



## **TERMS OF TRADE – DUNEDIN INTERNATIONAL AIRPORT LTD**

### **1. GENERAL**

1.1 “We” or “Us” means Dunedin International Airport Limited.

“You” means the person or entity purchasing Goods or Services from us.

“Goods” means all goods which You have ordered or purchased from Us.

“Services” means all services which You have ordered or purchased from Us.

Clause headings are for reference purposes only and do not form part of these Terms of Trade.

1.2 You agree that these Terms of Trade shall apply to all supplies of Goods and Services (including the present supply and all future supplies) by Us to You to the exclusion of any other terms and conditions, including without limitation, any terms and conditions in your documents which purport to provide that your own terms shall prevail.

1.3 We may amend these Terms of Trade from time to time at our discretion. The current Terms of Trade are available at our website [www.flydunedin.com](http://www.flydunedin.com). If there is any conflict or inconsistency between these Terms of Trade and those found on the website, then the Terms of Trade stated on our website shall prevail.

1.4 We are under no obligation to accept all or any of your orders.

1.5 You cannot cancel a purchase order for Goods or Services which has been accepted by Us and You are bound to pay the full quoted purchase price.

### **2. PAYMENT**

2.1 You must pay to Us the purchase price for the Goods or Services plus GST, without set-off, deduction or counterclaim no later than the 20th of the month following the date of invoice.

2.2 If you fail to make payment in full to Us when due in respect of an invoice issued by Us, for whatever reason, we will be entitled (without prejudice to any other right or remedy we may have) to:

(a) cancel or suspend any existing orders or delivery under any order to You and refuse to accept any new orders; and

(b) charge You interest calculated on a daily basis at 6% per annum above the baseline lending rate from time to time of Our bankers on the overdue amount until such payment is made, such interest to accrue after as well as before any judgment.

2.3 We may also cancel or suspend any existing orders or delivery under any order to You and refuse to accept any new orders if We are not satisfied with your credit-worthiness and financial standing.

### **3. OWNERSHIP**

3.1 Risk of damage to, or loss of, the Goods shall pass to you on collection of the Goods by You; or on delivery by Us or by the source to You or your agent; or if you fail to take delivery of the Goods, the time when we are deemed to have delivered the Goods.

3.2 Notwithstanding risk in the Goods passing in accordance with clause 3.1, title in the Goods shall not pass to you until we have received in full (in cash or cleared funds) all the sums due to us in respect of:

- (a) the Goods; and
- (b) all other sums which are or which become due to Us from You on any account.

Until then:

(i) you must hold the Goods supplied as bailee for us and we reserve the right to repossess the same or any part thereof at any time before title passes. You hereby irrevocably grant us the right to enter your or the delivery premises for this purpose.

(ii) you may sell the Goods supplied in the ordinary course of your business as agent for us and must account to us for any sale proceeds, and hold the proceeds in trust for us until you do so.

3.3 You acknowledge that:

(a) these Terms of Trade create a security interest as defined in the Personal Property Securities Act 1999 ("PPSA") in favour of us in any Goods and any proceeds from, and existing or future rights in relation to, such Goods as security for all amounts payable by you to us and the performance of your obligations under these Terms of Trade; and

(b) we may at any time register a financing statement in the Personal Property Securities Register ("PPSR") to protect our security interest in the Goods. You agree to do all things necessary for us to register a financing statement on the PPSR and to ensure that our security interest is a first ranking perfected security interest over the Goods and their proceeds. You waive any right to receive from us a copy of any financing statement, financing change statement or verification statement arising in connection with any registration made on the PPSR by us in connection with our security interest in the Goods.

(c) On the enforcement of any security interest created by these Terms of Trade to which the PPSA applies, sections 114(1)(a), 117(1)(c), 133 and 134 of the PPSA shall not apply. You waive any right you may have under sections 116, 119, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA on enforcement of any such security interest.

#### 4. WARRANTIES

4.1 If we (and not any vendor, manufacturer or other person) are responsible for any Goods or Services being defective or not materially conforming to our description, we will at our option:

- (a) repair or replace the defective Goods or re-perform the Service; or
- (b) pay compensation not exceeding the purchase price for the Goods or Services.

4.2 You agree that we have no liability for any defective Goods or Services unless:

- (a) you notify us of the defect within 14 days of your receiving the Goods or Services; and
- (b) you allow us to fully investigate your claim and you agree, if requested, to return a sample of the Goods to us for inspection (at our cost).

4.3 All other guarantees, warranties and representations in relation to the Goods or Services (including those contained in the Sale of Goods Act 1908) are excluded except to the extent that we cannot lawfully exclude them.

#### 5. CONSUMER GUARANTEES ACT 1993

5.1 When you purchase Goods or Services from us for business purposes then the guarantees and rights expressed or implied in the Consumer Guarantees Act 1993 in your favour do not apply to those Goods or Services.

#### 6. LIMITATION OF LIABILITY

6.1 EXCEPT AS SET OUT IN CLAUSE 4, We WILL NOT BE LIABLE TO YOU IN ANY WAY (WHETHER

UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR BY VIRTUE OF A BREACH OF ANY STATUTORY DUTY OR OTHERWISE) IN CONNECTION WITH ANY GOODS OR SERVICES SUPPLIED UNDER THESE TERMS OF TRADE.

6.2 WITHOUT LIMITING THE FOREGOING We WILL NOT BE LIABLE TO YOU FOR ANY INDIRECT OR CONSEQUENTIAL LOSS HOWSOEVER INCURRED BY YOU IN CONNECTION WITH ANY GOODS OR SERVICES SUPPLIED UNDER THESE TERMS OF TRADE.

6.3 In any event Our liability to You (whether under contract, tort (including negligence), strict liability or by virtue of a breach of any statutory duty or otherwise) is limited to the value of the purchase price for the Goods or Services supplied by Us and associated with your claim.

## 7. ENFORCEMENT

7.1 You will pay us on demand all costs (including but not limited to debt collection costs, agency fees, court fees and legal costs on a solicitor/client basis) incurred by Us in connection with any default by You under these Terms of Trade.

## 8. WAIVER

8.1 If We delay or do not exercise any of our rights or remedies under these Terms of Trade or otherwise at law, that will not be a waiver of the right or remedy.

8.2 Any waiver or consent we give you must be in writing and will be effective only in the specific instance and for the specific purpose for which it is given.

## 9. SEVERABILITY

9.1 If part of these Terms of Trade is deemed to be invalid, illegal or unenforceable, the remaining provisions will remain in full force and effect.

## 10. CANCELLATION

10.1 We reserve the right to cancel any contract we have with You and any orders for Goods or Services that you have placed, without prejudice to any rights which may have accrued up to the date of cancellation, if:

- (a) You being a company or other body corporate go into liquidation, receivership or voluntary administration; or
- (b) You being a person become bankrupt; and/or
- (c) You breach any term of these Terms of Trade or are in default of any of these terms and fail to remedy the breach or default within 7 days of receiving notice from us of the breach or default.