

**GOLD COAST SPORTS FLYING CLUB
HANGAR SITE AGREEMENT
Schedule A**

Item No.	Description	Detail	
1	Commencement Date		
2	Hangar `No.		
3	Site Fee		
4	Owner/Applicant	Full Name	
		Company/Trust Name	
		Home Address	
		Email	
		Telephone	

I, the Owner/Applicant:

- (a) Acknowledge having received a copy of this document and agree to its Terms.
- (b) Have read and understand the following documents:
 - (i) The Terms titled "The Gold Coast Sports Flying Club - Hangar Site Agreement" Version 1.1, dated 09/10/2018.

SIGNED by:

Owner/Applicant

Date

Endorsed on behalf of the GCSFC:

President

Secretary

Date

Date

TERMS

1 DEFINITIONS AND INTERPRETATION

Definitions

1.1 Where commencing with a capital letter, the following terms will have the following meanings unless the context or subject matter otherwise requires:

Agreement means this Hangar Site Agreement;

Airfield means the area of land which the Club leases, holds a licence to occupy, controls and/or manages;

Alterations means installation of fittings, plumbing or electrical fittings or fixtures, partitions, laying concrete, floor coverings, constructing erection or enlargement of the Hangar;

By-Laws means any by-laws made by the Management Committee;

Claim includes any claim, demand, remedy, suit injury, damage, loss, cost, action, proceeding, right of action, claim of compensation;

Costs means any liability, cost or expense;

Club means the Gold Coast Sports Flying Club Inc ("GCSFC");

Commencement Date means the date provided for in Item 1 of Schedule A;

Financial Year means the year ending 30 June each year;

GST has the meaning given to that expression in the A New Tax System (Goods and Services Tax) Act 1999;

Hangar means the hangar structure built or privately acquired by the Owner/Applicant and listed in Item 2 of Schedule A to this Agreement located at the Airfield on the Site and includes the inside area of the hangar from the surface of the floor to the roof including all fixtures, fittings, floor coverings and the exterior frames and exterior walls and roof, but excludes any other areas or facilities which the Club notifies the Owner/Applicant are not part of the Site from time to time;

Law means Commonwealth, State or Local Government legislation, statutes, ordinances or other law including regulations, by-laws and other subordinate legislation or law as the same may be amended from time to time;

Lease means the lease between the GOLD COAST SPORTS FLYING CLUB IA841 and W.H. HECK & SONS PROPRIETARY LIMITED ACN 009 661 401;

Lessee means the GOLD COAST SPORTS FLYING CLUB IA841;

Lessor means W.H. HECK & SONS PROPRIETARY LIMITED ACN 009 661 401;

Management Committee means the management committee of the Club.

Ordinary Member means for the purposes of this Agreement a person who is an Ordinary Member of the Club pursuant to the Club's Constitution, individual Ordinary Members in a Syndicate, or any entity in which the Ordinary Member owns all the issued share capital or is a primary beneficiary under a discretionary trust;

Owner/Applicant's Property includes all chattels, goods, non-fixtures and fixtures on the Site which have been erected, supplied or installed by or on behalf of the Owner/Applicant on the Site;

Permitted Use means used for the storage of aircraft or such other items so long as the primary use of the Hangar remains aircraft storage;

Services means all electrical, sewer and telecommunications on or about the Site;

Site means the ground on which the Hangar is situated and to which the Owner/Applicant has no title;

Site Fee means the fee provided in Item 3 of Schedule A to this Agreement as may be amended at the end of each Financial Year by the Management Committee;

Syndicate mean a group of Ordinary Members of the Club, or entities in which the Ordinary Member(s) own all the issued share capital or are beneficiaries under a discretionary trust;

Tenant means an Ordinary Member who is renting aircraft storage space from the Owner/Applicant;

Term means the term of this Agreement commencing on the Commencement Date and expiring at midnight on the Termination Date.

Termination Date means the 1st July 2035 or such earlier date of termination pursuant to the terms of this Agreement.

Interpretation

- 1.2 In this Agreement, unless the context otherwise requires:
- (a) words importing the singular include the plural and vice versa;
 - (b) a gender includes the other genders, be it masculine, feminine or neuter;
 - (c) where any word or phrase is given a definite meaning in this Agreement any part of speech or other grammatical form of that word or phrase has a corresponding meaning;
 - (d) a reference to "amendment" includes addition, alteration, deletion, novation, extension, modification and variation;
 - (e) a reference to an "insolvent under administration" is to an insolvent under administration within the meaning of section 9 of the Corporations Act;
 - (f) a reference to this Agreement includes without limitation, any variation or replacement of or supplement to any of them from time to time;
 - (g) the word "person" includes, without limitation, a reference to that person, a natural person, a company, a firm or any other legal entity whether acting as a trustee or not, trust partnership, joint venture, corporation or other body corporate, association, governmental or local authority, agency and anybody or entity whether incorporated or not, its successors, substitutes, executors, administrators, controllers, liquidators and permitted assigns trust, association, government, or public authority and vice versa;
 - (h) where a party comprises two or more persons the rights and obligations of such persons pursuant to this Agreement will ensure for the benefit of and bind all of them jointly and each of them severally;
 - (i) a reference to a party is to a party to this Agreement including without limitation, the party's executors, substitutes, administrators, controllers, liquidator's successors and permitted assigns and substitutes;
 - (j) a reference to conduct includes any act, omission, representation, statement or undertaking whether or not in writing;
 - (k) headings, index and sub-headings are inserted for convenience only and do not affect the interpretation of this Agreement;
 - (l) a reference to a part, clause or party is a reference to a part, clause of, or a party to this Agreement;
 - (m) a reference to this Agreement includes any schedules, annexures, exhibits, parts or attachments to this Agreement;
 - (n) a reference to \$ or dollars means Australian dollars and a reference to payment means payment in Australian dollars.
- 1.3 If any provision of these Agreement or any phrase contained in it is invalid or unenforceable in any jurisdiction, the phrase or provision is to be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable. If it cannot be read down it will be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of the Agreement or affecting the validity or enforceability of that provision in any other jurisdiction.

2. SITE

- 2.1 In consideration of the payment of the Site Fee and otherwise by the Owner/Applicant entering into this Agreement, the Club grants the Owner/Applicant the revocable exclusive use of the Site for the Permitted Use during the Term.
- 2.2 For the avoidance of doubt:
- (a) the Owner/Applicant has a personal right of occupation on the terms specified in this Agreement and has no interest in the Site on which the Hangar is situated; and
 - (b) subject to the terms of the Lease, the legal right to possession and control over the Airfield and the Site on which the Hangar is situated remains vested in the Club throughout the Term.

3. SITE FEE

- 3.1 The Club will review the Site Fee and determine a new Site Fee at the end of each Financial Year. The latest Site fee will be payable from 1 July for the following 12-month period ("Fee Period") which will operate as an amendment to the Site Fee stated in **Item 3** of Schedule A.
- 3.2 The Site Fee for each Fee Period will be paid on the Commencement Date and thereafter on the 1 July of each Fee Period and in the case of any broken period of less than one full Fee Period by an instalment on the first day of the broken period of a proportionate amount.

4. GST

- 4.1 Regardless of any other provision of this Agreement, if GST is imposed on any supply made to the Owner/Applicant under or in accordance with this Agreement, the amount the Owner/Applicant must pay for that supply is increased by the amount of the applicable GST.
- 4.2 The Owner/Applicant must pay the applicable GST amount to the Club at the same time and in the same manner as the GST-exclusive amount is paid by the Owner/Applicant.

5. KEY REGISTER

- 5.1 The details of any Tenant or other person holding a key or access code to the Hangar on behalf of the Owner/Applicant must be entered into a key register kept by the Secretary and signed for by the holder. Changes of person(s) holding a key or code on behalf of the Owner/Applicant must be registered with the Secretary.

6. USE OF THE HANGAR (REFER ALSO GCSFC BY-LAWS)

- 6.1 For the duration of the Term, the Owner/Applicant must:
- (a) not use the Site or Hangar for any purpose other than the Permitted Use;
 - (b) ensure that their Tenants do not use the Site or Hangar for any purpose other than the Permitted Use;
 - (c) not obstruct the entrances, exits, driveways in or from the Licenced Area;
 - (d) ensure that their Tenants visitors and invitees comply with the requirements of CASA, the Gold Coast City Council, the Club, and any other relevant body and the policy in relation to any activities on the Airfield, including any regulation relating to safety of aircraft and control of traffic;
 - (e) keep the Hangar clean and tidy and not cause any rubbish to be left in or about the Hangar;
 - (f) comply with all Laws regarding the use of the Hangar;
 - (g) follow all reasonable and lawful instruction given by the Club concerning the use by the Owner/Applicant of the Hangar;
 - (h) comply with any directions and regulations displayed by the Club;
 - (i) not let the Hangar be used in any noxious, offensive, annoyance or obstruction to the Club or other users or occupiers of the Airfield;
 - (j) not bring into or store in the Hangar any flammable or corrosive fluids or chemicals other than those that are normally used in the conduct of the Permitted Use (in which case any such fluids or chemicals must be kept in suitable containers);
 - (k) not deface the Hangar;
 - (l) be responsible for any necessary pest control services at or in the Hangar;
 - (m) not use or interfere with any equipment or items of property in or about the Hangar that is owned by or in the possession and control of the Club;
 - (n) not display or affix any signage on the outside of the Hangar without prior written approval from the Management Committee, which may be given, refused or given upon conditions in their absolute discretion; and
 - (o) ensure the exterior doors and windows of the Hangar are locked securely each time the Owner/Applicant or Tenant finishes using the Hangar for the day.

7. RIGHT TO INSPECT

- 7.1 The Management Committee will have the right to inspect the Hangar in the following events:
- (a) for emergency purposes; or
 - (b) to make repairs, additions or alterations as may be necessary for the conduct, safety or preservation of the Airfield.
- 7.2 No inspection will be deemed to constitute an interference with the Owner/Applicant's use thereof.

8. REPAIR AND MAINTENANCE

- 8.1 The Owner/Applicant, at its sole cost and expense will immediately repair any and all damage to the Hangar and the Services caused or contributed to by Owner/Applicant, its Tenants, agents, employees and/or invitees.
- 8.2 Should the Owner/Applicant cause damage to the Club's property or other aircraft, vehicles or private property the Management Committee will rule as to the full restoration procedures that will be made good within 30 days of the incident, to the Management Committee's satisfaction.
- 8.3 The Management Committee may impose restrictions upon any proposed Alterations or improvements on the Site.
- 8.4 If the Site or Hangar is damaged by fire, lightning, flood and tempest during the Term, the Owner/Applicant will remove from the Airfield all rubbish which is the Owner/Applicant's Property.

9. DELEGATED USE

- 9.1 The Owner/Applicant will not assign in whole or in part the benefit of this Hangar Site Agreement to any other individual, party, Syndicate or an individual member of a Syndicate, sublet rent or cease to use the Hangar in whole or in part for any time to a non-Ordinary Member of the Club or otherwise, without prior written approval from the Management Committee who may at their sole discretion refuse the approval or otherwise impose restrictions and obligations on the Owner/Applicant and any other person on such assignment.
- 9.2 The Owner/Applicant and/or Tenant will not allow an aircraft or items of any description belonging or owned in whole or in part or as part of a Syndicate to be hangered or stored inside the Hangar by any other individual, party, Syndicate or an individual member of a Syndicate who is not a Financial Ordinary Member(s) of the Club without prior written approval from the Management Committee who may at their sole discretion refuse the approval, or otherwise impose restrictions and obligations on the Owner/Applicant and any other person on such assignment.
- 9.3 A prohibited assignment will be deemed to have occurred if payment of the Site Fee is made by any other person or entity, other than the Owner/Applicant without prior written approval from the Management Committee, or if any other person or entity other than Owner/Applicant takes possession of the Hangar.
- 9.4 The Owner/Applicant and/or Tenant will not allow an aircraft to be de-hangered for operation from the airfield by a non-Ordinary Member without prior written approval from the Management Committee.

10. RISK

- 10.1 The Owner/Applicant's use of the Site and the Hangar is at its own risk and the Club is not responsible for loss or damage to any property, injury or damage done or suffered by any person when entering, leaving or being on the Site unless caused by the negligence of the Club, and the Club is exempted from liability for such loss, injury or damage however caused.
- 10.2 The Owner/Applicant is solely responsible and liable for use of the Site by their Tenant.
- 10.3 The Owner/Applicant hereby waives all Claims against the Club, brought by the Owner/Applicant or anyone else, for any injury or damage to any person or property including damage or loss from fire, theft, or flood unless such injury or damage is solely the fault of Club.

11. INSURANCE

- 11.1 The Club's group insurance scheme provides cover for Hangarkeepers Liability, Airport Owners and Operators Liability, Voluntary Workers Personal Accident, and Business Cover for theft, glass and Management Indemnity. This insurance suite also includes Public Liability cover for the Club's Leased Area and buildings and includes all Owner/Applicants' respective Sites and Hangars, to the extent of not less than \$10M per occurrence. The proportional cost to the Owner/Applicant is included in the

annual fees invoiced by the Club. Detail on the Insurances is contained in the By-Laws.

12. ABATEMENT

- 12.1 The Site Fee will not abate in the event that the Site or the Hangar at any time during the Term is damaged by earthquake, land contamination damage or destruction such as by fire, flood, lightning, storm, tempest so as to render the same unfit for occupation and Permitted Use.

13. TERMINATION

13.1 If:

- (a) the Owner/Applicant fails to pay the Site Fee for a period in excess of 60 days; or
- (b) the Owner/Applicant breaches any term contained in this Agreement which is not remedied within 60 days; or
- (c) the Owner/Applicant is no longer a Member of the Club; then

the Club may terminate this Agreement during its term by giving at least 60 days written notice of termination. (This provides the Owner/Applicant 120 days to respond in cases 13.1(a) and 13.1(b)).

13.2 This Agreement will terminate automatically in the event:

- (a) there is a breach of clause 9.1, 9.2, 9.3 or 9.4; or
- (b) if the Club becomes insolvent under administration.

13.3 In the event of termination:

- (a) any unpaid Site Fee must be paid to the date of termination.
- (b) no refund of Site Fees will be paid to the Owner/Applicant.

13.4 In the event of the death of an Owner/Applicant, the Management Committee will deal with the matter in a compassionate and appropriate manner.

14. ON TERMINATION

- 14.1 If this Agreement is terminated pursuant to clause 13.1(a), 13.1(b), or 13.1(c), the Owner/Applicant will transfer, sell, or dispose of their interest in this Agreement to an Ordinary Member of the Club within 180 days.

- 14.2 In the event that the Owner/Applicant does not transfer their interest in this Agreement pursuant to clause 14.1, the Owner/Applicant must immediately yield up the Hangar and Site and remove the Hangar structure from the Airfield within 14 days. If this does not occur, all of the Hangar and the Owner/Applicant's property will become the property of the Club.

- 14.3 If this Agreement is terminated pursuant to clause: 13.2(a) or 13.2(b), the Owner/Applicant will, unless otherwise directed by the Club, yield up the Site and remove the Hangar structure and contents, albeit not including any road base or concrete, and in the process of undertaking such removal do as little damage to the Airfield and the Services as reasonably possible.

15. INDEMNIFICATION

- 15.1 The Owner/Applicant indemnifies the Club against any and all Claims incurred by the Club or any Claims or actions against the Club brought by the Owner/Applicant or anyone else, arising directly or indirectly out of or in connection with the Owner/Applicant's breach or non-performance of its obligations under this Agreement or the Owner/Applicant's use of the Hangar.

16. NOTICES

- 16.1 All notices and other communications in connection with this Agreement must be in writing, signed by the sender or its authorised representative.

- 16.2 A party may send a notice by hand, pre-paid ordinary mail, email or registered mail to the address provided in Schedule A, or such as other address as notified in writing by a party.

16.3 A notice is deemed to be given if:

- (a) sent by hand, at the time of delivery;
- (b) sent by registered mail or pre-paid mail, 3 days after posting;

- (c) sent by email, at the time that it is sent to the correct email address; or
- (d) delivery or receipt is not on a business day or if receipt is later than 5:00pm, local time at the place of delivery, then the notice is deemed to have been delivered and received on the next business day.

17. LAW

- 17.1 The law of Queensland governs this Agreement.
- 17.2 The parties submit to the non-exclusive jurisdiction of the courts of Queensland for the purpose of any Claim relating in any way to this Agreement.

18. NO WAIVER

- 18.1 No waiver by a party of any provision of this Agreement will be considered a waiver of any other provision or any subsequent breach of the same or any other provision, including the time for performance of any such provision.
- 18.2 Failure or delay in exercise, or partial exercise of a right, power, authority, discretion or remedy arising from a breach of or default under this Agreement does not result in waiver of that right, power, authority, discretion or remedy.
- 18.3 A right, power, authority, discretion or remedy may only be waived by notice signed by the party to be bound by the waiver and a waiver is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

19. NO PARTY DEEMED DRAFTER

- 19.1 In the event of a dispute between any of the parties over the meaning of this Agreement, no party will be deemed to have been the drafter hereof, and the principle of law that contracts are construed against the drafter will not apply.

20. ENTIRE AGREEMENT

- 20.1 This Agreement contains all the representations and the entire understanding and agreement between the parties pertaining to the use of the Hangar or any other matters referred to in this Agreement.
- 20.2 All correspondence, memoranda, or oral or written agreements pertaining to the Hangar or the parties, which originated before the date of this Agreement are null, void and no longer in force and with no effect, and are replaced in total with this Agreement unless otherwise expressly stated in this Agreement.

21. ALTERATION

- 21.1 Subject to clause 14.1, 14.2 or 14.3 (or any change of a By-Law which affects this Agreement) this Agreement will not be altered, amended, or modified except by a writing signed by the Club and the Owner/Applicant.

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ADDENDUM

The following corrections, clarifications or additions will form part of the GCSFC Hangar Site Agreement Version 1.1 and shall be incorporated in the next update of the document.

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SIGNED by:

Owner/Applicant

Date

President

Date

Secretary

Date