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# *Loan Facility Agreement*

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**Palmerston North City Council** (NZBN: 9429041913925)  
(the **Lender**)

**Palmerston North Airport Limited** (NZBN: 9429039345486)  
(the **Borrower**)

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## ***Date***

2022

## ***Parties***

Name	<b>Palmerston North City Council</b>
NZBN	9429041913925
Description	<b>Lender</b>
Notice details	Address: Civic Administration Building, The Square, Palmerston North, New Zealand Email: [insert email] Attention: [insert name]
Name	<b>Palmerston North Airport Limited</b>
NZBN	9429039345486
Description	<b>Borrower</b>
Notice details	Address: First Floor, Terminal Bldg, Palmerston North Airport, Airport Drive, Palmerston North, 4442, New Zealand Email: [insert email] Attention: [insert name]

## ***Background***

- A. The Borrower is a wholly owned subsidiary of the Lender. The Borrower is a Council Controlled Trading Organisation established under the Local Government Act 2002.
- B. The Lender has agreed to make financial accommodation available to the Borrower, from time to time, up to the Maximum Amount on the terms and conditions set out in this Agreement.

# Agreed Terms

## 1. Definitions

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### 1.1 Definitions

In this Agreement unless the context otherwise requires:

**Agreement** means this agreement and any schedules and annexures attached to this agreement, as amended by the parties in writing, from time to time.

**Business Day** means a day on which banks are open for general banking business in Auckland, New Zealand, excluding Saturdays, Sundays or public holidays in Auckland, New Zealand.

**Drawdown Amount** means, from time to time, the amount requested to be drawn down by the Borrower in accordance with the terms of this Agreement, as referred to in the relevant Drawdown Notice.

**Drawdown Date** means the date on which Borrower has requested that the relevant Drawdown Amount be advanced to it, as referred to in the relevant Drawdown Notice.

**Drawdown Conditions** means the conditions referred to in clause 5(a).

**Drawdown Notice** means the form of drawdown notice set out in Schedule 1.

**Drawing** means each drawing of a Principal Sum made under this Agreement.

**Deed of Subordination** means the deed entered or to be entered into by the Lender, the Borrower and Bank of New Zealand which regulates both the Lender's and Bank of New Zealand's rights of enforcement against, and repayment of the indebtedness owed by, the Borrower.

**EBIT** means, in respect of a person or group, for any period ending on a particular date, the sum of operating profit or loss (which shall be expressed as a negative amount) of that person or group for that period from ordinary operations before transaction costs, Interest Expense and income tax but after minority interests have been excluded as would be disclosed by financial statements of that person, or consolidated financial statements of that group, if they were prepared in accordance with NZ GAAP.

**EBITDA** means, in respect of a person or group, for any period ending on a particular date EBIT adjusted to exclude (by adding back) fair value gains and losses on revaluation and any deductions in respect of amortisation and depreciation, plus any negative extraordinary items and less any positive extraordinary items, in each case relating to such person or group for that period and as determined in accordance with NZ GAAP.

**Effective Date** means the date of this Agreement.

**Event of Default** means any of the events or circumstances described in clause 9.2.

**Facility** has the meaning given to that term in clause 2.1.

**Government Agency** means any government agency or government department, any governmental, semi-governmental or judicial authority or person, any statutory body or authority or body exercising any administrative or legislative function.

**GST Act** means the Goods and Services Tax Act 1985.

**Income Tax Act** means the Income Tax Act 2007.

**Interest Expense** means, in respect of a person or group, and in respect of a period, all gross interest expenses of that person or group during that period, including any outgoings in the nature of interest (i) paid or payable during that period or (ii) in relation to the finance leases;

**Interest Rate** means the Lender's Cost of Funds plus 0.40% per annum as notified by the Lender, and subsequently agreed by the Borrower, in writing prior to the Drawdown Date.

**Interest Payment Date** means the payment date in each calendar year during the Term, provided that:

- (a) in the event that such date is not a Business Day, the Interest Payment Date will be the next Business Day following that date; and
- (b) if an Interest Payment Date would extend beyond the last day of the Term, it shall be shortened so that it ends on the last day of the Term.

**Lender Notes** means subordinated convertible debt instruments issued by the LGFA and which must be subscribed for by the Lender in an amount equal to 2.5% of the total Drawdown Amount or such other Lender Notes percentage as the LGFA may determine from time to time.

**Lender's Cost of Funds** means, in relation to a Drawing, the aggregate of all costs, charges, fees, commissions, taxes, expenses (including legal fees and expenses on a full indemnity basis), claims, liabilities (absolute or contingent), fines and penalties that the Lender incurs in relation to or in connection with funding that Drawing.

**LGFA** means the Local Government Funding Agency and includes its successor.

**LGFA Settlement Date** means the settlement date for LGFA bonds scheduled by the LGFA, from time to time.

**Maximum Amount** has the meaning given to that term in clause 2.1.

**Outstanding Balance** means, at any time, the amount of the Principal Sum plus all ordinary and/or default interest accrued under this Agreement, less all amounts repaid (if any) by or on behalf of the Borrower to the Lender in accordance with this Agreement before that time.

**Principal Sum** means the aggregate amount (in NZ\$) of principal as the Borrower has drawn down under this Agreement, from time to time.

**Repayment Date** means the earlier of:

- (a) the date on which this Agreement is terminated in accordance with its terms;

- (b) date that is the last day of the Term, provided that, in the event that such date is not a Business Day, the Repayment Date will be the last Business Day prior to that date.

**Tax** means any present or future tax (including, without limitation, any betterment tax, consumption tax, gross receipts tax or any tax or charge of a like nature), levy, import, deduction, charge, stamp or other duty, compulsory loan or withholding (and any related interest, penalty or fine) levied or imposed by any Government Agency, and includes any tax payable under the GST Act or the Income Tax Act.

**Tax Administration Act** means the Tax Administration Act 1994.

**Tax Laws** includes the GST Act, the Income Tax Act, the Tax Administration Act, and any other statutes, regulations, orders in council, or any other primary or secondary pieces of legislation enacted or imposed by a Government Agency that relate to Tax.

**Term** means the period of ten years commencing on the Effective Date subject to automatic extension under clause 2.2.

## **2. Facility**

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### **2.1 Facility**

Subject to clause 5, on and from the Effective Date, during the Term, the Lender must make available to the Borrower a credit facility (the **Facility**) equal to the lesser of:

- (a) NZ\$50 million; and
- (b) the amount representing the Borrower's total capital requirements recorded in the Borrower's annual Statement of Intent (**SoI Capital Requirement**) plus an additional amount equal to 10% of the SoI Capital Requirement,

(the **Maximum Amount**).

The Maximum Amount may be increased or decreased by written agreement of the Borrower and the Lender.

## **2.2 Automatic Extension of Term**

Provided there is no Event of Default which is continuing, the Borrower may, no later than 3 calendar months (or such other period as the Lender may agree in writing) prior to the end of the Term, give written notice to the Lender requiring that the Term be automatically extended for an additional period of 364 days. Such extension will commence at the expiry of the then current Term and be on the same terms and conditions as set out herein unless other terms and conditions are (or have previously been) agreed in writing between the Borrower and the Lender under clause 2.3. The then current Term may continue to be extended from time to time in accordance with this clause 2.2 until such time as the Borrower does not give notice under this clause 2.2 in which case there will be no extension of the then current Term.

## **2.3 Annual Review**

Notwithstanding anything to the contrary in this Agreement, the Facility is subject to annual review by the Lender. Following completion of any such annual review process, the Lender may require that this Agreement be amended to include such terms and conditions as the Lender sees fit. If the Borrower does not agree to any changes to the terms and/or conditions of this Agreement which the Lender proposes to introduce following the completion of any annual review process then the Borrower may, by notice in writing to the Lender, require that the parties enter into negotiations with a view to reaching agreement. If, after 60 days from the date of the Borrower's notice, the parties have not been able to reach agreement either party may terminate this Agreement on giving the other party not less than 30 Business Days prior written notice. If this Agreement is terminated under this clause 2.3, the Borrower will pay to the Lender the Outstanding Balance up to the date of termination. Nothing in this clause 2.3 affects the Lender's rights to recover any amounts properly due and payable prior to the date of termination of this Agreement.

## **2.4 Purpose**

A Drawing may be used by the Borrower for any purpose.

## **2.5 Security**

The Facility made available by the Lender to the Borrower pursuant to clause 2.1 is unsecured and subordinated to all other external indebtedness incurred by the Borrower but will rank pari passu with all intra-group indebtedness incurred by the Borrower. The parties and Bank of New Zealand have separately entered into the Deed of Subordination.

## **2.6 Interest**

- (a) Interest will accrue on a daily basis (and, if not paid in accordance with the terms of this Agreement, compound on each Interest Payment Date) on each Drawing, at the Interest Rate.
- (b) Subject to the provisions of this Agreement, the Borrower agrees to pay the Lender interest accrued on a Drawing (calculated in accordance with clause 2.6(a)), in arrear, on each Interest Payment Date.

## **2.7 Repayment of Principal and Interest**

- (a) Subject to the provisions of clause 9, the Borrower must repay the Outstanding Balance on the Repayment Date.

- (b) The Borrower may not, without the written consent of the Lender, repay a Drawing and/or the Principal Sum early.
- (c) Once an amount of the Principal Sum has been repaid, the Borrower may not redraw such amount.

## **2.8 Other Costs**

The Lender will separately issue a valid tax invoice to the Borrower to cover the Lender's direct costs incurred in relation to the set-up and ongoing administration of the Facility.

## **2.9 Withholding taxes**

The Borrower may, subject to clause 11, deduct from the interest any withholding or similar tax required to be deducted by the Borrower by law. The Borrower must, on demand, promptly provide the Lender with evidence of payment of such tax or taxes.

## **2.10 Payments**

- (a) All payments to be made to the Lender under this Agreement shall be made prior to 12:00 pm on the day on which payment is due (or such later time agreed to by the Lender) and shall be made to a bank account nominated by the Lender in writing, or, if the Lender fails to nominate a bank account, then payment shall be made to the address of the Lender to which notices are to be served under this Agreement. If any sum becomes due for payment under this Agreement on a day which is not a Business Day, then that payment shall be made on the following Business Day.
- (b) Subject to clause 2.9, all payments to the Lender under or pursuant to this Agreement shall be made without set-off, counterclaim, condition or qualification and free and clear of and without any deduction or withholding.

## **3. *Reporting obligations***

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During the Term, the Borrower shall comply with the reporting requirements set out in the Borrower's Statement of Intent or such other reporting requirements that may apply to the Borrower from time to time.

## **4. *Financial Covenants***

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EBITDA (earnings before interest, taxes, depreciation and amortisation) is to be maintained at a minimum of 2.5 times gross Interest Expense at all times and will be tested as at the last Business Day of each financial year on a rolling 12 month basis.

## **5. *Drawdown Conditions***

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- (a) All Drawings shall be subject to the following conditions:
  - (i) the Borrower must provide a properly completed and signed Drawdown Notice to the Lender at least 15 Business Days prior to the proposed Drawdown;



- (ii) the Lender must have completed successful tender or bespoke borrowing arrangement with the LGFA in relation to the Drawing requested under the Drawdown Notice;
  - (iii) the requested Drawdown Date must fall on or after the relevant LGFA Settlement Date relating to that Drawing;
  - (iv) the Drawing, if made, would not cause the Maximum Amount to be exceeded;
  - (v) the Drawdown Amount must be an amount of not less than NZ\$1.0million and, if higher, in integral multiples of NZ\$500,000;
  - (vi) no Event of Default is continuing or would occur as a result of the making of the Drawing; and
  - (vii) the Borrower must confirm to the Lender in writing that the Borrower:
    - (A) is not in default (however defined or described) with any other external indebtedness including indebtedness outstanding to Bank of New Zealand; and
    - (B) has met any other conditions as are reasonably notified by the Lender to the Borrower, from time to time.
- (b) The conditions in this clause 5 are inserted for the sole benefit of the Lender and only the Lender may waive them (or any part thereof), and any such waiver must be in writing.

## **6. Drawdown of the Facility**

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Subject to the Drawdown Conditions being satisfied, the Borrower may make Drawings up to the Maximum Amount.

## **7. Drawdown acknowledgment**

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The Borrower and the Lender each acknowledge and agree that:

- (a) each Drawing drawn down under this Facility will be for an amount equal to the Drawdown Amount; and
- (b) all rights, benefits, interests and other entitlements in the Lender Notes will belong to the Lender at all times.

## **8. Post Drawdown Obligations**

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The Lender's Chief Financial Officer or Lender's Authorised Signatory must countersign the Drawdown Notice given by the Borrower under clause 5(a)(i), within 5 Business Days of advancing the Drawing relating to that Drawdown Notice, and confirm the Interest Rate, semi-annually Interest Payment Dates and semi-annually interest payment amount relating to that Drawing.

## 9. *Events of Default*

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### 9.1 If an Event of Default occurs in relation to the Borrower:

- (a) the Lender may declare part or all of the Borrower's Outstanding Balance due and payable within the period set out in a written notice to the Borrower and the Borrower must comply with the terms of that notice; and
- (b) the Borrower shall be liable for any costs or expenses incurred by the Lender together with any administration fees that result from the Event of Default, including for avoidance of doubt any costs or expenses of the Lender as a result of the Lender not being able to meet their obligations under any other loan or facility agreement to which the Lender is a party.

### 9.2 For the purposes of this Agreement, each of the following events will be an Event of Default:

- (a) **Non-Payment:** if the Borrower defaults in the due payment of any amount under this Agreement on its due date;
- (b) **An Insolvency Event:** if in respect of the Borrower:
  - (i) an application is made to a court for a winding up or bankruptcy order;
  - (ii) a provisional liquidator, administrator, receiver or similar officer is appointed;
  - (iii) the Borrower enters into or takes any steps for the purpose of entering into any moratorium, composition, arrangement or similar agreement in respect of all or any of its debts with its creditors or any person; or
  - (iv) the Borrower is, or states that it is, unable to pay all of its debts as and when they fall due for payment;
- (c) **Material Adverse Change:** if any situation occurs which in the opinion of the Lender gives it grounds to believe that a material and adverse change in the business or financial condition of the Borrower has occurred or that the ability of the Borrower to perform its obligations under this Agreement has been or will be materially and adversely affected; or
- (d) **Cross Default:** any other external indebtedness (including indebtedness outstanding to Bank of New Zealand):
  - (i) is not paid when due or within originally applicable grace periods;
  - (ii) is declared, or becomes capable of being declared to be, due and payable or is placed on demand prior to its specified maturity as a result of an event of default, potential event of default or review event (in each case, however described);
  - (iii) is cancelled or suspended by a creditor of the Borrower as a result of an event of default, potential event of default or review event (in each case, however described),

provided that no Event of Default will occur under this sub-clause (d) if the aggregate amount of external indebtedness, or commitment for external indebtedness, falling within subclauses (i) to (iii) above is less than NZ\$50 million.

## **10. Default Interest**

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If the Borrower fails to pay any amount payable under this Agreement on the due date, then (without prejudice to any of the Lender's other rights, powers and remedies under this Agreement and at law), upon having received 5 Business Days' written notice from the Lender, the Borrower will pay interest on that overdue amount to the Lender at the Interest Rate plus 5% per annum from the date immediately following the date of expiry of that notice to the date upon which the overdue amount is repaid in full. All default interest payable under this Agreement will be calculated and accrue on a daily basis and compound every 30 days.

## **11. Tax Gross-Up**

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**11.1** If:

- (a) the Borrower is required by law to make any deduction or withholding from any amount paid or payable by it under this Agreement; or
- (b) the Lender is required by law to make any payment, on account of tax (other than tax on the Lender's overall net income) or otherwise, on or in relation to any amount received or receivable by it under this Agreement,

then the amount payable by the Borrower in respect of which such deduction, withholding or payment (each a **deduction**) is required to be made shall be increased to the extent necessary to ensure that, after the making of such deduction, the Lender receives and retains (free from any liability in respect of any such deduction) a net amount equal to the amount which it would have received and so retained had no such deduction been made.

**11.2** The Borrower will pay any amount referred to in clause 11.1(a) to the relevant taxation or other authority within the time allowed, without incurring a penalty for late payment.

**11.3** If the Lender is required to make any payment to any Government Agency or other authority on account of any deduction or withholding of the nature referred to in clause 11.1 which either the Lender or the Borrower should have made but failed to make, then the Borrower will indemnify the Lender on demand against any liability to make that payment except to the extent of any liability caused by the neglect or default of the Lender.

## **12. General**

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### **12.1 Interpretation**

In this Agreement headings are for convenience only and do not affect the interpretation of this Agreement and, unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing a gender include any gender;
- (c) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of a word or phrase defined in this Agreement have a corresponding meaning;

- (d) an expression importing a natural person includes any individual, company, partnership, joint venture, association, corporation or other body corporate and any Government Agency;
- (e) in determining the time of day where relevant to this Agreement, the relevant time of day is the time of day in the place where the party required to perform the obligation is located; and
- (f) a reference to:
  - (i) anything (including any right) includes a part of that thing but nothing in this clause 12.1 implies that performance of part of an obligation constitutes performance of the obligation;
  - (ii) a clause, party, annexure, exhibit or schedule is a reference to a clause of, and a party, annexure, exhibit and schedule to, this Agreement and a reference to this Agreement includes any annexure, exhibit and schedule;
  - (iii) a statute, regulation, proclamation, ordinance or by law includes all statutes, regulations, proclamations, ordinances or bylaws amending, consolidating or replacing it, and a reference to a statute includes all regulations, proclamations, ordinances and by laws issued under that statute;
  - (iv) a document (including this Agreement) includes all amendments or supplements to, or replacements or novations of, that document;
  - (v) a party to a document includes that party's executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;
  - (vi) "including", "for example" or "such as" when introducing an example, does not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
  - (vii) "law" includes legislation, the rules of the general law, including common law and equity, and any judgment order or decree, declaration or ruling of a court of competent jurisdiction or Governmental Agency binding on a person or the assets of that person; and
  - (viii) a monetary amount is a reference to New Zealand dollars, unless the context requires otherwise.

## 12.2 Notices

- (a) Unless expressly stated otherwise in this Agreement any notice or communication (**Notice**) given under this Agreement must be in legible writing and marked for the attention of and addressed to the addressee.
- (b) Notices must be hand delivered or sent by prepaid express post (next day delivery) or emailed to the addressee's email address specified in the notice details in the Parties section of this Agreement or as otherwise agreed by the parties.

- (c) A Notice given in accordance with this clause takes effect when taken to be received (or at a later time specified in it), and is taken to be received:
- (i) if hand delivered, on delivery;
  - (ii) if sent by prepaid post, the second Business Day after the date of posting;
  - (iii) if sent by email, on the date and time at which it enters the recipient's information system (unless the sender receives a notice from the recipient's email server or internet service provider that the message has not been delivered to the recipient),

but if the delivery, receipt or transmission is not on a Business Day, or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

### 12.3 Governing law and jurisdiction

This Agreement is governed by the laws of New Zealand. The parties submit to the non-exclusive jurisdiction of the New Zealand courts in respect of all matters relating to this Agreement.

### 12.4 Prohibition or enforceability

Subject to clause 12.5, if any provision of this Agreement is or becomes invalid or unenforceable, that provision will be deemed modified to the minimum extent necessary to render that provision valid and enforceable or, if the parties cannot agree (acting reasonably) to such modification, will be deleted from this Agreement. The invalidity or unenforceability of that provision will not affect the other provisions of this Agreement, all of which will remain in full force and effect to the extent permitted by law, subject to any modifications made necessary by the deletion of the invalid or unenforceable provision.

### 12.5 Change to Tax Laws

In the event there is any change to any Tax Law, or a proposed change to any Tax Law that will come into force on a future date, and such change will or is likely to result in either party's rights or obligations under this Agreement becoming invalid or unenforceable, the following will apply:

- (a) Either party (**Initiating Party**) may notify the other party (**Receiving Party**) in writing of the relevant change to the Tax Laws as soon as it becomes aware of the change (**Change Notice**);
- (b) The Change Notice must (at a minimum) set out the following:
  - (i) The details of the Tax Laws that are to be changed;
  - (ii) The date the change to the Tax Laws will take effect;
  - (iii) What the Initiating Party considers (acting reasonably) to be the impact on this Agreement as a direct result of the change to the Tax Laws; and
  - (iv) What the Initiating Party considers to be a suitable solution (by way of an amendment to this Agreement) to counter the relevant change to the Tax Laws;
- (c) Following receipt of the Change Notice, the Receiving Party will have 20 Business Days to consider the Change Notice and:

- (i) Notify the Initiating Party in writing that it accepts the amendment set out in the Change Notice, following which the parties will do all things, and enter into all documents, reasonably required to give effect to the amendment; or
- (ii) Provide the Initiating Party with an alternative solution (by way of an amendment to this Agreement), following which the Initiating Party must, within 20 Business Days, notify the Receiving Party in writing that it:
  - (A) Accepts the Receiving Party's alternative solution, in which case the parties will do all things, and enter into all documents, reasonably required to give effect to the agreed solution; or
  - (B) Does not accept the Receiving Party's alternative solution and that it wishes to initiate a 20 Business Day period to negotiate a satisfactory solution with the Receiving Party at the end of which, the parties will either agree to a suitable amendment to this Agreement (which will then be documented and entered into by the parties) or not agree at which point either party may notify the other in writing that it wishes to immediately initiate the procedure in clause 12.5(d); or
  - (C) Rejects the alternative solution and that it wishes to immediately initiate the process set out in clause 12.5(d);
- (iii) Notify the Initiating Party that it does not consider that the change to the Tax Laws will have any impact on this Agreement and that there is no need for any amendment to this Agreement, following which the Initiating Party must, within 20 Business Days, notify the Receiving Party in writing that it either:
  - (A) Accepts the Receiving Party's position that no amendment is required as a result of the change to the Tax Laws, in which case no amendment to this Agreement will be made; or
  - (B) Rejects the Receiving Party's position and that it wishes to immediately initiate the process set out in clause 12.5(d);
- (d) In the event the parties cannot negotiate a satisfactory solution under clause 12.5(c)(ii)(B), the Initiating Party rejects the alternative solution under clause 12.5(c)(ii)(C) or the Initiating Party rejects the Receiving Party's position under clause 12.5(c)(iii)(B), the following will apply:
  - (i) The parties will have 10 Business Days to agree on a suitably qualified independent accountant (if the parties are unable to agree on a suitably qualified independent accountant within 10 Business Days, one will be selected by the President for the time being of the New Zealand Law Society at either party's request) (**Expert**) to assess the change to the Tax Laws and its impact on this Agreement;
  - (ii) Following the appointment of the Expert, the Expert will consider the change to the Tax Laws, the change's impact on this Agreement and determine a solution to counter the change's impact on this Agreement by way of an amendment (if the Expert considers an amendment to be necessary);
  - (iii) The Expert must notify both parties in writing of his or her determination within 20 Business Days of his or her appointment;

- (iv) The Expert's determination will be binding on the parties (except for any manifest error) and both parties must do all things and enter into all documents reasonably required to give effect to the determination (if an amendment to this Agreement is required) within 10 Business Days of the determination; and
- (v) Unless the Expert rules otherwise, the costs of the Expert will be shared equally by the parties.

## **12.6 Waivers**

Any waiver by a party of any of its rights or remedies under this Agreement will be effective only if it is recorded in writing and signed by a duly authorised senior representative of that party. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy.

## **12.7 Variation**

A provision of this Agreement or a right or obligation created under it may not be varied except in writing and signed by all the parties.

## **12.8 Cumulative rights**

The powers, rights and remedies of a party under this Agreement are in addition to and do not exclude any other power, right or remedy provided by law or otherwise.

## **12.9 Further assurances**

Each party must do all things reasonably necessary to give full effect to this Agreement and the transactions contemplated by this Agreement.

## **12.10 Entire agreement**

This Agreement records the entire understanding and agreement of the parties relating to the matters dealt with in this Agreement. This Agreement supersedes all previous understandings or agreements (whether written, oral or both) relating to such matters.

## **12.11 Relationship**

The parties acknowledge and agree that nothing in this Agreement will constitute one party the partner of, employee of, agent of, or joint venturer with, the other and that other than as expressly provided for in this Agreement no party will have the right to bind the other without the other's prior written consent.

## **12.12 Third party rights**

No person other than the parties has or is intended to have any right, power or remedy or derives or is intended to derive any benefit under this Agreement.

**12.13 Counterparts**

This Agreement may be executed in any number of counterparts which read together will constitute one instrument. A party may execute this Agreement by signing any counterpart. This Agreement is binding on the parties on exchange of counterparts. A copy of a counterpart that is electronically scanned and emailed will be treated as an original counterpart.

**12.14 Non-merger**

No provision of this Agreement merges on execution, completion or termination.

**12.15 No Assignment or Novation**

A party may not assign or novate this Agreement or otherwise transfer the benefit of this Agreement or an obligation, right or remedy under it, without the prior written consent of the other party which consent will not be unreasonably withheld or delayed.



## ***Schedule 1 – Drawdown Notice***

Date:

### **Loan Facility Agreement between Palmerston North City Council (as lender) and Palmerston North Airport Limited (as borrower) (the *Loan Facility Agreement*)**

We refer to the Loan Facility Agreement. This is a Drawdown Notice. Terms defined in the Loan Facility Agreement have the same meaning in this Drawdown Notice unless given a different meaning in this Drawdown Notice.

Palmerston North Airport Limited wishes to drawdown the Drawdown Amount (as noted below) pursuant to the terms of the Loan Facility Agreement and acknowledges that the actual Drawing will be equal to the Drawdown Amount.

We confirm that the Drawdown Conditions referred to in the Loan Facility Agreement are satisfied.

<b><i>Term</i></b>	<b><i>Details</i></b>
Drawdown Amount <i>Note: Must be an amount of not less than NZ\$1.0million and, if higher, in integral multiples of NZ\$500,000</i>	
Maturity Date and/or Drawdown Term	
Proposed Drawdown Date	
Bank Account number	

This Drawdown Notice is irrevocable.

Please advise when the advance has been made.

Yours sincerely

[insert name]  
Chief Executive Officer, Palmerston North Airport Limited

We hereby agree to the terms of the Drawdown Notice and agree to be bound by them. We also set out below the applicable Drawing amount, Interest Rate, the relevant Interest Payment Dates and the interest payment amounts relating to the requested Drawing:

<b><i>Drawing Cost and payment date</i></b>	<b><i>Details</i></b>
Drawing amount	
Interest Rate on Drawing	
Interest payment on initial interest period	
Semi-annual Interest Payment Dates	
Semi-annual interest payment amount on Drawing	

**SIGNED** by **Palmerston North City Council**

\_\_\_\_\_  
Chief Financial Officer or Lender's  
Authorised Signatory

\_\_\_\_\_  
Name

## ***Signing Page***

### **Executed as an Agreement**

**SIGNED by Palmerston North City Council** by its duly authorised representative in accordance with its constituent documents and the law of its place of incorporation:

\_\_\_\_\_  
Signature of Director/Authorised signatory

\_\_\_\_\_  
Print Full Name

**SIGNED by Palmerston North Airport Limited** by its duly authorised corporate representative in accordance with its constituent documents and the law of its place of incorporation:

\_\_\_\_\_  
Signature of Director/Authorised signatory

\_\_\_\_\_  
Print Full Name