

AIRCRAFT STORAGE AGREEMENT for MARYBOROUGH **AIRPORT**

PARTIES The registered Lessee named in the Reference Schedule to this Agreement
 ("Lessee")

AND The Aircraft Owner named in the Reference Schedule to this Agreement
 ("Aircraft Owner")

REFERENCE SCHEDULE

Airport Owner/Operator/ Landlord:	Fraser Coast Regional Council (FCRC) PO Box 1943 Hervey Bay Qld 4655 Email: info@frasercoast.qld.gov.au Phone: 1300 794 929
Contact Officers:	Airport Manager / Senior Airport Operations Officer
Registered Lessee Name:	#
Contact Person:	#
Address:	#
Email:	#
Phone / Mobile:	#
Contact Person:	#
SIGNATURE:	_____
Registered Aircraft owner:	#
Contact Person:	#
Address:	#
Email:	#
Phone / Mobile:	#
Contact Person:	#
SIGNATURE:	_____
Building:	The Hangar Building at <u>M.A.C.</u> Airport, located at <u>MARYBOROUGH</u> Qld contained within the Lease with FCRC and identified by survey as Lease # <u>...</u> on SP # <u>...</u>
Storage Area:	Storage Area of <u>.....</u> m ² (approx.) identified as <u>.....</u> on the storage plan annexed to this Agreement or such other storage area in the Building allocated by the Lessee to the Aircraft Owner from time to time at the Lessee's discretion
Storage Period (Max 12 months):	Commencement Date: <u>...</u> / <u>...</u> / 20 <u>...</u> Expiry Date: <u>...</u> / <u>...</u> / 20 <u>...</u>
Permitted Purpose:	Storage of the Aircraft Registration Number: <u>.....</u>
Model:	#
Registration :	#
Prohibited Activity:	<ol style="list-style-type: none"> 1. The administration, management or conduct of any business or commercial activity. 2. The storage of any vehicle, plant & equipment, or item other than the Aircraft named in this Reference Schedule. 3. Selling or offering to sell any product any service. 4. The promotion or marketing of any product or service. 5. The servicing or repair of aircraft, except for routine servicing and repair.
Public Liability Insurance:	Min \$20,000,000.00 (Certificate of Currency to be attached)

BACKGROUND

- A.** The Lessee leases the land upon which the Building is located from FCRC pursuant to the Lease identified in the Reference Schedule.
- B.** The Lessee offers storage areas to registered Aircraft Owner in the Building.
- C.** The Lessee and the Aircraft Owner agree to enter into this Aircraft Storage Agreement.

IT IS AGREED

1. Definitions

- 1.1 In this Agreement terms in bold in the Reference Schedule have the corresponding meaning given in the Reference Schedule.

2. Storage

- 2.1 The Lessee, in consideration for the Aircraft Owner agreeing to perform its obligations under this Agreement including payment of the Hire Fee, permits the Aircraft Owner to use the Storage Area for the Permitted Purpose on the terms of this Agreement.
- 2.2 The Lessee and the Aircraft Owner agree and acknowledge that the right to use the Storage Area under this Agreement is a licence and not a lease sublease nor any other interest in the land or land on which the building is situated.
- 2.3 The Lessee is the bailee of the aircraft and any goods stored in the Storage Area and is entitled to claim a lien over the aircraft and those goods for any unpaid moneys owing to the Lessee under this Agreement.

3. FCRC Covenants

- 3.1 The Aircraft Owner in consideration for the Lessee entering into this Agreement acknowledges and covenants with the Lessee and FCRC as follows –
 - (1) The Aircraft Owner has a contractual licence to store aircraft and not a sub lease nor any other interest in the Building.
 - (2) The Aircraft Owner stores their aircraft at their sole risk having made their own enquiries into the security of the Building.
 - (3) The Aircraft Owner must only use the Storage Area for the Permitted Purpose, and for no other purpose.
 - (4) The Aircraft Owner must not use any part of the Storage Area for any Prohibited Activity.
 - (5) The Aircraft Owner authorises and directs the Lessee to provide to FCRC a copy of this Agreement and full details of the Aircraft Owner and contact information.
 - (6) The interests and rights of the Landlord as the owner of the land on which the Building is situated and the landlord under the Lease, prevail over the rights of the Aircraft Owner under this Agreement.

- 3.2 The Aircraft Owner intends that the covenants in this Clause 3 are for the benefit of FCRC and upon acceptance by FCRC will be enforceable pursuant to Clause 55 of the *Property Law Act 1974 Qld, as amended*.

4. Payments

4.1 Payments

A Hire Fee of \$ + GST per is to be paid by the Aircraft Owner to the Lessee in the manner directed by the Lessee for the storage of the Aircraft in the Building.

4.2 Interest

If the Aircraft Owner is late in paying the Lessee any money, the Lessee may charge the Aircraft Owner interest calculated on any late payments at the rate of 2% per month or any part of a month. All interest charged must be paid on demand.

4.3 GST

(1) The parties agree that:-

- (a) in this Aircraft Storage Agreement "GST" means GST within the meaning of the GST Act, and "GST Act" means A New Tax System (Goods and Services Tax) Act 1999 (as amended from time to time).
- (b) Terms used in this Aircraft Storage Agreement that are defined in the GST Act have the same meaning given in the GST Act.
- (c) all amounts payable by the Aircraft Owner to the Lessee under this Aircraft Storage Agreement are stated exclusive of GST.
- (d) failure by the Aircraft Owner to pay the Lessee for the GST pursuant to this clause is treated in the same manner as this Aircraft Storage Agreement treats the failure to pay the consideration for the relevant taxable supply.

(2) The Aircraft Owner must pay to the Lessee for each taxable supply made in connection with this Aircraft Storage Agreement the amount of GST that will be payable by the Lessee for that taxable supply as and when the consideration for that taxable supply is payable by the Aircraft Owner to the Lessee.

(3) The Lessee must give the Aircraft Owner a GST tax invoice for each taxable supply made in connection with this Aircraft Storage Agreement.

5. Access and Conditions

5.1 The Aircraft Owner -

- (1) must familiarise themselves with the statutory obligations, rules, regulations, Local Laws, policies and practices applying to their use of the Airport.
 - (2) must sign and attach to this Agreement, a Fly Neighbourly undertaking, as required under the FCRC Lease with the Lessee.
 - (3) has the right to access their Storage Area during the access hours nominated by the Lessee from time to time.
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- (4) must not provide keys, security passes and/or access cards to their Storage Area to any other person without the prior written approval of the Lessee.
- (5) must actively use the Storage Area for the purpose of aircraft storage and not leave the Storage Area vacant for longer than 3 months.
- (6) must not store any goods in the Storage Area that are dangerous hazardous illegal stolen inflammable explosive environmentally harmful perishable or that are a risk to the property of any person (fuel in aircraft fuel tanks, and a maximum of 20 litres additional fuel, appropriately stored, excepted).
- (7) must use the Storage Area for the Permitted Purpose only and for no other purpose.
- (8) must not use the Storage Area for a Prohibited Activity.
- (9) must keep the Storage Area in a clean and tidy state.
- (10) must not carry out any building work improvements nor attach any nails, screws or signs to any part of the Storage Area, without the prior written approval of the Lessee.
- (11) must give written notice to the Lessee of any change of address contact details or contact person of the Aircraft Owner within 48 hours of that change.
- (12) authorises the Lessee to deal with the contact person for the Aircraft Owner nominated in the Reference Schedule on the basis that that person is the fully authorised agent to bind the Aircraft Owner for all purposes under this Agreement.
- (13) authorises and directs the Lessee to provide to FCRC a copy of this Agreement and full details of the Aircraft Owner and contact information.
- (14) must comply with all relevant laws including Acts ordinances regulations by-laws and orders which may be applicable to the Aircraft Owner's use of the Storage Area.
- (15) must comply with all relevant laws including Acts ordinances regulations by-laws and orders which may be applicable to the Aircraft Owner's use of the Airport.
- (16) must comply with all rules and/or directions given by authorised officers of FCRC and/or the Airport relating to the management, operation, safety and security of the Airport.

6. Lessee's Rights

- 6.1 The Lessee and any person authorised by the Lessee may access the Storage Area at any time for any purpose.
 - 6.2 The Lessee may by written notice to the Aircraft Owner relocate the Aircraft Owner to another storage space in the building without being required to give reasons and then this Agreement applies to the new Storage Area.
 - 6.3 The Lessee may carry out any of the Aircraft Owner's obligations under this Aircraft Storage Agreement if the Aircraft Owner does not carry them out on time or as reasonably directed by the Lessee. If the Lessee does so, then the Aircraft Owner must pay the Lessee's expenses.
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7. No Assignment

- 7.1 The rights of the Aircraft Owner in this Aircraft Storage Agreement are personal to the Aircraft Owner and may not be assigned transferred or used by any other person or entity.
- 7.2 There is a deemed assignment by the Aircraft Owner if the Aircraft Owner is a company and there is a change in the shareholding of the Aircraft Owner in that a different person or group of persons will control the composition of the board of directors or more than 50% of the shares having the right to vote at a general meeting of the Aircraft Owner.

8. Lessee's Rules

8.1 Rule Making Power

The Lessee may from time to time make rules relating to the building and the Storage Areas dealing with -

- (1) their use, care and cleanliness;
- (2) the preservation of good order;
- (3) the comfort of persons;
- (4) the storage and removal of garbage and refuse;
- (5) the closure of any part outside normal business hours;
- (6) the control, security, safety and operation of the Storage Areas.

8.2 Compliance with Rules

The Aircraft Owner must comply with the Rules made by the Lessee pursuant to this Clause 8.

9. Risk

9.1 Own Risk

The Aircraft Owner occupies and uses the Storage Area at its own risk.

9.2 Release

The Aircraft Owner releases to the fullest extent permitted by Law, the Lessee and its agents, employees and contractors from all claims and demands resulting from any accident, damage, loss, injury or death occurring in the Storage Area or in any part of the Building or outside the Building except to the extent that it is caused by a deliberate act, negligence or default by the Lessee or its agents, employees or contractors.

9.3 Indemnity

Without limiting the generality of Clause 9.2 the Aircraft Owner indemnifies and holds indemnified the Lessee and its agents, employees and contractors from and against all actions, claims, losses, damages and costs for or in respect of which the Lessee

may sustain or incur or for which the Lessee or its agents, employees and contractors shall or may be or become liable whether during or after the Storage Period in respect of or arising from:

- (1) Breach of Covenant - Loss, damage or injury to property or person from or contributed to by the neglect or default of the Aircraft Owner to observe or perform any of the covenants, conditions and restrictions on the part of the Aircraft Owner whether positive or negative expressed or implied.
- (2) Misuse - Negligent use or misuse, waste or abuse by the Aircraft Owner or any servant, agent or sub-Aircraft Owner of any Services to the Storage Area or to the Building.
- (3) Escape of Harmful Agent - Overflow or escape of water, fire, gas, electricity or any other harmful agent whatsoever in or from the Storage Area caused or contributed to by any act or omission on the part of the Aircraft Owner its servants, agents or sub-Aircraft Owners.
- (4) Failure to Notify - Failure of the Aircraft Owner to notify the Lessee of any defect of which it is aware in the Storage Area whatsoever.
- (5) Use of Storage Area - Loss damage or injury from any cause whatsoever to property or person caused or contributed to by the use of the Storage Area by the Aircraft Owner or any servant or agent of the Aircraft Owner.
- (6) Personal Injury - Any personal injury sustained by any person in or about the Storage Area or the Building caused by or contributed to by the Aircraft Owner or its employees, agents or contractors other than the wilful or negligent act or omission of the Lessee or its servants or agents.

9.4 Insurance

- (1) At all times during the continuance of this Aircraft Storage Agreement the Aircraft Owner must effect and keep current a public liability insurance policy in respect of the Storage Area:
 - (a) having endorsement to include the risks and indemnities contained in clause 9.3;
 - (b) in the names of the Lessee and all persons having superior title to the Lessee and the Aircraft Owner for their respective interests;
 - (c) in an amount set out in the Reference Schedule or any higher amount that the Lessee may from time to time reasonably require the Aircraft Owner by notice in writing to effect for any single claim, accident or event;
 - (d) with an insurance office or company approved by the Lessee (such approval not to be unreasonably withheld).
- (2) The Aircraft Owner must give the Lessee:
 - (a) a duplicate copy of each such policy immediately it is effected;
 - (b) a copy of the receipt issued for payment of each premium within five (5) business days of it being paid;
 - (c) a copy of the certificate of currency when signing this Agreement.

9.5 Notice of Accident

The Aircraft Owner must give the Lessee prompt notice in writing of any accident in or want of repair to the Storage Area or defect in any Services which it is aware.

9.6 Conduct Voiding Insurance

The Aircraft Owner must not knowingly do or permit to be done or omit to do any act in the Storage Area or on the Common Areas which may render void or voidable any insurances on the Building or that may cause the rate of premium on any such insurance policies to be increased or be liable to be increased and the Aircraft Owner must do or permit to be done immediately upon request by the Lessee, everything necessary to ensure the continuance of any insurances effected by the Lessee.

10. Default and Termination

10.1 Default

The Aircraft Owner is in default of this Aircraft Storage Agreement if:

- (1) they are no longer the registered owner of the aircraft listed in the Reference Schedule.
- (2) they repudiate their obligations under this Aircraft Storage Agreement.
- (3) they breach any statutory obligations, rules, regulations, Local Laws, policies and practices applying to their use of the Airport.
- (4) they fail to comply with any rule and/or direction given by authorised officers of FCRC and/or the Airport relating to the management, operation, safety and security of the Airport.
- (5) they become insolvent.
- (6) their interest under this Aircraft Storage Agreement is attached or taken in execution under any legal process.
- (7) they do not comply with any other term of this Aircraft Storage Agreement within 7 days after receiving notice from the Lessee to do so.

10.2 Termination

- (1) If the Aircraft Owner is in default, the Lessee may do any one or more of the following without prejudice to any other right which it may have against the Aircraft Owner:
 - (a) by notice to the Aircraft Owner, convert this Aircraft Storage Agreement from an agreement for the Storage Period to a licence that can be terminated by either party on 14 days' notice and otherwise on the Terms of this Aircraft Storage Agreement;
 - (b) by notice to the Aircraft Owner, terminate this Aircraft Storage Agreement;
 - (c) recover from the Aircraft Owner any loss suffered by the Lessee due to default of the Aircraft Owner;
 - (d) exercise any of its other legal rights.

- (2) The Lessee must take reasonable steps to mitigate its loss.

11. Expiry of Storage Period

11.1 Aircraft Owner's Obligations

On expiry of the Storage Period or earlier termination the Aircraft Owner must:

- (1) vacate the Storage Area in good repair and clean condition;
- (2) remove all the Aircraft Owner's property from the Storage Area;
- (3) repair any damage caused by removal of the Aircraft Owner's property;
- (4) return all keys, security passes and/or access cards held by the Aircraft Owner.

11.2 Failure to Remove Aircraft Owner's Property

If the Aircraft Owner does not remove the Aircraft Owner's property on expiry or earlier termination, the Lessee may:

- (1) remove and store the Aircraft Owner's property at the Aircraft Owner's risk and expense, or
- (2) treat the Aircraft Owner's property as being abandoned, in which case title in the Aircraft Owner's property passes to the Lessee who may deal with it as it thinks fit without being liable to account to the Aircraft Owner.

11.3 Antecedent Rights

Termination of this Licence does not effect either parties' accrued rights before Termination.

12. Interpretation

12.1 Waiver Negatived

Failure by the Lessee or Aircraft Owner to exercise any power or right under this Aircraft Storage Agreement cannot be such to be construed or deemed a waiver of the relevant power or right unless it is in writing.

12.2 Severability

If any provision of this Aircraft Storage Agreement or its application to any person or circumstance is or becomes unenforceable, illegal or void the remaining covenants are not effected and each covenant of this Aircraft Storage Agreement is enforceable to the greatest extent permitted by Law.

12.3 Governing Law

This Aircraft Storage Agreement must be governed by and construed in accordance with the law of the State of Queensland.

12.4 Reference to:

- (1) one gender includes each other gender;

- (2) the singular includes the plural and the plural includes the singular;
- (3) a person includes a body corporate;
- (4) an associate of a person means another person who is associated with that person by application of any of the provisions of Division 2 of Part 1.2 of the *Corporations Act 2001*;
- (5) a party includes the party's executors, administrators, successors and permitted assigns; and
- (6) a statute, regulation or provision of a statute or regulation ("Statutory Provision") includes that Statutory Provision as amended or re-enacted from time to time and a statute, regulation or provision enacted in replacement of that Statutory Provision.
- (7) "Including" and similar expressions are not words of limitation.
- (8) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (9) Headings and any table of contents or index are for convenience only and do not form part of this Agreement or affect its interpretation.
- (10) A provision of this Agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Agreement or the inclusion of the provision in the Agreement.
- (11) All monetary amounts are in Australian dollars, unless otherwise stated.
- (12) If an act must be done on a day that is not a Business Day, then the act must be done instead on the next day Business Day.

12.5 Parties to Agreement

- (1) If a party consists of more than 1 person, this Agreement binds each of them separately and any 2 or more of them jointly.
- (2) A party which is a trustee is bound both personally and in its capacity as a trustee.

EXECUTED AS AN AGREEMENT

REGISTERED LESSEE:

SIGNED SEALED AND DELIVERED BY:		
Name/s:		
Signature/s:		
Date:		
in the presence of : Justice of the Peace/Solicitor/Comm Dec		
Witness's Full Name:		
Witness's Address:		

REGISTERED AIRCRAFT OWNER:

SIGNED SEALED AND DELIVERED BY:		
Name/s:		
Signature/s:		
Date:		
in the presence of: Justice of the Peace/Solicitor/Comm Dec		
Witness's Full Name:		
Witness's Address:		

APPENDIX 1 – STORAGE PLAN

**This Agreement is for the storage of aircraft in an area of approximately m²
identified as in the plan below on LEASE ON SP**