

Memorandum of Understanding (MOU)

DATE 30 October 2018 (Commencement Date)

PARTIES

Between: Skybase Limited, NZCN 6017590, Christchurch (**Party A**)

And: Organisation name [number or address], (**Party B**),

BACKGROUND

- A. Party A is a Drone Data as a Service company, working in the mapping and monitoring/surveillance, and developing the technology and framework for commercial Beyond Line of Sight (BLOS) operations. Party A specialises in aerial data collection (optical, infra-red, still or moving) and airborne networking (data, voice, video, radio, internet).
- B. Party B is ...
- C. The Parties are entering into this memorandum of understanding ("MOU") to record their intent to work together, and potentially novate this agreement to UAVNZ or a trust.
- D. This MoU is intended to provide protection for each Party's Confidential Information and Intellectual Property Rights during such discussions.
- E. No exclusivity or preferential relationship is granted or implied by this MoU.
- F. Where the Parties wish to involve third parties in discussions, a separate Confidentiality and Non-Disclosure Agreement (NDA) shall be agreed.

1. INTERPRETATION

- 1.1 References to clauses and Schedules are to clauses and Schedules of this MOU and references to persons include bodies corporate, unincorporated associations or partnerships.
- 1.2 The headings in this MOU are for convenience only and have no legal effect.
- 1.3 The singular includes the plural and vice versa.
- 1.4 [The Schedules to this MOU form part of this MOU.](#)

2. DEFINITIONS

- 2.1 Reserved.

3. UNDERSTANDING

- 3.1 This MOU will outline the relationship between the Parties.

- 3.2 The Parties wish to work collaboratively to assist each other to achieve their respective purposes. As a platform to increase their collaborative work and avoid uncertainty, the Parties have agreed this MOU to ensure confidentiality of the Confidential Information and any new Intellectual Property generated during initial discussions, where the Parties have not agreed specific arrangements for the discussion.
- 3.3 This collaboration is focussed upon creating a mutual understanding between [] and Skybase, such that Commercial Beyond Line of Sight (BLOS) operations can be conducted with unmanned aircraft, without negatively impacting [] existing or future operations.
- 3.4 This MOU may be novated or serve as a template for an MOU or agreement with UAVNZ, the industry body that represents unmanned aircraft operators in New Zealand. This would help to position [] as a leading authority on the integrated airspace operations that are being rolled out in New Zealand over the coming decade.
- 3.5 The parties acknowledge the intent of this MOU shall be superseded by subsequent contractual agreements (for example services agreements, sale & purchase agreements, research contracts, or professional services agreements) whose scope and intent are broadly defined by this MOU and will be negotiated in good faith by the parties.

4. TERM

- 4.1 This MOU will commence on the Commencement Date for the Term, unless the parties agree to Renew the MOU for an extended period.
- 4.2 The Term of this MOU is two (2) years from the Commencement Date.

5. OBLIGATIONS

- 5.1 This MOU does not oblige either party to do or not do any particular thing, except regarding Confidentiality and Intellectual Property, as described in this MOU, nor does it grant exclusivity or a preferential relationship between the Parties.

6. PAYMENTS AND EXPENSES

- 6.1 Neither Party is liable for payments or expenses incurred for or on behalf of the Other Party under this MOU and a separate agreement shall be entered into, or written pre-authorisation provided to the Other Party, for any exchange of value between the Parties.

7. CONFIDENTIALITY

- 7.1 The Parties agree to abide by the Confidentiality provisions stated in this Clause 7.
- 7.2 "Confidential Information" means:
- 7.2.1 all information and materials relating to or arising from this MOU in any form whatsoever, and
 - 7.2.2 information which is by its nature confidential or which the Discloser advises the Recipient is confidential and includes the terms of this MOU, and
 - 7.2.3 includes anything disclosed before the date of this MOU.
- 7.3 "Discloser" means a Party disclosing Confidential Information to the Recipient in accordance with this MOU.

- 7.4 "Recipient" means a Party receiving Confidential Information of the Discloser in accordance with this MOU.
- 7.5 Confidential Information does not include:
- 7.5.1 information which at the date of this MOU is in the public domain or subsequently enters the public domain without fault on the part of the Recipient,
 - 7.5.2 information that is received in good faith by the Recipient from a third party,
 - 7.5.3 information which is at the date of this MOU, independently developed by, or already properly in the possession of, the Recipient and which the Recipient can demonstrate by written record to be previously known to the Recipient.
- 7.6 The Recipient of Confidential Information shall:
- 7.6.1 keep it in the Recipient's possession and treat it as confidential regardless of when disclosed,
 - 7.6.2 not use any Confidential Information belonging to the other party for any purpose other than as required in terms of this MOU,
 - 7.6.3 only disclose Confidential Information to employees, officers or professional advisers on a need to know basis and shall be liable to the Discloser for any breach by those persons of these confidentiality obligations.
- 7.7 The restrictions in this Clause do not apply where disclosure is required by law or by a government agency or governmental authority.
- 7.8 The parties acknowledge that any breach of this confidentiality obligation may result in damages for which monetary compensation would not be an adequate remedy and that the affected party is entitled to specific performance or injunctive relief in addition to any other remedies at law or in equity.
- 7.9 Where no further Confidentiality Agreement is entered into, upon termination of this MOU and should the Discloser direct so, the Recipient must return all Confidential Information to the Discloser, or evidence provided of its destruction or deletion, within 2 Business Days.

8. INTELLECTUAL PROPERTY

- 8.1 The parties each respectively own their own Intellectual Property before entering into this MOU and may only use the other's Intellectual Property when expressly authorised in writing.
- 8.2 In accordance with Clause 7, each Party agrees that the information, materials or otherwise, provided to it prior and during this MOU, must also be protected under this Clause 8 as Intellectual Property belonging to the Other Party.
- 8.3 Neither this MOU nor the transfer of the Confidential Information under it is to be construed as granting to the Receiving Party any right, licence, ownership or interest in all or any part of the Confidential Information disclosed. The Disclosing Party will:
- 8.3.1 continue to own all Intellectual Property Rights in any Confidential Information that it may disclose to the Receiving Party; and
 - 8.3.2 own all Intellectual Property Rights in any modifications to its Confidential Information created by or on behalf of the Receiving Party (including, for the avoidance of doubt, all notes, memoranda, records or other materials in whatever form containing, referring to or based on any of the Disclosing Party's Confidential Information). Where the Receiving Party makes a significant non-obvious advance to the Confidential Information of the Disclosing Party, then the Parties will negotiate reward sharing in good faith.

9. GENERAL

- 9.1 Each Party shall disclose any potential Conflicts of Interest that arise during the development of the Understanding.
- 9.2 Each Party shall disclose any Restraint of Trade considerations that may be applicable to the Other Party during the development of the Understanding.
- 9.3 This MOU may be terminated by either party giving 10 Business Days' notice in writing to the other party, and will automatically terminate at Term.
- 9.4 Clauses 7, 8 and 9 in this MOU are legally binding on the Parties and those clauses shall survive termination of this MOU.
- 9.5 Neither Party provides any indemnity or limitation of liability to the Other Party under this MOU.
- 9.6 Neither Party provides any particular Warranty of information, product or service under this MOU.
- 9.7 Amendments to this MOU must be made in writing and agreed by both Parties.
- 9.8 This MOU is governed by New Zealand law and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand.
- 9.9 This MOU may be signed in counterparts, including by facsimile or email, all of which when read together shall constitute one and the same document.

SIGNED on behalf of:
SKYBASE

SIGNED on behalf of:
PARTY B

Name, Position

Name, Position

Date

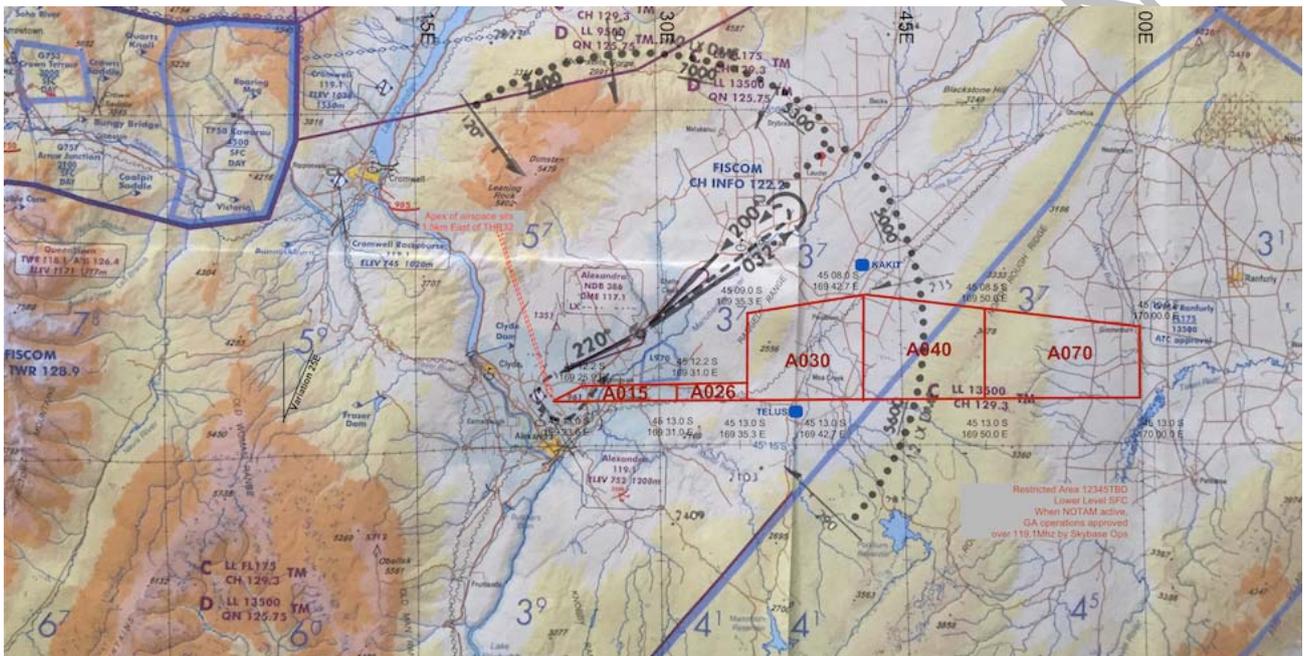
Date

SCHEDULE

[UNTIL AGREED, THIS IS SUBJECT TO CHANGE BASED UPON FEEDBACK FROM COMMUNITY AND CAA]

CHANGES OF RESTRICTED AREA PROPOSAL TO ADDRESS FEEDBACK

1. Access Corridor no longer affects the entirety of Galloway station
2. Low flying area now unaffected
3. Christchurch/ Central Otago route in poor weather completely unaffected
4. Ridge operations still available on North Rough Ridge
5. Geographic points of relevance chosen for vertexes.
6. Areas activated in Sectors (A,B,C,D,E), when necessary, and not activated as one whole Sector each time the Area is activated.



- Sector A: Surface – 1500’AMSL
- Sector B: Surface – 2600’AMSL
- Sector C: Surface – 3000’AMSL
- Sector D: Surface – 4000’AMSL
- Sector E: Surface – 700’AMSL

See notes below regarding operations SFC-300’AGL for Commercial Operators.

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UNDERSTOOD LIST OF CONDITIONS

1. Access by other organisations and Administration of Airspace
 - 1.1 Skybase will make the Restricted Area available to other unmanned aircraft operators wishing to test their technology, without profiteering from being the administrator of the area. This provides benefit to the whole of NZ, as it will both promote and attract industry to NZ for testing, and to boost the regional economy in Central Otago. As there must be a CAA participant who activates and administers the airspace, Skybase is willing to carry out this duty, claiming only direct costs for administration and supervision. This duty may be novated to a Trust, to be established for the purpose.
2. Activation type (Sector)
 - 2.1 The airspace is broken into 5 discrete sectors, A, B, C, D, E (West to East)
 - 2.2 Sector A, B are the most frequently required for activation. These two are referred to as the 'Corridor'. They measure 0.8nm in width (approx. 1.5km, approximate turn diameter at 100kts, 20deg AoB).
 - 2.3 Sector A will not be used for loiter operations longer than 10 minutes at any one time, as it is predominantly for transit and stand-off while manned traffic accesses the airfield. This means that accidental incursion is unlikely to create a safety hazard, based upon probability, however it does not absolve any airspace user from avoiding unsafe operations.
3. Activation method and coordination:
 - 3.1 NOTAMs for activating any Sector of the Restricted Area must be issued at least 36 hours in advance, including when additional Sectors are required for testing but were not originally entered into the NOTAM.
 - 3.2 Opt-in SMS groups will be offered advising of which sectors will be active, and will be notified via SMS when the airspace becomes inactive or the activation is cancelled for any particular reason.
 - 3.3 Prior to any activation of a Sector that may reasonably affect **{commercial/recreational}** operations, **{party B}** will be contacted at least 36 hours in advance to discuss a mutually agreeable plan to accommodate times and operations of each party.
4. Activation Periods
 - 4.1 Any Sector must only be activated during weekdays. The only exception to this is when, for a specified purpose, singular in nature and not more than 3 hours' duration, 6 weeks' notice will be given to **{party B}**.
 - 4.2 Any Sector should only be activated during hours of darkness (after end of Civil Twilight), for routine testing. Daylight activation requires double the activation notice prescribed in paragraph 2.
 - 4.3 As the rhythm of testing is typically one-week of testing, two-week of analysis, activation periods must be not more than 85 days per year (equivalent to 17 by 5-day weeks). A variation to this number of activation days will trigger a public consultation event, conducted by the administrator.
5. Access to airspace: priority and deconfliction
 - 5.1 **Emergency Aircraft.** Access to aircraft that have declared an emergency, are conducting declared emergency operations or declared Search and Rescue, operations shall have priority (collectively termed Emergency Aircraft). Any unmanned aircraft operating in the area must remain at least 3nm clear of the Emergency Aircraft(s), except for transit through the Corridor in which case the unmanned aircraft will remain height-deconflicted with the Emergency Aircraft(s), coordinated over 119.1Mhz as far as reasonably practicable.

- 5.2 **Commercial Operators.** When Commercial operations require access to the Restricted Area, they will gain priority, whilst airborne, over unmanned aircraft for the sector in which they are operating (or agreed section of the Sector or height block deconfliction), provided that prior arrangements with the Area administrator have been made by telephone or 119.1Mhz or email at least 12 hours prior, and unmanned aircraft are not already airborne in the area. Where contact is unable to be achieved over 119.1Mhz, and no prior arrangement has been made by other means (telephone, electronic), the Commercial Operator may only enter the airspace below 300'AGL in Sectors C, D, E until communications are established on 119.1Mhz with either the unmanned aircraft or the Restricted Area controller on 119.1Mhz. Note that should the Commercial Operator become airborne without contact being made first, and then continuing to operate without communications with unmanned aircraft on 119.1Mhz, the Commercial Operator accepts their own liability, as this may result in an increased hazard to all airspace users.
- 5.3 **Recreational Flyers.** Recreational fliers requesting access to the airspace may do so on 119.1Mhz or by telephone, and accept ultimate responsibility for their own collision avoidance with unmanned aircraft, emergencies excepted. As unpowered aircraft often do not have a radio, it is strongly encouraged to read NOTAMs and communicate with the Restricted Area administrator via telephone prior to operating in the area if NOTAM'd, as failing to do so will create a hazard for all airspace users.
- 5.4 **Negligent Acts.** Any negligent act on any Party's behalf that results in the loss of or damage to the other Party's aircraft, while operating in the Restricted Area, with permission or not, will result in the Offending Party becoming liable for damages to the Affected Party.
- 5.5 **Routine Height Deconfliction.** In any Sector, there may be Beyond Line of Sight operations occurring below 400'AGL, however this will be infrequent, as the unmanned aircraft will generally transit at x300'AMSL (North-Eastwards) and x400'AMSL (South-Westwards). For example this would be 1300' (550'AGL min) Eastwards in sector A and then 2300' (560'AGL min) Eastwards in Sector B.
6. Flights Wanaka to Dunedin (via Thompsons Gorge and Poolburn Reservoir)
- 6.1 At 3000' AMSL, there are no restrictions on this track. This IFR cruising altitude represents 550'AGL crossing the Raggedy Range. At the VFR cruising altitude of 4500 (East), this will also clear the next section of the Restricted Area. At the VFR cruising altitude of 3500 (West), this will clear the Restricted Area.
- 6.2 Flight required at lower altitude through the Restricted Area can be arranged by Radio on 119.1Mhz or by telephone, and as per the conditions of Paragraph 4.

The phone number and email addresses described in these sections will be provided and made public at such time as the Restricted Area is formally designated.