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GENERAL NOTICE

NOTICE 86 OF 1999

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 **1 May 1999** the Air Traffic and Navigation Services Company Limited, No. 93/04150/06, will levy the air traffic service charges set out in the Schedule by virtue of a permission issued by the Regulating Committee on 22 January 1998 in terms of section 11 (5) of the said Act, and published by Notice No. 136 of 30 January 1998.

G. VAN HEERDEN

Chairman: Board of Directors

(26 January 1999)

SCHEDULE

AIR TRAFFIC SERVICE CHARGES

1. Liability to pay air traffic service charges

- (1) Subject to the provisions of these rules, air traffic service charges shall be payable by the operator of an aircraft to the Company.
- (2) Air traffic service charges consist of -
 - (a) an *en route* charge, payable by the operator of an aircraft in respect of a flight for which it is a requirement in terms of the Civil Aviation Regulations, 1997, as amended, that an air traffic service flight plan be submitted and where such flight is undertaken within any flight information region established by the Commissioner for Civil Aviation in terms of the said Regulations;
 - (b) an approach charge, payable by the operator of an aircraft in respect of any flight, which terminates at a company airport.
- (3) Subject to the provisions of these rules, the tariff of *en route* and approach charges shall be set out in Annexures A and B, respectively.
- (4) The tariffs set out in Annexures A and B are exclusive of Value-Added Tax and are therefore subject to the appropriate rate as may be applicable to any specific tariff.

2. Notification of flight taking place and payment of charges

- (1) As soon as an air traffic service flight plan is activated in terms of the Civil Aviation Regulations, 1997, as amended, it shall be deemed that the operator of the aircraft to which such air traffic service flight plan relates has notified the Company that the particular flight is taking place.
- (2) In addition to the information required on an air traffic service flight plan in terms of the regulations referred to in subrule (1), the Company may, through the Company's representative at a company airport or any air traffic service unit, request the operator of an aircraft, upon the filing of such air traffic service flight plan or after such aircraft has landed at, or before such aircraft is to take off from a company airport to furnish to the Company for the purpose, such other information or particulars relating to -

- (a) the flight which was or is to be undertaken in terms of such air traffic service flight plan;
- (b) the aircraft with which such flight was or is to be undertaken; and
- (c) the operator of such aircraft,

which will enable the Company to calculate an air traffic service charge in respect of such flight or to deliver or post an invoice referred to in subrule (5)(c) to such operator.

(3) Upon a request contemplated in subrule (2), the operator of an aircraft shall furnish to the Company the information or particulars referred to in that subrule.

(4) Any document produced by the Company on which it is recorded that an air traffic service flight plan was activated and that a flight took place in terms of such air traffic service flight plan shall be deemed to be sufficient evidence that the particular flight took place.

(5) The operator of an aircraft which is engaged in a flight in respect of which such operator is liable to pay an air traffic service charge in terms of these rules and in the case where such flight -

- (a) terminates at a company airport, shall pay such air traffic service charge to the Company's representative at that company airport before that aircraft is to take off from that company airport;
- (b) commences at a company airport and terminates at an airport other than a company airport, shall pay such air traffic service charge to the Company's representative at that company airport before that aircraft is to take off from that company airport;
- (c) commences and terminates at airports other than company airports, shall pay such air traffic service charge to the Company within 30 days of receipt of an invoice from the Company in respect of such air traffic service charge,

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

3. *En route charges*

(1) The *en route* charges prescribed in Annexure A for an aircraft engaged in a flight which commenced or terminated at an airport within one of the States mentioned in paragraph 2(b) of Annexure A and which terminated or commenced, as the case may be, at an airport within the Republic, shall only apply -

- (a) where the operator of such aircraft has the right, granted by the South African aeronautical authority, to take on passengers, cargo or mail at the airport of

departure and to discharge those passengers or that cargo or mail at the airport of arrival; or

- (b) where, notwithstanding the provisions of subrule (2) -
 - (i) in the case of such aircraft leaving the Republic, the flight immediately following such flight, will terminate at an airport within the Republic; or
 - (ii) in the case of such aircraft entering the Republic, the flight immediately preceding such flight, commenced at an airport within the Republic,

irrespective of whether or not the right referred to in subparagraph (a) has been granted to the operator of that aircraft.

(2) If an aircraft is engaged in a flight between an airport within one of the States mentioned in paragraph 2(b) of Annexure A and an airport within the Republic, and the operator of that aircraft does not have the right referred to in subrule (1), then -

- (a) if such aircraft is leaving the Republic for an airport within one of the States mentioned in paragraph 2(b), the next airport where such aircraft will land and where the above-mentioned right has been granted to such operator; or
- (b) if such aircraft is entering the Republic from an airport within one of the States mentioned in paragraph 2(b), the previous airport from where such aircraft took off and where the above-mentioned right has been granted to such operator,

shall be deemed to be the other airport for the purpose of calculating the appropriate *en route* charge.

(3) *En route* charges in respect of any aircraft engaged in a flight of which the origin or destination is Australia or New Zealand shall be 20 per cent of the appropriate calculated charges as set out in Annexure A.

(4) No *en route* charge shall be payable in respect of any aircraft with a maximum certificated mass of 2 000 kilograms or less.

(5) No *en route* charge shall be payable in respect of any aircraft engaged in a flight which commences and terminates at the same airport.

(6) A minimum *en route* charge of R10,00 shall be payable by any operator liable to pay an *en route* charge irrespective of the result of the application of the appropriate formula contained in Annexure A.

4. Approach charges

(1) The approach charges prescribed in Annexure B for an aircraft engaged in a flight which commenced at an airport within one of the States mentioned in paragraph 2(b) of Annexure B, shall only apply -

- (a) where the operator of such aircraft has the right, granted by the South African aeronautical authority, to take on passengers, cargo or mail at the said airport of departure and to discharge those passengers or that cargo or mail at the company airport where the flight terminated; or
- (b) where, notwithstanding the provisions of subrule (2), the flight immediately preceding such flight, commenced at an airport within the Republic, irrespective of whether or not the right referred to in subparagraph (a) has been granted to the operator of such aircraft.

(2) If an aircraft is engaged in a flight between an airport within one of the States mentioned in paragraph 2(b) of Annexure B and a company airport, and the operator of that aircraft does not have the right referred to in subrule (1), then the previous airport from where such aircraft took off and where such right has been granted to such operator, shall be deemed to be the airport of departure for the purpose of calculating the appropriate approach charge when landing at that company airport.

(3) A minimum approach charge of R10,00 shall be payable by any operator liable to pay an approach charge irrespective of the result of the application of the appropriate formula contained in Annexure B.

(4) An approach charge in respect of a helicopter shall be 20 per cent of the appropriate approach charge prescribed and set out in Annexure B, for an aircraft of equal maximum certificated mass.

(5) When an aircraft approaches a company airport solely for the purpose of aircrew training, the approach charge shall be 20 per cent of the appropriate charge set out in Annexure B irrespective of the company airport involved and whether or not a landing is involved in such approach.

5. General rules

(1) Air traffic service charges shall be payable in respect of South African and foreign state aircraft, unless other provision has been made by means of an agreement with the Company.

- (2) No air traffic service charge shall be payable in respect of -
- (a) an aircraft engaged in search and rescue operations; and
 - (b) an aircraft engaged in any flight for the calibration of any air navigation infrastructure.

6. Interpretation

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

- (a) "aircraft" means an aircraft as defined in section 1 of the Aviation Act, 1962;
- (b) "air navigation infrastructure" means air navigation infrastructure as defined in section 1 of the Air Traffic and Navigation Services Company Act, 1993 (Act No. 45 of 1993);
- (c) "airport" means an aerodrome as defined in section 1 of the Aviation Act, 1962, and includes a company airport;
- (d) "air traffic service charge" means an *en route* charge and/or an approach charge;
- (e) "air traffic service unit" means an air traffic service unit as defined in regulation 1.00.1 of the Civil Aviation Regulations, 1997, as amended;
- (f) "Company" means the Air Traffic and Navigation Services Company Limited;
- (g) "company airport" means a company airport as defined in section 1 of the Airports Company Act, 1993 (Act No. 44 of 1993);
- (h) "Company's representative" means a person designated by the Company for the purposes of these rules;
- (i) "flight" means a flight as defined in regulation 1.00.1 of the Civil Aviation Regulations, 1997, as amended;
- (j) "maximum certificated mass" means a maximum certificated mass as defined in regulation 1.00.1 of the Civil Aviation Regulations, 1997 as amended;
- (k) "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), or a licensee as defined in section 1 of the International Air Services Act, 1993 (Act No. 60 of 1993);
 - (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, or a permit holder as defined in section 1 of the said Act;
 - (iii) the owner of such aircraft; and