

**DESIGNATION AIAL 1100 — ATTACHMENT C**

**[ REGISTERED PROPRIETOR ]**

Covenantor

**AUCKLAND INTERNATIONAL AIRPORT  
LIMITED**

**AIAL**

**DEED OF LAND COVENANT**

Correct for the purposes of the Land Transfer Act

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Solicitor for Covenantor

**TO: DISTRICT LAND REGISTRAR,**

**NORTH AUCKLAND LAND REGISTRY**

Please note the covenants contained in the within Deed of Land Covenant against the Certificate of Title referred to in the First Schedule to this Deed

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Solicitor for Covenantor

**PARTIES**

[ **REGISTERED PROPRIETOR** ] together with its successors in title ("**Covenantor**")

**AUCKLAND INTERNATIONAL AIRPORT LIMITED ("AIAL")**

**INTRODUCTION**

- A. The Covenantor is registered as proprietor of the land more particularly described in the First Schedule ("**Servient Land**").
- B. AIAL is registered as proprietor of the land more particularly described in the Second Schedule ("**Dominant Land**") and owns or is entitled to use the structures erected thereon.
- C. AIAL operates the Auckland International Airport from the Dominant Land, which results and is likely to result in environmental effects, such as noise, which has and is likely to have consequences beyond the boundaries of the Dominant Land, including upon the Servient Land.
- D. The Servient Land is identified as being subject to [ **high (in the case of Servient Land located within the HANA)** ] / [ **moderate (in the case of Servient Land located within the MANA)** ] levels of noise from operations at Auckland International Airport, and the Covenantor has accepted AIAL's offer to install physical works and equipment in the building(s) on the Servient Land, for the purpose of mitigating the effects of such noise, more particularly described in the Fourth Schedule ("**Aircraft Noise Mitigation Works**").
- E. In consideration of AIAL's offer the Covenantor has agreed with AIAL to accept for itself and its successors in title to the Servient Land and any part or interest in the Servient Land, for the period until 31 March 2040, an obligation not to lessen the effectiveness of, or remove, the Aircraft Noise Mitigation Works, in accordance with the terms of this Deed.

## **COVENANTS**

The Covenantor for itself and its successors in title to the Servient Land, or any part of it, (excluding any tenants occupying the Servient Land pursuant to a lease or tenancy vested in the Housing New Zealand Corporation or any statutory or regulatory successor to the Housing New Zealand Corporation), hereby covenants, acknowledges and agrees with AIAL as a covenant for the benefit of the Dominant Land, that the Covenantor will observe and perform all the stipulations and restrictions contained in the Third Schedule to the end and intend that each of the stipulations and restrictions shall, in the manner and to the extent prescribed, enure for the benefit of, and be appurtenant to, the whole of the Dominant Land until 31 March 2040

## **EXECUTION**

## FIRST SCHEDULE

(Servient Land)

**Legal Description**

**Certificate of Title**

## SECOND SCHEDULE

(Dominant Land)

**Legal Description**

**Certificate of Title** (All North Auckland Registry)

## THIRD SCHEDULE

(Covenants)

1. The covenantor acknowledges that:
  - (a) the Servient Land is subject to [ **high** ]/[ **moderate** ] levels of noise from operations at Auckland International Airport; and that
  - (b) the Covenantor has accepted AIAL's offer to install Aircraft Noise Mitigation Works in the building(s) on the Servient Land.
  
2. The Covenantor will do nothing to lessen the effectiveness of the Aircraft Noise Mitigation Works ("modifications") and will not remove the Aircraft Noise Mitigation Works ("removal work") in any building on the Servient Land unless:
  - (a) The Covenantor has obtained the written approval of AIAL; or
  - (b) The modifications or removal works are being undertaken for the purpose of reconstructing, altering or extending the building or part of the building or removing part of the building, and:
    - (i) the entire building; or
    - (ii) any room directly affected by the modifications or removal works, which is to remain a habitable room,

will meet the requirements of the Auckland Council Unitary Plan for acoustic treatment measures to mitigate aircraft noise; or

- (c) The Covenantor is demolishing the entire building or removing it from the Servient Land.
3. AIAL shall not unreasonably withhold its approval under clause 2(a); and in considering a request for approval it shall take into account the reason(s) why approval is sought and in particular whether:
- (a) the owner intends to upgrade or improve the acoustic insulation in the building or relevant parts of the building;
  - (b) whether the proposed modifications or removal works will affect in any material way the mitigation of the effects of aircraft noise in any habitable room in the building;
  - (c) the owner wishes to change the use of a habitable room to a non-habitable room;
  - (d) the use of the building for an ASAN has or is intended to cease, on more than a temporary basis.
4. AIAL shall deal promptly with any request for approval under clause 2(a) and shall as soon as is practicable:
- (a) serve the Covenantor with written notice of AIAL's decision under clause 2(a);
  - (b) include as part of that written notice its reasons for any refusal to give its approval; and
  - (c) where approval is refused, forward a copy of that written notice to the ANCCG.
5. The parties agree that if AIAL determines (in AIAL's sole and unfettered discretion) at any stage that any part or parts of the Dominant Land should no longer receive the benefit of the terms of this Covenant:
- (a) AIAL shall provide written notice to the Covenantor setting out the relevant certificate(s) of title for the Dominant Land from which this Covenant is to be surrendered, and such notice is to be accompanied by a surrender instrument in registrable form in respect of the same ("Surrender Instrument");
  - (b) the Covenantor shall execute the Surrender Instrument and procure the consent to, and execution of, the Surrender Instrument by any mortgagees, chargeholders, lessees or encumbranceholders required to enable registration of the Surrender Instrument against the Servient Land and the relevant Dominant Land;
  - (c) the Covenantor shall hand to AIAL the Surrender Instrument and any other documents (duly executed as aforesaid) required to enable AIAL Airport to register the Surrender Instrument against the Servient Land and the relevant Dominant Land within 14 days after receiving written notice from AIAL in accordance with clause 5(a) of this Covenant; and
  - (d) AIAL shall arrange for the registration of the Surrender Instrument at Land Information New Zealand. All costs in respect of the execution of the Surrender Instrument, the procurement of any consents pursuant to clause 5(b) of this Covenant and the registration of the Surrender Instrument shall be met by AIAL.
6. If the Covenantor refuses to or fails to execute and return to AIAL the Surrender Instrument within the 14 day period referred to in clause 5(c), then for the sole purpose of giving effect to clause 5, the Covenantor hereby grants to AIAL an irrevocable power of

attorney to AIAL to do all things necessary, and sign all documents necessary to register the Surrender Instrument against the Servient Land and the relevant Dominant Land.

For the avoidance of doubt, in giving effect to clause 5, AIAL shall be entitled to (but shall not be limited to):

- (a) sign the Surrender Instrument on the Covenantor's behalf; and
  - (b) if the consent of any mortgagees, chargeholders, lessees or encumbranceholders is required to enable registration of the Surrender Instrument, request consent to the registration of the Surrender Instrument on behalf of the Covenantor. Any such request shall be deemed to be from the Covenantor and shall be binding on the Covenantor.
7. For the purpose of clause 5 of this Covenant, the term “the Covenantor” is deemed to refer to the Covenantor and its successors in title to the Servient Land, or any part of it.
8. For the purpose of this Covenant, the terms “operative”, “district plan” and “designation” are as defined under the Resource Management Act 1991, or any equivalent subsequent legislation, and references to any sections or parts of the Resource Management Act 1991 are deemed to refer to any equivalent provisions of subsequent legislation also.

#### **FOURTH SCHEDULE**

(Aircraft Noise Mitigation Works)

**LIST OF MODIFICATIONS TO FIGURES IN APPENDIX 1 TO DESIGNATION AIAL 1100**

<b>APPENDIX FIGURE NUMBER / NAME</b>	<b>DESCRIPTION OF MODIFICATION</b>
1 – Designated Area	Update designated area map corrected to account for previous alterations to designated area and to remove the distinction between Areas A and B on the Map which is no longer required
2 – Control Zone	Extent of Control Zone corrected in accordance with latest information from Airways Corporation of NZ.
3 – Aircraft Noise Areas	Position of noise areas and contours unchanged but cadastral base updated and extent of designation AIAL 1 corrected as per Figure 1
4 – Future Aircraft Noise Contours	Position of contours unchanged but cadastral base updated and extent of designation AIAL 1 corrected as per Figure 1
5 – Ldn 57dBA Contour replaced by new Figure 5	Ldn 57dBA Figure deleted as the condition to which it relates (Condition 13A) has been deleted but new Figure 5 is required to identify the area referred to in Condition 13.