses 3A.1.b and 3A.1.c and any other applicable laws, and without limiting the Lessee's ability to impose and recover any fees or charges, the Lessee must provide Aircraft Access for the Term.

b. If to allow Aircraft Access would otherwise be a breach of Safety Regulations or any other law, the Lessor and the Lessee must negotiate in good faith and the Lessee must use its best endeavours to find a compromise arrangement which will enable Aircraft Access.

c. If to provide Aircraft Access would:

(i) affect the safety of the Airport Site (or users of the Airport Site); or

(ii) cause damage to runway 17/35 or any associated taxiway or apron requiring closure of the runway or the Airport Site to enable the damage to be repaired,

the Lessor and the Lessee must negotiate in good faith and the Lessee must use its best endeavours to find a compromise arrangement which will enable Aircraft Access.

d. The Lessee must use its best endeavours to accommodate the landing and departure of VIP Aircraft where the Aircraft Classification Number exceeds 62 by up to 10%.

3A.2 Maintenance of Airport Site

a. The Lessee must at all times and at its own expense maintain runway 17/35 to a standard of at least Pavement Classification Number 62.

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b. The Lessee must provide to the Lessor each year confirmation that runway 17/35 has been maintained a Pavement Classification Number 62 standard.

c. The Lessee must bear the cost of all maintenance and upgrading of runway 17/35 or any associated taxiways.

3A.3 Definitions and Interpretation

a. For the purposes of clauses 3A.1 and 3A.2 the following words have the following meaning:

Aircraft Access means the allowing of VIP aircraft (and other aircraft accompanying the VIP aircraft) to land at and depart from the Airport Site using runway 17/35 where those VIP Aircraft and accompanying aircraft have an Aircraft Classification Number not exceeding 62;

Aircraft Classification Number has the meaning as set out in section 1.2 of the **Manual of Standards Part 139 - Aerodromes** (version 1.2: September 2004) published by the Civil Aviation Safety Authority;

Pavement Classification Number 62 has the meaning as set out in section 1.2 of the **Manual of Standards Part 139 - Aerodromes** (version 1.2: September 2004) published by the Civil Aviation Safety Authority;

Safety Regulations means safety regulations in place under the *Civil Aviation Safety Regulations 1998* and any other regulatory requirements relating to airport safety;

VIP Aircraft means aircraft:

(i) carrying official visitors invited by the Australian Government; or

(ii) that are chartered or owned by the Australian Government to carry the Governor-General, the Prime Minister or other members of the Australian Government;

b. For the purposes of this clause a reference to runway 17/35 includes a reference to any other runway which replaces runway 17/35 from time to time.

3.1.2. For avoidance of doubt the variations to the Lease are in addition to any existing obligations in the Lease.

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4. Variation

4.1.1. No variation of this Deed is binding unless it is agreed in writing and signed by both Parties

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EXECUTED as a Deed.

SIGNED for and on behalf of)
the Commonwealth of Australia)
by:)

s 47F

Name of signatory *Signature*

In the presence of:

s 47F

Name of witness *Signature of witness*

SIGNED for and on behalf of)
Canberra International Airport)
Pty Limited ABN 14 080 361)
548 by:

s 47F

Name of signatory *Signature*

In the presence of:

s 47F

Name of witness *Signature of witness*

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