



Palmerston North Airport  
The Experience Begins...

# **Aeronautical Conditions of Use**

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## PALMERSTON NORTH AIRPORT

### AERONAUTICAL CONDITIONS OF USE

#### OVERVIEW

These Aeronautical Conditions of Use are applicable and relevant to the following operators of aircraft (including fixed and rotary wing) who operate in and out of Palmerston North Airport:

- Those conducting regular air transport operations for domestic and international services;
- General aviation, helicopter and non-regular air transport operations;
- Flight training organisations
- Military aircraft that are not providing emergency aid or relief flights due to natural disasters;
- Aircraft providing medevac services.

Aircraft carrying Head of State and VIP passengers (subject to approval by *PNAL*) are exempted from the provisions of this agreement and are subject to government approval and any conditions of use as specified in such approval.

#### 1. Dictionary and rules of interpretation

1.1 In this agreement:

***Airport*** means Palmerston North Airport, New Zealand.

***Aerodrome Emergency Plan*** means the manual that forms part of *PNAL*'s certification documentation, which prescribes the procedures for the preparation, response and recovery in regards to *Airport* emergencies.

***Aerodrome Security Programme*** means the document that prescribes the security procedures for compliance with the provision of the National Aviation Security Programme in order to protect the security, regularity and efficient of the *Airport*.

***Airside*** means:

- (a) that part of the *Airport* which is used for the surface movement of aircraft, which includes the *Apron* ; and
- (b) any other areas designated as such by *PNAL* in accordance with any relevant *Legislation*.

***Airside Safety Regulations*** means *Airside Safety Regulations* issued by *PNAL* from time to time, which forms parts of *PNAL*'s certification documentation, required under Civil Aviation Rule part 139.

**Apron** means that part of the aerodrome used to accommodate aircraft for the purpose of loading or unloading passengers and cargo, refuelling, parking and maintenance.

**Authority** means and includes every governmental, local, territorial and statutory which has legal *Authority* pursuant to *Legislation* from time to time in relation to the *Airport* or which provides a service at the *Airport*.

**Baggage make-up or “BMU”** means the area used to perform baggage make-up from the BHS but does not include transport of the baggage to aircraft.

**BHS** means the physical baggage handling system which transports baggage from check-in counters along conveyor belts to the *Baggage make-up* area and baggage breakdown areas delivering baggage to customers, but does not include the transport of baggage to aircraft.

**Business Day** means every day except Saturdays, Sundays or a public holiday in Wellington.

**Certificate of Registration** means for an aircraft the certificate of registration.

**Check-in counter equipment** means the check-in counters, baggage scales and PA system.

**Child** means passenger 12 years of age or younger, but excludes *infants*.

**Departure Gate Equipment** means departure gate counters, PA system controls & microphones

**Disembarking Passengers** means all passengers on board an arriving aircraft. This includes *Transit Passengers*, *Transfer Passengers*, *Children*, *Infants*, *Domestic-On-Carriage* and *Positioning Crew*, but excludes *Operating Crew*.

**Domestic Service** means a regular air transport operation operating wholly within New Zealand.

**Domestic-On-Carriage (DOC)** means a passenger on an international flight who travels from one New Zealand port to another.

**Embarking Passengers** means all passengers on board a departing aircraft. This includes *Transit Passenger*, *Transfer Passengers*, *Children*, *Infants*, *Domestic-On-Carriage* and *Positioning Crew*, but excludes *Operating Crew*.

**Facilities and Services** means *PNAL* Facilities and Services as set out in Schedule 2, except to the extent that those Facilities are provided to you under a separate contract, lease, licence or other *Authority* from *PNAL*.

**FIDS** means *PNAL* flight information display system.

**General Aviation** means any air operation other than *Regular Air Transport Operations*.

**Ground Handling Agent** means an operator licenced by *PNAL* to provide *Ground Handling Services* at the *Airport* in accordance with *PNAL* standard ground handling licence requirements.

**Ground Handling Services** means those Services that are listed in Annex A of the *IATA* standard ground handling agreement, 30<sup>th</sup> Edition, date January 2010, or such later edition as may be approved by *PNAL* and notified to licenced ground handlers from time to time.

**GST** means any goods and services tax levied under the Goods and Services Tax Act 1985.

**IATA** means the International Air Transport Association.

**Infant** means a child seated on another passenger's lap who has not paid to occupy a seat on an aircraft.

**Legislation** means all Acts of Parliament, regulations, rule, orders, by-laws, ordinances and any other order, or directions of any government or statutory body relevant generally or determination specifically to the *Airport*, or aircraft or vehicles or equipment using it, as amended, re-enacted or replaced from time to time.

**MCTOW** means for an aircraft, the lower of its maximum certified take-off weight as specified by the manufacturer (or as approved by the Civil Aviation Authority), and the maximum authorised operating weight as specified by *PNAL*.

**Operating Crew** means your employees operating as flight or cabin crew on an arriving or departing aircraft.

**Management System Manual** means the relevant components of *PNAL*'s manual as required under Civil Aviation Rule Part 139 in regards to the operations of the *Airport* as amended, as made available or otherwise provided to you, from time to time.

**PA system** means the *PNAL* public address system throughout the *Airport* terminal.

**Passenger Processing Facilities** means *PNAL Equipment* and facilities as set out in Schedule 2 except to the extent that those facilities are provided to you under a separate contract, lease, licence or other *Authority* from *PNAL*.

**Personnel** includes an employee, officer, agent or contractor of either party as the case may be, and anyone else under the control or direction of such party (other than a passenger or a member of the public).

**PNAL** means Palmerston North Airport Limited.

**PNAL Equipment** means any equipment (including without limitation counters) supplied by *PNAL* under these Aeronautical Conditions of Use but does not include the terminal equipment supplied by the airline, aircraft operator or *Ground Handling Agent*.

**Positioning Crew** means your flight and cabin crew, other than *Operating Crew*, arriving into, or departing from, the *Airport* on company duty travel for the purpose of positioning for, or returning from, crewing duties.

**Regular Air Transport Operations** means a flight forming part of a series of flights performed by aircraft for the transport of passengers, cargo, or mail between the *Airport* and one or more points in New Zealand or in any other country or territory, where the flights are so regular and frequent as to constitute a systematic service, whether or not in accordance with a published timetable, and which are operated in such a manner that each flight is open to use by members of the public.

**Relevant Industry Bodies** means a body listed or described in Schedule 6.

**Schedules Facilitated Airport (Level 2)** means an airport where there is potential for congestion at some periods of the day, week or scheduling period, which is amendable to resolution by voluntary cooperation between airlines and where a Schedules Facilitator has been appointed to facilitate the operation of airlines conducting services or intending to conduct services at that airport.

**SCA (Slot Clearance Request)** means the standard message used by airlines and coordinators, for planning purposes for the clearance of flights at coordinated airports.

**SMA (Schedule Movement Advice Message)** means the standard message used for the submission of schedule data to schedules facilitators.

**Transfer Passenger** means a passenger who connects from one international flight to another without being processed by the New Zealand Customs Service at the *Airport*.

**Transit Passenger** means a passenger whose origin and destination is another port, serviced by the same flight.

**Website** means the *PNAL* worldwide web page at the URL [www.pnairport.co.nz](http://www.pnairport.co.nz)

**Your or Yours** means:

1. in the case of *Regular Air Transport Operations* aircraft, the holder of the *Air Operator Certificate* at the time our *Facilities and Services* at the *Airport* are used.
2. in the case of *General Aviation* and other *non-Regular Air Transport Operations* aircraft, the person identified as 'Owner' in the movement request form.
3. if no one is identified, the holder of the *Certificate of Registration* of the aircraft, at the times our *Facilities and Services* at the *Airport* are used, and includes your executors, administrators, successors and assigns.

- 1.2 Except where a contrary intention is expressed, a reference to:
- a. A document or agreement, or a provision of a document or agreement, is to that document, agreement, novation or provision as amended, supplemented or replaced;
  - b. Anything (including a right, obligation or concept) includes each part of it;
  - c. “include” (in any form) or “such as” when introducing a list of items does not limit the meaning of the words to which the list relates to those items or to items of a similar kind;
  - d. the singular includes the plural and the plural includes the singular; and
  - e. A party or a body is a reference to that party’s or body’s successor or permitted assign.
- 1.3 If you are, at any time, made up of more than one person or company, then any obligation contained in this agreement is a joint and several obligation.
- 1.4 If any part of these Aeronautical Conditions of Use are unenforceable, these Aeronautical Conditions of Use are taken to be modified to remove that part. The rest of these Aeronautical Conditions of Use are not affected by that part being removed.
- 1.5 If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.

## 2. Conditions of Use

- 2.1 These *Conditions of Use* set out the terms and conditions under which you may use the *Airport* and the *Facilities and Services* at the *Airport*. By using the *Airport* or *Facilities and Services* you agree to be bound by these *Conditions of Use*, as amended from time to time in accordance with clause 2.3.
- 2.2 These conditions take effect from and continue in force until *PNAL* change, vary, replace or waive the conditions, with the changes, variations, replacements or waivers notified to you in writing.
- 2.3 *PNAL* may change/vary, replace or waive any of these Aeronautical Conditions of Use (including the charges at Schedule 3) at any time;
- a. By giving you at least 30 days prior written notice of the change, variation, replacement or waiver; or
  - b. By giving you notice, after consultation with you or *Relevant Industry Bodies*, where required by law or where we consider such consultation is reasonably necessary or desirable in the circumstances; or



- c. By entering into a variation agreement in writing with you; or
  - d. With immediate effect if,
    - i. a change to *Legislation* occurs;
    - ii a mandatory direction is issued by any *Authority*; OR
    - iii to give effect to any specific corrective or preventative action in relation to hazards,  
  
to the extent necessary to give effect to such legislative change, direction or action.
- 2.4 These Aeronautical Conditions of Use will also be deemed to be automatically varied to the extent necessary to give effect to any restrictions, instructions, directions or orders published from time to time in the New Zealand Aeronautical Information Publication.
- 2.5 Italicised terms used in this agreement have the meaning set out in the dictionary at clause 1.

### **3. Using PNAL Facilities and Services**

- 3.1 When using *PNAL Facilities and Services* at the *Airport*, you must comply with:
- a. all *Legislation*, including the *Health and Safety in Employment Act 1992* and associated Regulations;
  - b. all lawful directions from any *Authority*;
  - c. these Aeronautical Conditions of Use, subject to any written agreement to the contrary;
  - d. the *Management System Manual* ;
  - e. the *Airside* Safety Regulations;
  - f. the Aerodrome Security Programme;
  - g. the Aerodrome Emergency Plan;
  - h. all *PNAL* directions related to pavement restrictions;
  - i. local flying restrictions;
  - j. noise management procedures and or regulations in place from time to time by the relevant *Authority*; and

- k. other conditions, instructions, orders, procedures and directions issued by *PNAL* which are necessary for the safe or efficient day to day operation of activities at the Airport.
- 3.2 You must not do anything that puts *PNAL* in breach of any *Legislation* or in contravention of a lawful direction by an *Authority*.
- 3.3 In the event of an inconsistency between these Aeronautical Conditions of Use and any *Legislation* or lawful direction by any *Authority*, the *Legislation* or lawful direction that *Authority* will prevail. In the event of an inconsistency between these Aeronautical Conditions of Use and any written agreement *PNAL* have entered into with you, the provisions of such agreement will prevail to the extent of any inconsistency.

#### 4. Acknowledgements

- 4.1 You acknowledge and accept that:
  - a. Use of the *Facilities and Services* is subject to the demands of use of the *Airport* by other users, space constraints and *Airport* planning requirements;
  - b. You will not in any manner obstruct or cause interference to the movement of equipment owned, leased, licensed and operated by other users at the *Airport*;
  - c. *PNAL* has the sole right to determine the priority of use of the *Airport* or, subject to any other specific agreement between us and you, any parts of the *Airport* by you and others;
  - d. You have read and understood our *Management System Manual* .
  - e. *PNAL* is not responsible for the security of your aircraft or other property.

#### 5. Excluded Services

- 5.1 For the avoidance of any doubt, the *Facilities and Services* *PNAL* provides do not include the following:
  - a. Air traffic services;
  - b. Air Navigation services;
  - c. Meteorological services;
  - d. Ground Handling services;

- e. Engineering services;
  - f. Hangar facilities;
  - g. Quarantine waste disposal;
  - h. *Apron and Ground Handling services*;
  - i. Passenger control between the terminal, other buildings or access points and parked aircraft;
- 5.2 Our charges do not include fees for the excluded Services referred to in clause 5.1 above, or services, or fees, for things that *PNAL* provides outside the scope of these Aeronautical Conditions of Use.

## **6. Information *PNAL* requires before you use *PNAL* Facilities and Services**

- 6.1 If you conduct *Regular Air Transport Operations* at the *Airport* you must provide *PNAL* with all of the information set out in Schedule 8, prior to you exercising any use of the *Airport* and/or its Facilities and Services.
- 6.2 You must provide *PNAL* with the details of any change made to information described in clause 6.1 within 30 days of such change.
- 6.3 For non-*Regular Air Transport Operations* and *General Aviation* operations with aircraft that exceed 5700kg *MCTOW*, you must submit a Slot Clearance Request to *PNAL* by hand, or via *PNAL*'s website, prior to operating. *PNAL* or our nominated Schedule Facilitator will review the request and allocate a parking position if the movement can be facilitated.

## **7. Flight schedule information**

- 7.1 Palmerston North *Airport* is classified as a Schedules Facilitated Airport (Level 2) in accordance with the airport levels classifications contained in the IATA Worldwide Scheduling Guidelines.
- 7.2 If you conduct *Regular Air Transport Operations* at the *Airport*, you must provide us and our nominated schedules facilitator with your schedule information in accordance with the IATA Worldwide Scheduling Guidelines for Level 2 Airports. Information must be provided and maintained using the Schedule Movement Advice (SMA) message type.
- 7.3 We and our nominated Schedules Facilitator must be advised by you of any amendments to the flight schedule data you provided us under this clause as soon as practicable after any such amendment.

*PNAL* reserves the right to decline any such amendment, where we reasonably believe it impacts upon the safe or efficient operation of the *Airport*.

## 8. Provision of Information relating to Charges

- 8.1 *PNAL* establishes its charges based on the details of the aircraft type, registration, MCTOW, and Persons on Board (POB) for each aircraft operating into the *Airport*, and reported by the operator to Airways Corporation. The information is supplied by Airways Corporation to *PNAL* by your agreement in Schedule 3.
- 8.2 Clause 8.1 above shall not restrict *PNAL* seeking POB directly from you rather than, or in addition to, from Airways Corporation and if *PNAL* requests such information from you, you will provide it to *PNAL* in writing forthwith after the request.
- 8.3 You acknowledge that *PNAL* may verify from time to time information you have provided to it by means including, but not limited to:
- a. Reference data collected by the New Zealand Customs Service, for any international service and data provided by Airways NZ Ltd for domestic operations
  - b. You allowing *PNAL* (or our agents or accountants) on reasonable notice, to audit, inspect and copy your records and systems relating to your use of the *Facilities and Services*; and
  - c. Directly counting passengers embarking or disembarking aircraft operated by you.
- 8.4 You must use your best endeavours to assist *PNAL* to identify the reason for any differences between the information provided to us under clauses 8.1 and the information collected by us under clause 8.3.
- 8.5 If requested by *PNAL*, you must within 45 days of our request, give *PNAL* certified quarterly statements from your independent auditors verifying the accuracy of information you have given to us under this clause 8.
- 8.6 If *PNAL* finds that it has:
- a. Overcharged you, *PNAL* will within 10 days of becoming aware of the error and on the basis of supporting documentation provided by you, refund the amount of the overpayment or, at *PNAL*'s discretion, allow that amount as a credit on subsequent account; and
  - b. Undercharged you; *PNAL* may include an amount and appropriate supporting documentation in a subsequent invoice to recover the amount of the undercharge.
- 8.7 If the amount of an undercharge equals to, or is more than 5% of the actual charges due for the relevant month and the undercharge was caused by a

discrepancy or error in the information provided by you for that month, you must reimburse the full costs of any audit conducted by *PNAL*.

- 8.8 *PNAL* will use its best endeavours to maintain the confidentiality of any information that you provide to it, which you advise is commercially sensitive, subject to the following:
- a. *PNAL* may use the information for the purpose of *Airport* capacity planning and forecasting (including disclosing the information to its professional advisers on a confidential basis for this purpose);
  - b. *PNAL* may use the information for aggregation into ‘total domestic passenger’ or ‘total international passenger’ data for the *Airport*, which *PNAL* may disclose into the public domain. In using the information for this purpose, *PNAL* will not release any other data in relation to the *Airport* which will enable the information you provide *PNAL* to be disaggregated from the ‘total domestic passenger’ and ‘total international passenger’ data (unless you consent in writing to *PNAL* to do so or *PNAL* is required to do so by law); and
  - c. *PNAL* may disclose the information you agree in writing, or if *PNAL* is required to do so by law.

## 9. Charges

- 9.1 You must pay *PNAL* charges for using its *Facilities and Services* which, subject to any written agreement to the contrary, are calculated in accordance with Schedule 3.
- 9.2 The charges for using *PNAL Facilities and Services* at the *Airport*:
- a. accrue from day to day; and
  - b. are payable in New Zealand dollars.
- 9.3 Subject to clause 11, you must pay the charges shown on the invoice as owing by the 20th of the month following the date of invoice, by one of the methods shown on the invoice.
- 9.4 In the event that further costs are incurred by *PNAL* on account of your operations, *PNAL* reserves the right to include such further costs in the charges payable by you. Those costs shall be payable within the time frame recorded in clause 9.3 above.
- 9.5 The charges recorded within this Agreement, may be varied from time to time at the sole discretion of *PNAL*, by giving notice in writing to you, the operator.
- 9.6 *PNAL*, at its discretion, may require you to pay a Bond or enter into any other arrangement that *PNAL* considers appropriate to secure to *PNAL* payment by you of any charge for using its *Facilities and Services*.

## 10. GST

- 10.1 Unless otherwise indicated, all consideration for supply of *Facilities or Services*, under these Aeronautical Conditions of Use is quoted exclusive of any *GST* imposed on the supply.
- 10.2 If *GST* is imposed on a supply under these Aeronautical Conditions of Use, the recipient of the supply on receipt of a tax invoice will on request pay to the supplier an additional amount equal to the *GST* imposed on the supply.
- 10.3 *GST* applicable to the charges must be paid at the same time the charges are paid under these Aeronautical Conditions of Use.

## 11. Late payments and non-payment

- 11.1 If you do not pay any amount you owe on time that is not the subject of a bona fide dispute, *PNAL* may do any one or more of the following (without limiting any other remedies *PNAL* may have):
- a. *Charge you interest on the amount payable from and including the day the amount becomes payable to and including the day you pay the amount, at the rate of 18% per annum, capitalising on the first day of each calendar month; and/or*
  - b. *Refuse to allow any or all of your aircraft to use *PNAL Facilities and Services* at the *Airport*; and/or*
  - c. *Require payment in one or more instalments of outstanding amounts as a condition of your further use of the *Facilities and Services*; and/or*
  - d. *Use any lawful means to detain any of your aircraft until you have paid all due charges and interest provided that:*
    - i. *PNAL* has first sought to negotiate in good faith any dispute about charges in accordance with clause 10.2;
    - ii. *PNAL* has first sought to recover any outstanding charges from you; and
    - iii. *PNAL* has given you 7 days notice in writing either during or after the 21 day period that *PNAL* intends to do this;
  - e. *Commence proceedings against you for all money due and payable, in which case you must pay all *PNAL* costs on a full indemnity basis.*

- f. Exercising its rights under any Bond or security referred to in clause 9.6 above.
- 11.2 In the event that *PNAL* detains your aircraft, the following shall apply:
- a. The operator will meet any storage costs; and
  - b. *PNAL* shall not be responsible for any damage or defects caused to the aircraft, during the detainment period.
- 11.3 If you notify us in writing that you dispute any charge shown in an invoice within 14 *Business Days* of receiving that invoice, and in *PNAL's* reasonable opinion you have grounds to dispute it, then the parties will use reasonable endeavours to negotiate a resolution to the dispute, provided that:
- a. If you do not dispute any amount shown in an invoice within 14 *Business Days* after receiving the invoice, you cannot thereafter dispute that amount; and
  - b. any undisputed amounts, or portions, are to be paid within the period described in clause 9.3 above.
  - c. any adjustments agreed by the parties, in resolution of the dispute, shall be made to *PNAL* immediately following resolution of the dispute.
- 11.4 Unless *PNAL* gives you express written consent you are not permitted to make any set-off against or deduction from any amount payable.
- 11.5 All invoiced amounts outstanding after the 20th of the month following the date of invoice and, as the case may be, invoiced amounts adjusted by *PNAL* remaining outstanding following *PNAL's* notification of the resolution of a query or dispute regarding the original invoice, will incur a penalty of 2.5% per month compounding.

## 12. General Information

- 12.1 Notification to *PNAL* pursuant to these conditions shall be made at the addresses and by any of the means set out in Schedule 1.
- 12.2 *PNAL* shall give any notification under the Agreement, to the operator utilising the information provided as required by Schedule 8.
- 12.3 *PNAL* prefers to receive information electronically where possible. You must let *PNAL* know as soon as practicable if there is any change to the information you have provided.
- 12.4 The following details are available from *PNAL* upon request:
- a. *Management System Manual* ;

- b. *Aerodrome Emergency Plan* and associated procedures;
  - c. *ICAO Type A Obstacle Chart*
- 12.5 *PNAL* may charge reasonable fees for the supply of copies of ICAO Type A Obstacle Charts, and for multiple copies of any other publications or information requested by you under these Aeronautical Conditions of Use.
- 12.6 If *PNAL* provides you with information and asks that you hold it on a secure basis and only disclose it to authorised persons, you must comply with *PNAL's* request.

### 13. Airport closed or services unavailable

- 13.1 *PNAL* will endeavour to keep its *Facilities and Services* at the *Airport* available for you to use, however *PNAL* may limit, restrict or prevent your access or use of the *Airport* or any *Facilities or Services* at any time where *PNAL* considers this necessary:
- a. For operational or maintenance purposes;
  - b. For development works;
  - c. For special events;
  - d. In the event of any circumstances beyond *PNAL's* reasonable control; or
  - e. Where *PNAL* are required to do so by any *Legislation* or lawful direction from any *Authority*.
- 13.2 To the extent reasonably possible, *PNAL* will endeavour to notify you before *PNAL* makes any *Facilities or Services* at the *Airport* unavailable. *PNAL* will use its reasonable endeavours to identify alternative *Facilities and Services* which might be available for use by you. Any use by you of such alternative *Facilities or Services* shall be at your sole discretion. You acknowledge that, in doing so, *PNAL* will need to balance all the needs of the affected parties, in so far as it reasonably can.

### 14. Passenger processing facilities

- 14.1 Subject to any agreement *PNAL* has entered into with you to the contrary, if you use *PNAL's Passenger Processing Facilities* for checking in or processing passengers, you must comply with *PNAL's* Common User Conditions, as contained in Schedule 7.



## 15. Ground handling

- 15.1 *PNAL* may require you to nominate a licensed *Ground Handling Agent(s)* for the provision of *Ground Handling Services* for your aircraft at the *Airport*.
- 15.2 Any person or company that provides *Ground Handling Services* to your aircraft at the *Airport* must be approved and licensed by *PNAL*, in accordance with *PNAL's* standard Ground Handling Licence.

## 16. Moving aircraft

- 16.1 *PNAL* may, (subject to air traffic clearances and any operational guidelines issued by *PNAL* for the use of our *Facilities and Services*) direct you to:
- a. Move an aircraft to another position at the *Airport*; or
  - b. Remove an aircraft from the *Airport*
- at your cost and within a specified time, being a period that *PNAL* considers, in all the circumstances, to be reasonable.
- 16.2 If you do not comply with *PNAL's* order within the specified time, and provided *PNAL* has made all reasonable efforts to contact you, *PNAL* may move or remove the aircraft in accordance with the procedures at Schedule 5 and:
- a. you must pay *PNAL's* reasonable costs of having the aircraft moved, removed or stored, and any costs incurred by *PNAL* as a result of having the aircraft moved or removed or stored; and
  - b. you are liable and you indemnify *PNAL*, its officers, employees and agents against any personal injury, death, loss or damage caused or contributed to by your failure to comply with *PNAL's* order, and/or *PNAL* moving, removing or storing any aircraft operated by you, in accordance with clause 16.2(a) above.

## 17. Breach of these Aeronautical Conditions of Use

- 17.1 In addition to clause 11, *PNAL* may, subject to its obligation under any *Legislation*, give you 7 days' notice in writing not to use *PNAL Facilities and Services* at the *Airport* if you do not comply with these *Aeronautical Conditions of Use*.
- 17.2 If you do not comply with any of the safety or security requirements, *PNAL* may give you notice in writing requiring you to comply with the relevant obligation or stop using the *Facilities and Services* immediately and refuse to allow you, or limit your access to the *Airport* or any *Facilities and Services*.

- 17.3 *PNAL* may stop you from using its *Facilities and Services* at the *Airport* if you do not comply with any notice given to you by *PNAL* pursuant to this clause.
- 17.4 You shall immediately cease using Palmerston North Airport and its facilities, where any charges have not been paid in full by the 20th of the month following the date of invoice.
- 17.5 *PNAL* may terminate your right to use its *Passenger Processing Facilities* immediately when you cease to conduct or provide *Regular Air Transport Operations* at the *Airport*.
- 17.6 Nothing in this clause limits *PNAL's* right to take any other action that may be available to it, including *PNAL's* right to seek injunctive relief to stop you using the *Airport* or our *Facilities and Services*.

## 18. Liability and Indemnities

- 18.1 You will be liable for and indemnify *PNAL*, its employees, officers, agents and contractors against:
- a. Any damage caused to *PNAL* property or the property of any other person at the *Airport*;
  - b. Any costs *PNAL* incurs in detaining your aircraft under clause 11.1 (d);
  - c. Any claim for personal injury or death to *PNAL* employees or any other person at the *Airport*;
  - d. Any loss of use of property in connection with damage, injury, death or loss referred to in (a) or (c) of this clause,
- arising wholly or in part by reason of any act or omission by you or your employees, officers or agents, or a related body corporate of yours, or its employees, officers or agents.
- 18.2 You agree that in no circumstances shall *PNAL* be responsible for indirect, special or consequential loss incurred by you or your agents, contractors or subcontractors.
- 18.3 You agree that *PNAL* is not liable for, and to the full extent permitted by law you release *PNAL*, our employees, officers, agents and contractors from all liability in connection with:
- a. Damage caused to any aircraft, its load, equipment or other property of yours or your crew or passengers at the *Airport*; or
  - b. Claims for personal injury or death to your employees, air or ground crew, contractors or passengers at the *Airport*;
  - c. Any loss of use of property in connection with damage, injury or death referred to in (a) or (b) of this clause, or

- d. Subject to clause 19.2, any breach of any warranty, representation, obligation or other provision of these Aeronautical Conditions of Use by *PNAL*, unless, and then only to the extent, caused by *PNAL* gross negligence, wilful default or fraud.
- 18.4 You agree that *PNAL* is not liable for, and to the full extent permitted by law you release *PNAL*, its employees, officers, agents and contractors from all liability in connection with:
- a. any loss you suffer, or any person claiming through you suffers, as a result of closure of the *Airport* or any part of it or as a result of any of the *Facilities and Services* being unavailable; or
  - b. any loss you suffer, or any person claiming through you suffers, as a result of delays in the movement or scheduling of aircraft; or
  - c. any indirect, special or consequential loss in connection with the use or the closure of the *Airport* or any part of it referred to in (a) or (b) of this clause.
- 18.5 You indemnify and hold *PNAL* harmless against all claims, actions, losses and expenses of any nature which *PNAL* may suffer or incur or for which *PNAL* may become liable in respect of or arising out of a breach by you of any *Legislation*.

## 19. Warranties and conditions

- 19.1 Subject to this clause, *PNAL* does not make any representation or warranty in connection with the use of the *Airport* or the *Facilities and Services*.
- 19.2 If a warranty or condition is implied under any *Legislation* in connection with the goods and services *PNAL* provides and it can be excluded, *PNAL* exclude to the maximum extent possible and if *PNAL* cannot exclude it, then its liability for breach of that warranty or condition is limited to:
- a. In the case of goods, one or more of the following:
    - i. the replacement of the goods or the supply of equivalent goods;
    - ii. the repair of the goods
    - iii. the payment of the cost of replacing the goods or of acquiring equivalent goods;
    - iv. the payment of the cost of having the goods repaired.
  - b. In the case of services, one of the following:
    - i. the supplying of the services again; or
    - ii. the payment of the cost of having the services supplied again.

19.3 You acknowledge that any goods or services supplied by *PNAL* are for business purposes and that the provisions of the *Consumer Guarantees Act 1993* shall not apply.

## 20. Insurance

20.1 You must at all times have and maintain current insurance in accordance with the minimum insurance requirements set out in Schedule 4.

20.2 You must upon request produce documented evidence to *PNAL's* reasonable satisfaction of the insurance required under clause 20.1.

## 21. Force majeure

21.1 Notwithstanding any other provision in this Agreement, neither party will be liable to the other if the first party is prevented from meeting all or some of its obligations under this Agreement because of a Force Majeure Event.

21.2 The party claiming the benefit of clause 20.1 must:

- a. Promptly give written notice to the other party specifying the circumstances giving rise to the Force Majeure Event, the obligations affected by the Force Majeure Event, the extent of the party's inability to perform those obligations and the likely duration of the non-performance; and
- b. take all reasonable steps to:
  - i. remedy, mitigate or reduce the Force Majeure Event or its effects: and
  - ii. resume full performance of its obligations as soon as possible after the Force Majeure Event ends.

21.3 Notwithstanding any other provisions of this Agreement, if *PNAL* is unable to provide the Services because of a Force Majeure Event, *PNAL* reserves the right to enter into alternative arrangements with another party for the provision of the Services during the period *PNAL's* non-performance.

## 22. Dispute Resolution

22.1 If a dispute arises in connection with the use of Facilities or the supply of Services, or this Agreement, neither party is to commence proceedings related to that dispute (except where urgent or interlocutory relief is sought) unless that party has first complied with clause 20.

- 22.2 A party claiming a dispute has arisen must give written notice to the other party, specifying the nature of the dispute. Upon receiving that notice, both parties must use all reasonable endeavours to resolve the dispute by discussion, negotiation or other formal means.
- 22.3 If the parties do not resolve the dispute within 10 Business Days of commencing informal discussions under clause 20.2, then either party may refer the dispute to mediation upon written notice to the other. Where this occurs:
- both parties must agree on a mediator or, if such agreement is not possible, then the mediator must be appointed by the President of the Wellington based Chapter of LEADR;
- a. Both parties must equally share the cost of the use of the mediator, but shall be separately responsible for their own costs associated with them participating in the mediation process.
  - b. mediation must be conducted in accordance with the standard mediation agreement of LEADR New Zealand Incorporated (Lawyers Engaged in Alternative Dispute Resolution);
  - c. the mediators decision will be final.

## 23. Miscellaneous

- 23.1 These Aeronautical Conditions of Use constitute an agreement between the parties as to its subject matter.
- 23.2 These Aeronautical Conditions of Use are to be governed by and construed in accordance with the laws of New Zealand. Both parties irrevocably and unconditionally agree that the Courts of New Zealand have jurisdiction to hear and determine any proceedings brought in relation to these Aeronautical Conditions of Use.
- 23.3 These Aeronautical Conditions of Use do not create any lease, tenancy or interest in the *Facilities and Services* at the Airport.
- 23.4 No failure of *PNAL* to exercise any rights shall constitute any waiver of *PNAL*'s rights under these Conditions of Aeronautical Use.
- 23.5 The invalidity or enforceability of any provision within these Aeronautical Conditions of Use, shall not affect the validity or enforceability of any one or more of the other provisions.

## **24. Entire Agreement**

24.1 These Aeronautical Conditions of Use constitute the entire agreement between the parties with respect to its subject matter, and shall supersede all and any previous discussions, representations, agreements or understandings.

## **25. Governing law**

25.1 This agreement will be governed by and construed in accordance with New Zealand Law. Both parties agree to submit to the exclusive jurisdiction of the courts of New Zealand.

**SCHEDULE 1**  
**(Clause 12.1)**

**Contact Information**

**Address for notification to *PNAL*, pursuant to these conditions shall be made:**

<b>By post to:</b>	Manager Aeronautical & Infrastructure Palmerston North Airport Limited P O Box 4384 Palmerston North New Zealand
<b>By facsimile to:</b>	+64 (6) 355 2262
<b>By e-mail to:</b>	<a href="mailto:help@pnairport.co.nz">help@pnairport.co.nz</a>
<b>By telephone to:</b>	+64 (6) 351 4415

## **SCHEDULE 2**

### **(Dictionary and rules of interpretation)**

#### **Facilities and Services**

##### **Palmerston North Airport – *Airside* movement facilities and services**

- *Airside* grounds, runways, taxiways and *Apron s*, and associated markings
- *Airside* roads/access routes, *Apron* lighting
- *Airside* safety as prescribed in our *Standards and Operations Procedures Manual*
- Aerodrome serviceability inspections and reporting
- Rescue and Fire Fighting
- Aircraft parking areas
- Visual navigation aids
- Wind direction indicators
- Information published in the Aeronautical Information Publication New Zealand

##### **Palmerston North Airport – Passenger processing facilities**

- Passenger queuing areas
- *Check-in* Counters
- *Departure Gate* counters
- Terminal lounges and holding lounges (excluding commercially important persons lounges)
- Immigration, customs and bio-security areas
- Public address systems, closed circuit surveillance systems and security systems
- Baggage *make-up*, baggage handling systems and baggage reclaim
- Public areas in terminals, public amenities, public lifts, escalators and moving walkways
- Flight information display systems
- Landside roads, landside lighting and covered walkways.



**SCHEDULE 3**  
**(Clause 9)**

Refer to document Aeronautical Charges effective 1 December 2015 located at [www.pnairport.co.nz](http://www.pnairport.co.nz).

**SCHEDULE 4**  
**(Clause 20)**

**Minimum public liability insurance requirements**

You must maintain insurance with a minimum single limit for third party liability for any one accident/incident occurrence being of no less than:

- |    |                                    |                 |
|----|------------------------------------|-----------------|
| 1. | 10,000 kg <i>MCTOW</i> or less     | NZD\$2,000,000  |
| 2. | 10,001 kg – 28,000 kg <i>MCTOW</i> | NZD\$10,000,000 |
| 3. | 28,001 kg <i>MCTOW</i> and greater | NZD\$50,000,000 |

**SCHEDULE 5**  
**(Clause 16.2)**

**Procedure for moving/removing Aircraft by *PNAL***

In the event that *PNAL* are required to move/remove an aircraft as a result of a failure by you to comply with an order issued to you under these Aeronautical Conditions of Use:

1. *PNAL* will, where applicable, follow procedures for the recovery of disabled aircraft set out in our *Management System Manual* .
  
2. In all other circumstances, *PNAL* will provide you with as much notice as in its discretion, it determines reasonably practicable:
  - a. that *PNAL* intends to move/remove the aircraft;
  - b. of the proposed location to which the aircraft is to be relocated;
  - c. of the means by which *PNAL* intend to move/remove the aircraft; and
  - d. of any conditions which may apply to the recovery of the aircraft.
  
3. In the event that the notice referred to in clause 2 is not practicable, *PNAL* will notify you as soon as possible after removal:
  - a. that *PNAL* has moved/removed the aircraft;
  - b. the location to which the aircraft has been moved; and
  - c. any conditions which may apply to your recovery of the aircraft.

**SCHEDULE 6**  
**(Clause 2.3)**

**Relevant Industry Bodies**  
**(Dictionary and rules of interpretation)**

Industry bodies referred to in these Aeronautical Conditions of Use include:

- Board of Airline Representatives New Zealand
- Manawatu User Group
- Aviation Industry Association
- International Air Transport Association
- New Zealand Airports Association

and any other organisation that the parties agree, in writing, is to be considered an industry body for the purposes of this document.

## **SCHEDULE 7**

### **(Clause 14.1)**

#### **Common User Aeronautical Conditions**

These common user Aeronautical Conditions apply to the *Passenger Processing Facilities* at the *Airport*. If you use *PNAL Passenger Processing Facilities* for checking in or processing passengers you must comply with the Aeronautical Conditions of Use in this Schedule 7.

#### ***Ground Handling Agents***

Where you have an agreement with a *Ground Handling Agent*, the terms of that agreement must not be inconsistent with any terms of these Aeronautical Conditions of Use and you must inform them of your obligations under these conditions.

#### **Repairs and Maintenance**

You must pay *PNAL* for any repairs to our *Passenger Processing Facilities* or any other property due to neglect, misuse or damage by you, your employees, agents or contractors.

*PNAL* will repair and maintain its *Passenger Processing Facilities* at *PNAL*'s own expense in circumstances other than those set out in this Schedule 7.

You or your handling agent must:

- a. take proper care of *PNAL*'s *Passenger Processing Facilities* and follow *PNAL*'s reasonable direction for their use; and
- b. tell *PNAL* immediately if any of our *Passenger Processing Facilities* are faulty, inoperative, or damaged so *PNAL* can arrange for repair/replacement as soon as practicable; and
- c. not allow any person except *PNAL* employees, contractors or agents to repair, or modify *PNAL Passenger Processing Facilities*; and
- d. give *PNAL* employees, contractors or agents reasonable and/or necessary access to inspect and or repair the *Passenger Processing Facilities*; and
- e. prevent your employees, contractors and agents from using any unserviceable or unsafe *Passenger Processing Facilities* (*noting clause (b) above*).

Charges apply for your use of *PNAL*'s *Passenger Processing Facilities*. An annual gross charge is set by *PNAL* and is prorated, against other users, to you based on the number of flights you process through our *Passenger Processing Facilities*.

The current gross annual charges are:

- a. departure gate counters – the prorated charge, based on the gross charges contained in this document will be invoiced to you on a quarterly basis.

### **Allocation of *PNAL Passenger Processing Facilities***

*PNAL* will:

- a. allocate its *Passenger Processing Facilities* to you in accordance with *PNAL* allocation rules and these Aeronautical Conditions of Use; and
- b. use its best endeavours to allocate your requested *passenger processing facilities* having regards to your flight schedules and to historical load factor information available to *PNAL*.

The allocations will be at *PNAL*'s absolute discretion to achieve efficient operation of the *Airport*.

### **General conditions**

You, or your handling agent must:

- a. take proper care of *PNAL Passenger Processing Facilities*, and follow *PNAL*'s reasonable directions for their use; and
- b. leave *PNAL Passenger Processing Facilities* in a tidy condition; and
- c. ensure rubbish is put in the bins provided and is not dropped or left on *PNAL Passenger Processing Facilities*; and
- d. if required by *PNAL*, remove your equipment or stationery at the end of a period of use; and
- e. not do anything, which may adversely affect the efficiency of *PNAL Passenger Processing Facilities*; and
- f. take all reasonable precautions when using *PNAL* check-in counters to prevent unauthorised entry into the check-in counter area and the baggage handling system; and
- g. comply with the baggage handling system operational requirements as notified by *PNAL*; and
- h. ensure that the last employee or agent makes certain that the baggage handling system is switched off and the baggage shutters are down; and
- i. accept responsibility for and make certain that your *Personnel* operating *PNAL Passenger Processing Facilities* are trained to operate them safely and in a manner to avoid damage to it, to other property and persons; and
- j. act reasonably in the use of the public address system and, without limitation, restrict announcements to whatever is operationally pertinent and/or required; and
- k. make certain that any check-in counter in use by you, whether temporarily or at the end of a period of use, is left in a secure condition.

## SCHEDULE 8

### (Clause 6)

#### Information We Require From You Prior to Use

1. Your name, address and contact details;
2. Evidence that you have a security programme that meets the requirements of *PNAL* security arrangements and any relevant and lawful requirements of the Civil Aviation Authority;
3. Reasonable evidence that you have emergency procedures that comply with *Airport* emergency requirements and applicable laws;
4. Confirmation that you have in place safety management practices to ensure the health, safety and welfare of all persons who may be affected by your operations at the *Airport*;
5. The names, addressed, telephone numbers, facsimile numbers, e-mail addresses and all other contact details of your key *Personnel PNAL* can contact at any time, about emergencies, security, operational or financial matters in connection with your use of the *Airport*;
6. Evidence of insurance policies you hold that are consistent with the requirements of Schedule 4, and confirmation that these policies will remain current at all times when you are using the *Facilities and Services* at the *Airport*;
7. Ground handling arrangements;
8. Arrangements for the removal of disabled aircraft;
9. Details of the type, registration and MCTOW of each aircraft, which you intend to use at the *Airport*.
10. Information (including but not limited to financial models and projections, route development modelling, growth studies, operating procedures, load factor studies and projections, in order for *PNAL* to determine whether you have the ability to comply with and perform all requirements in these Aeronautical Conditions of Use including financial obligations and legal requirements in relation to aviation and the use of the *Facilities and Services*.