

ROCKHAMPTON AERODROME - AIRSIDE VEHICLE INDEMNITY AND RELEASE

DATE: _____ 20 _____

PARTIES:

A. ROCKHAMPTON REGIONAL COUNCIL ABN 59 923 523 766 of Canoona Road, West Rockhampton Queensland 4700 (**the Council**)

B. (Name) _____ of
(Address) _____ (**the Applicant**)

1. RECITALS:

- A. The Council is the registered owner of the land and improvements at Canoona Road, Rockhampton known as Rockhampton Aerodrome.
- B. The Council permits the Applicant to use a Vehicle on the Airside at the Aerodrome, on the condition that the Applicant:
 - (a) indemnifies and releases the Council pursuant to this Agreement; and
 - (b) complies with this Agreement and the Rockhampton Aerodrome Manual.

2. DEFINITIONS:

In this Agreement:

Agreement means this agreement as amended or supplemented in writing.

Aerodrome means Rockhampton Aerodrome, Queensland, Australia.

Airside means the Movement Area of the Aerodrome, adjacent terrain and buildings or portions thereof, access to which is controlled and includes those areas defined as the 'airside' under the Regulations.

Airside Vehicle Permit (AVP) means a permit, issued by Council, to be affixed to a Vehicle, authorising the Applicant to use a Vehicle Airside.

Applicant means the party applying for an AVP (and if more than one, each of them) who is named and described as the Applicant its successors or permitted assigns, and in the case of an individual their executors and administrators. Where appropriate in the context, the term also includes employees, agents, contractors and persons authorised by the Applicant.

Council means the person (and if more than one, each of them) named and described as the Council its successors or permitted assigns, and in the case of an individual their executors and administrators. Where appropriate in the context, the term also includes employees, agents and persons authorised by the Council.

Insurer means any reputable and financially sound insurer whose business includes the provision of insurance contemplated in clause 5.

Movement Area means the part of the aerodrome to be used for the take-off, landing and taxiing of aircraft and includes the apron(s).

Regulations mean the *Airports (Control of On-Airport Activities) Regulations 1997*, made under the *Airports Act 1996*.

Rockhampton Aerodrome Manual means the manual the Council maintains (and updates from time to time) specifying the operating procedures for Airside Vehicle access at the Aerodrome.

Vehicle means a 'vehicle' as defined by the Regulations and includes any motor vehicle, special purpose vehicle or other mobile equipment, which is used on the Airside, or taken onto the Airside, by the Applicant.

3. INTERPRETATION

In this Agreement, unless the context otherwise requires:

- (a) headings and underlining are for convenience only and do not affect the interpretation of this Agreement;
- (b) words importing the singular include the plural and vice versa;
- (c) a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of them;
- (d) the words "include", "includes", "including", "for example" or "such as" are not used as, nor are they to be interpreted as, words of limitation.

4. INDEMNITY & RELEASE

- 4.1 The Applicant agrees to release, hold harmless and indemnify the Council, its officers, servants, agents and contractors from and against all liabilities, claims, damages, losses, costs, charges and expenses which may accrue against or be suffered by the Council arising out of or in any way connected with:
 - (a) loss or damage to the Council's property;
 - (b) claims against the Council for personal injury or death or loss or damage to the property;
 - (c) any other loss or damage, caused by, arising out of, in connection with or as a consequence of the presence, use or operation of any Vehicle on the Airside by the Applicant, its servants, officers, agents or contractors.
- 4.2 The Applicant's liability to release and indemnify the Council shall be reduced proportionally to the extent that any negligent act or omission of the Council contributed to the loss, damage, death or injury.
- 4.3 This release and indemnity is a continuing obligation, separate and independent from the other obligations of the Applicant and survives termination of its agreement with the Council to enter upon, use and operate Vehicles at the Aerodrome. It is not necessary for the Council to incur expenses or make payments before enforcing its right of indemnity under this Agreement.

5. INSURANCE

5.1 AVIATION LIABILITY INSURANCE

- 5.1.1 The Applicant must insure itself and all contractors employed from time to time and keep insured in a sum of not less than **Twenty Million Dollars (\$20,000,000)**, with a reputable insurance company acceptable to the Airport Operator, against all liability to the Applicant arising from this Agreement. The policy must clearly state that the Insurance Company is aware that the Vehicle is to be used airside at Rockhampton Airport.
- 5.1.2 The aviation legal liability policy shall:-

- (a) cover the liability of the Applicant and the Council to each other for loss of or damage to property and the death of or injury to any person (other than a liability required by law to be insured under a workers compensation insurance policy);
- (b) contain a cross liability clause in which the Insurer agrees to waive all rights of subrogation or actions against any of the persons constituting the insured and for the purposes of which the Insurer accepts the term 'insured' as applying to each of the persons constituting the insured as if a separate policy of insurance had been issued to each of them.

5.2 INSURANCE OF EMPLOYEES

- 5.2.1 Before entering the Aerodrome, the Applicant shall insure against statutory and common law liability for the death of or injury to persons employed by the Applicant. The insurance cover shall be maintained until the termination of the Applicant's AVP.
- 5.2.2 The Applicant shall ensure that all contractors have similarly insured their employees.

5.3 INSPECTION AND PROVISION OF INSURANCE POLICIES

5.3.1 Proof of insurance

Before the Applicant enters into the Aerodrome, and whenever requested in writing by the Council, the Applicant shall provide the Council with satisfactory evidence (which may include the policy certificate, policy Schedule and policy document) of the insurance the Applicant or contractor is required to acquire and maintain in accordance with this Agreement.

5.3.2 Failure to provide proof of insurance

- (a) If the Applicant or contractor fails to properly provide satisfactory evidence of compliance with clauses 5.1, 5.2 and 5.3 above following a request for such evidence by the Council, the Council may refuse entry onto the Aerodrome by the Applicant and/or its contractors until such evidence is produced by the Applicant or contractor; and
- (b) If proof of insurance is not provided within 14 days following the date of request by the Aerodrome, or if the Applicant or contractor fails to acquire the required insurance, then without prejudice to its other rights or remedies, the Council may acquire the insurance referred to in clauses 5.1, 5.2 or 5.3 above and the cost of acquiring that insurance shall be monies due and payable by the Applicant to the Council.

5.3.3 Notices from or to Insurer

The Applicant shall ensure that each insurance policy it obtains in accordance with this Agreement contains provisions which require the Insurer, whenever the Applicant or contractor fails to maintain the policy, to promptly give immediate notice of such failure to the Council and in any event prior to cancellation of the policy.

5.4 CLAIMS AND POTENTIAL CLAIMS

The Applicant shall, as soon as practicable, inform the Council in writing of any occurrence or event that may give rise to a claim under a policy of insurance obtained in accordance with this Agreement, or any claim made under such policy, and shall keep the Council informed of subsequent developments concerning the claim. The Applicant shall ensure that contractors keep the Council similarly informed of any claim or potential claim made by each or any of them.

6. GOVERNING LAW

- (a) This Agreement is to be governed by the laws of the Commonwealth of Australia and the State of Queensland.
- (b) The Applicant submits to the non-exclusive jurisdiction of the Courts of the Commonwealth of Australia and the State of Queensland and any Courts that have jurisdiction to appeals from the aforementioned Courts.

EXECUTED AND DELIVERED as a Deed on the date of this document.

THE COMMON SEAL OF ROCKHAMPTON REGIONAL

COUNCIL was affixed by,

Mayor and;

Signature of Mayor

Chief Executive Officer, who certify that they are the proper officers authorised in that behalf and who have hereunto subscribed their names in the presence of:

Signature of Chief Executive Officer

A Justice of the Peace or Commissioner of Declaration

Date

FOR USE BY COMPANY:

EXECUTED by

_____ PTY LTD

Authorised Officer

ACN _____

In accordance with Section 127 of the Corporations Act 2001

Authorised Officer

FOR USE BY INDIVIDUAL:

SIGNED, SEALED AND DELIVERED by:

Applicant

in the presence of:

(Signature of Witness)

(Name of Witness in Full)
