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GENERAL NOTICE

NOTICE 228 OF 2009

AIR TRAFFIC AND NAVIGATION SERVICES COMPANY LIMITED

AIR TRAFFIC AND NAVIGATION SERVICES COMPANY ACT, 1993 (ACT No. 45 OF 1993) PUBLICATION OF AIR TRAFFIC SERVICE CHARGES

In terms of section 5(2)(f) of the Air Traffic and Navigation Services Company Act, 1993 (Act No. 45 of 1993), it is hereby published for general notice that as from **8 June 2009** the Air Traffic and Navigation Services Company Limited, registration number 1993/004150/06, will levy the air traffic service charges according to the rules set out in the Schedule.

MD MAMASHELA

Chairman : Board of Directors

February 2009

SCHEDULE
AIR TRAFFIC SERVICE CHARGES

1. Interpretation

For the purposes of these Rules, unless the context indicates otherwise -

- (a) "ACSA" means Airports Company South Africa Limited;
- (b) "ACSA airport" means a company airport as defined in section 1 of the Airports Company Act;
- (c) "ACSA TMA airspace" means TMA airspace associated with an ACSA airport, but in which may also be non-ACSA airports;
- (d) "area (*en route*) airspace" means airspace that excludes -
 - (i) aerodrome airspace;
 - (ii) TMA airspace; and
 - (iii) FIS-only airspace, when the Company has determined its dimensions;
- (e) "aircraft" means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface, and includes any non-type certificated aircraft;
- (f) "airport" means an aerodrome as defined in section 1 of the Aviation Act, 1962 (Act No. 74 of 1962), and includes an ACSA airport;
- (g) "Airports Company Act" means the Airports Company Act, 1993 (Act No. 44 of 1993), as amended;
- (h) "air traffic service charge" means an amount levied by the Company on the operator of an aircraft in connection with the provision of air traffic services to that operator;
- (i) "air traffic service unit" means an air traffic control unit, flight information centre or air traffic service reporting office;
- (j) "ATM" means air traffic management;
- (k) "air traffic management (ATM) services" includes without limitation -
 - (i) airspace organisation and management services;
 - (ii) information management services;
 - (iii) alerting services;
 - (iv) advisory services;
 - (v) conflict management services;
 - (vi) traffic synchronisation services;
 - (vii) flight information services; and
 - (viii) demand and capacity balancing services;

- (l) "BSC" means business sustaining cost;
- (m) "Civil Aviation Regulations" means the Civil Aviation Regulations, 1997, as amended;
- (n) "Company" means Air Traffic and Navigation Services Company Limited;
- (o) "Company representative" means a person designated by the Company for the purposes of these Rules;
- (p) "d" means flight distance;
- (q) "FAJS" means OR Tambo International Airport;
- (r) "FAKN" means Kruger Mpumalanga International Airport;
- (s) "FARB" means Richards Bay Airport;
- (t) "FC" means fixed cost;
- (u) "FIS-only airspace" means airspace in which flight information services are provided exclusively;
- (v) "flight" means from the moment an aircraft commences its take-off until the moment it completes its next landing;
- (w) "gateway" means the point of entry into or exit from the South African flight information region;
- (x) "maximum certificated mass" means the maximum permissible mass shown in the aircraft flight manual or other document associated with the certificate of airworthiness at which an aircraft may commence its take-off under standard atmospheric conditions at sea level;
- (y) "MCM" means maximum certificated mass;
- (z) "movement" means a flight, or a portion of a flight, through any aerodrome airspace, TMA airspace or area (*en route*) airspace;
- (aa) "non-type certificated aircraft" includes without limitation any amateur-built, production-built, ex-military and vintage aircraft;
- (bb) "operator", in relation to an aircraft, means -
 - (i) a licensee as defined in section 1 of the Air Services Licensing Act, 1990 (Act No. 115 of 1990), as amended, or a licensee as defined in section 1 of the International Air Services Act, 1993 (Act No. 60 of 1993), as amended;
 - (ii) any airline of another State which operates a scheduled international public air transport service in terms of an air transport service agreement as contemplated in section 35(1) of the International Air Services Act, 1993, as amended, or a permit holder as defined in section 1 of the said Act;
 - (iii) the owner of such aircraft; and
 - (iv) any person who uses an aircraft on behalf of an operator;

- (cc) "owner", in relation to an aircraft, means the person in whose name such aircraft is registered, and includes any person who is or has been acting as agent in South Africa for a foreign owner;
- (dd) "Regulating Committee" means the Regulating Committee established by section 11 of the Airports Company Act;
- (ee) "South African flight information region" means the geographical area consisting of the flight information regions of Johannesburg, Cape Town and Johannesburg Oceanic;
- (ff) "South African Maritime and Aeronautical Search and Rescue Act" means the South African Maritime and Aeronautical Search and Rescue Act, 2002 (Act No. 44 of 2002);
- (gg) "Standard Terms and Conditions" means the terms and conditions of payment set out on the invoice;
- (hh) "state aircraft" means any state aircraft as contemplated in article 3 of the Convention on International Civil Aviation signed at Chicago on 7 December 1944;
- (ii) "terminal control area" means a control area normally established at the confluence of air traffic service routes in the vicinity of one or more ACSA airports;
- (jj) "TMA" means terminal control area; and
- (kk) "VC" means variable cost.

2. Right to levy air traffic service charges

The Company is entitled to levy air traffic service charges by virtue of a permission issued by the Regulating Committee on 22 June 2007 in terms of section 11(5) of the Air Traffic and Navigation Services Company Act, 1993, and published by Notice 785 of 22 June 2007.

3. Air traffic service charges

3.1 There are three air traffic service charges:

- (a) An Aerodrome Charge, payable for ATM services, specific to aerodrome airspace and maneuvering area, provided by the Company in respect of a flight that takes off from or lands at an ACSA airport;
- (b) a TMA Access Charge, payable for ATM services, specific to terminal airspace, provided by the Company in respect of a flight that departs from or arrives at ACSA TMA airspace, where the airport of origin or destination is within that ACSA TMA airspace;
- (c) an Area Charge, payable for ATM services specific to area (*en route*) airspace provided by the Company in respect of a flight undertaken within a flight information region

established by the Commissioner for Civil Aviation in terms of the Civil Aviation Regulations.

4. Cost components

4.1 Charges consist of the following cost components:

- (a) A variable cost component (VC);
- (b) a business sustaining cost component (BSC); and
- (c) a fixed cost component (FC).

4.2 VCs are treated as follows:

- (a) VCs are charged for each flight undertaken at a standard rate per movement;
- (b) VCs are the same for Aerodrome Charges, TMA Access Charges and Area Charges.

4.3 BSCs are treated as follows:

- (a) BSCs are charged for each movement undertaken in relation to the MCM of an aircraft;
- (b) BSCs are the same for Aerodrome Charges, TMA Access Charges and Area Charges.

4.4 FCs are treated as follows:

- (a) FCs are charged for each movement undertaken in relation to the MCM of an aircraft, and for Area Charges, also in relation to d within Company managed airspace;
- (b) Aerodrome Charges, TMA Access Charges and Area Charges each have a unique FC.

5. Independent variables

For purposes of charging, the independent variables of the tariff formulas set out in the Appendix, are the following:

- (a) Published MCM expressed in kilograms;
- (b) d measured on the basis of the great circle distance in nautical miles (rounded to the nearest nautical mile) along that portion of the flight path of an aircraft, which is within the boundaries of the South African flight information region, from the take-off airport or gateway to the landing airport or gateway. It excludes distance flown in the ACSA

TMA airspace above the take-off or landing airport or the TMA airspace above FAKN or FARB, which TMA airspace is for charging purposes a radius of 35 nautical miles around the airport, irrespective of the actual radius.

6. Mass categories

6.1 Subject to the exceptions described in rules 6.2 and 6.3 below, the following aircraft mass categories apply:

- (a) Aircraft with a MCM of 15 000 kilograms or less are charged as follows:
 - (i) VC per movement;
 - (ii) BSC based on MCM; and
 - (iii) FC based on MCM, and for Area Charge, also based on d, but no Area Charge is levied if d equals zero;
- (b) aircraft with a MCM of more than 15 000 kilograms are charged as follows:
 - (i) VC per movement;
 - (ii) BSC based on the square root of MCM; and
 - (iii) FC based on the square root of MCM, and for Area Charge, also based on d, but no Area Charge is levied if d equals zero.

6.2 Charges for aircraft with a MCM of 5 000 kilograms or less are zero-rated with respect to -

- (a) Area Charges; and
- (b) Aerodrome Charges or TMA Access Charges at ACSA airports or ACSA TMA airspace other than FAJS subject to the operators of such aircraft adhering to operating procedures around non-FAJS airports as the Company may establish from time to time.

6.3 For aircraft with a MCM of 5 000 kilograms or less at FAJS, the FC components that would otherwise have applied, are replaced with -

- (a) a minimum FC in the calculation of the Aerodrome Charge; and
- (b) a minimum FC in the calculation of the TMA Access Charge.

7. Origin-destination differentiation

7.1 Differentiation applies in respect of the following flights:

- (a) A domestic flight, which is a flight undertaken by an aircraft where both the airport of departure and the airport of arrival of the aircraft are within South Africa;
- (b) a regional flight, which is a flight undertaken by an aircraft where either the airport of departure or the airport of arrival of the aircraft is within Botswana, Lesotho, Namibia or Swaziland, and the other airport is within South Africa or within Botswana, Lesotho, Namibia or Swaziland;
- (c) an international flight, which is a flight undertaken by an aircraft where either the airport of departure or the airport of arrival of the aircraft is within any State other than South Africa or Botswana, Lesotho, Namibia or Swaziland, and the other airport is within South Africa or elsewhere.

7.2 All tariff cost components, except the minimum FC in respect of an aircraft with a MCM of 5 000 kilograms or less for Aerodrome and TMA Access at FAJS (where a minimum, non-differentiated FC applies), are differentiated based on origin-destination as set out in the Appendix.

8. Formulas and coefficients

Subject to these Rules, the tariff formulas and tariff coefficients are set out in the Appendix.

9. Payment of air traffic service charges and security deposits

- 9.1 Any document produced by the Company on which it is recorded that an ATM service was provided is deemed to be sufficient evidence that the ATM service was indeed provided.
- 9.2 The operator of an aircraft which is engaged in a flight in respect of which the operator is liable to pay an air traffic service charge in terms of these Rules and in the case where the flight –
 - (a) terminates at an ACSA airport, must pay the air traffic service charge to the Company representative at that ACSA airport before that aircraft is to take off from that ACSA airport;
 - (b) commences at an ACSA airport and terminates at an airport other than an ACSA airport, must pay the air traffic service charge to the Company representative at that ACSA airport before that aircraft is to take off from that ACSA airport;

- (c) commences and terminates at airports other than ACSA airports, must pay the air traffic service charge to the Company within 30 days of receipt of an invoice from the Company in respect of the air traffic service charge,

unless the operator has previously entered into an agreement with the Company for payment.

9.3 The Company may require the operator of an aircraft to –

- (a) deposit with the Company an amount; or
- (b) to provide the Company with a letter of guarantee by a financial institution in a format acceptable to the Company that an amount has been set aside,

as security against the risk of default on payment..

9.4 The Company determines the amount referred to in rule 9.3 with reference to the actual or expected invoices of an operator, which amount is limited to the maximum amount of two months' invoicing.

9.5 The Company may annually revise and an operator may annually apply for a revision of the amount referred to in rule 9.3, with reference to actual or expected invoicing.

9.6 No interest is payable by the Company on any deposit or letter of guarantee held by it in terms of these Rules.

9.7 The Company may charge interest on an outstanding invoice as provided for in the Standard Terms and Conditions.

9.8 The Company is not obliged to withdraw, modify or reissue an invoice after six months from the date of the invoice.

10. General rules, exemptions and exceptions

10.1 The tariffs set out in these Rules, including the Appendix, are exclusive of Value-Added Tax and are therefore subject to the appropriate rate applicable to any specific tariff.

10.2 Air traffic service charges are payable by the operator of an aircraft to the Company.

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- 10.3 Air traffic service charges are payable in respect of South African and foreign state aircraft, unless other provision has been made by means of an agreement with the Company.
- 10.4 Air traffic service charges are payable in respect of helicopters, except at FAJS where no TMA Access Charge is levied.
- 10.5 No air traffic service charge is payable in respect of an aircraft engaged in any flight for the calibration of any air navigation infrastructure.
- 10.6 Air traffic service charges are payable in respect of an aircraft engaged in emergency medical service operations, unless exempted on a case-by-case basis by means of an agreement with the Company.
- 10.7 Subject to rule 10.9 below, no air traffic service charge is payable in respect of an aircraft requisitioned for and engaged in search and rescue operations in terms of the South African Maritime and Aeronautical Search and Rescue Act.
- 10.8 Air traffic service charges are payable in respect of an aircraft engaged in search and rescue operations, which aircraft has not been requisitioned in terms of the South African Maritime and Aeronautical Search and Rescue Act, unless exempted on a case-by-case basis by means of an agreement with the Company.
- 10.9 Search mission co-ordination services are payable by the relevant authority or any operator at a rate of R900,00 per hour or part thereof, where these services fall outside of the normal scope of alerting services and assistance to agencies involved in search and rescue operations, in particular where services are activated due to negligence in canceling service requests.
- 10.10 (a) Aerodrome Charges and TMA Access Charges are payable in respect of Aerodrome and TMA Access movements solely for the purpose of air crew training at a discount of 70% of the applicable standard Aerodrome Charge or standard TMA Access Charge.
- (b) Training movements attract charges as follows:
- (i) An Aerodrome Charge is levied for each training movement upon take-off and upon landing from or at an ACSA airport, discounted as described in rule 10.10(a) above;

- (ii) for a training movement that does not exit the aerodrome airspace, one Aerodrome Charge is levied for each circuit flown, discounted as described in rule 10.10(a) above; and
 - (iii) for a training movement that exits the aerodrome airspace into TMA airspace, rule 10.10(b)(i) above applies for each take-off and each landing, and a TMA Access Charge is levied for each circuit flown within the TMA airspace.
- (c) For the purposes of this rule, the words “take-off” and “landing” are construed to include the use of ATM services required for take-off and landing.
- 10.11 For oceanic flights over the Indian Ocean or the Atlantic Ocean within the South African flight information region, including those to and from Antarctica, the FC component of the Area Charge is 50% of the standard Area Charge.
- 10.12 Extended air traffic service charges at a rate of R1 800,00 per hour or part thereof, are payable by an operator for the extension of existing air traffic services beyond the normal negotiated and planned service amendments as documented in the Integrated Aeronautical Information Package (IAIP).
- 10.13 No Area Charge is payable in respect of any aircraft engaged in a flight that takes off and lands at the same airport.
- 10.14 Subject to a directive or approval to the contrary by the Regulating Committee, the origin-destination differentiation described in rule 7 above, will be phased out as follows:

Financial year	Domestic flight tariff	Regional flight tariff	International flight tariff
2009/10	85%	100%	115%
2010/11	88%	100%	112%
2011/12	91%	100%	109%
2012/13	94%	100%	106%
2013/14	97%	100%	103%
2014/15	100%	100%	100%

- 10.15 The Company reserves the right to exempt the operator of an aircraft from payment of, or discount, any of the air traffic service charges if the Company is satisfied that the application of these Rules would amount to an unfair repetition of the same charge.

11. Withholding of services

The Company may withhold services --

- (a) until such time that the operator provides evidence to the Company that the deposit or letter of guarantee referred to in rule 9.3 has been provided; or
- (b) if the operator has failed to settle an invoice as per the Standard Terms and Conditions.

APPENDIX
TARIFF FORMULAS AND COEFFICIENTS

1. An air traffic service charge is composed of the sum of VC, BSC and FC for each discrete Aerodrome, TMA Access and Area movement undertaken, according to the following mass categories and locations:

Main Mass Category	Cost Component	Formulas & Coefficients		
		Aerodrome Charge	TMA Access Charge	Area Charge
FAJS ≤ 5 000 kg	VC	R16,70	R16,70	
	BSC	R67,83/10 000.MCM	R67,83/10 000.MCM	
	FC	R35,79	R66,12	
5 000 kg < MCM ≤ 15 000 kg	VC	R16,70	R16,70	R16,70
	BSC	R67,83/10 000.MCM	R67,83/10 000.MCM	R67,83/10 000.MCM
	FC	R71,59/10 000.MCM	R13,22/1 000.MCM	R9,49/100 000.MCM.d
> 15 000 kg	VC	R16,70	R16,70	R16,70
	BSC	R83,07/100.√MCM	R83,07/100.√MCM	R83,07/100.√MCM
	FC	R87,69/100.√MCM	R161,97/100.√MCM	R116,27/100.√MCM.d

2. Each Rand-value coefficient in the table above is multiplied by –
- 85% for a domestic flight;
 - 100% for a regional flight: and
 - 115% for an international flight,

except in the case of FCs for Aerodrome and TMA Access Charges at FAJS for aircraft with MCM ≤ 5 000 kg where the coefficient as stated in the table applies.

3. As an illustration, assume the following flights:

Example 1

Domestic flight from FAJS to FACT, with aircraft with MCM = 100 000 kg and d = 686 miles

$$\begin{aligned}
 \text{Charge} &= [\text{Aerodrome Charge at FAJS} + \text{TMA Access Charge at FAJS} + \text{Area Charge} + \text{TMA} \\
 &\quad \text{Access Charge at FACT} + \text{Aerodrome Charge at FACT}] \cdot 85\% \\
 &= [[\text{VC}_{\text{Aero}} + \text{BSC}_{\text{Aero}} + \text{FC}_{\text{Aero}}] + [\text{VC}_{\text{TMA}} + \text{BSC}_{\text{TMA}} + \text{FC}_{\text{TMA}}] + [\text{VC}_{\text{Area}} + \text{BSC}_{\text{Area}} + \text{FC}_{\text{Area}}] \\
 &\quad + [\text{VC}_{\text{TMA}} + \text{BSC}_{\text{TMA}} + \text{FC}_{\text{TMA}}] + [\text{VC}_{\text{Aero}} + \text{BSC}_{\text{Aero}} + \text{FC}_{\text{Aero}}]] \cdot 85\% \\
 &= [[\text{R16,70} + (\text{R83,07}/100 \cdot \sqrt{100\,000}) + (\text{R87,69}/100 \cdot \sqrt{100\,000})] + [\text{R16,70} + \\
 &\quad (\text{R83,07}/100 \cdot \sqrt{100\,000}) + (\text{R161,97}/100 \cdot \sqrt{100\,000})] + [\text{R16,70} + (\text{R83,07}/100 \cdot \sqrt{100\,000}) +
 \end{aligned}$$

$$\begin{aligned}
& (R116,27/10\,000.\sqrt{100\,000.(686-35-35)}) + [R16,70 + (R83,07/100.\sqrt{100\,000}) + \\
& (R161,97/100.\sqrt{100\,000})] + [R16,70 + (R83,07/100.\sqrt{100\,000}) + \\
& (R87,69/100.\sqrt{100\,000})] . 85\% \\
= & [(R16,70. 5) + (R83,07/100.\sqrt{100\,000. 5}) + (R87,69/100.\sqrt{100\,000. 2}) + (R161,97/100. \\
& \sqrt{100\,000. 2}) + (R116,27/10\,000. \sqrt{100\,000. 616})] . 85\% \\
= & R\,4\,454,67
\end{aligned}$$

Example 2

International flight from FAJS to international gateway, with aircraft with MCM = 4 500 kg
and d = 211 miles

$$\begin{aligned}
\text{Charge} &= [\text{Aerodrome Charge at FAJS} + \text{TMA Access Charge at FAJS}] . 115\% \\
&= [[VC_{\text{Aero}} + BSC_{\text{Aero}}] . 115\% + FC_{\text{Aero}}] + [[VC_{\text{TMA}} + BSC_{\text{TMA}}] . 115\% + FC_{\text{TMA}}] \\
&= [[R16,70 + (R67,83/10\,000.4\,500)]. 115\% + R35,79] + [[R16,70 + (R67,83/10\,000. 4\,500)] \\
&\quad . 115\% + R66,12] \\
&= [(R16,70. 2) + (R67,83/10\,000.4\,500. 2)] . 115\% + R35,79 + R66,12 \\
&= R210,52
\end{aligned}$$