

[View NAM-CATS: Part 48](#)

NAMCAR: PART 48
LEASING OF AIRCRAFT

LIST OF REGULATIONS

SUBPART 1: GENERAL

[48.01.1](#) Application

SUBPART 2: FINANCIAL OR CAPITAL LEASES

[48.02.1](#) Filing of lease agreement

SUBPART 3: OPERATING LEASES

[48.03.1](#) Dry lease-in

[48.03.2](#) Dry lease-out

[48.03.3](#) Wet lease-in

[48.03.4](#) Wet lease-out

[48.03.5](#) Damp leases

SUBPART 4: SUB-CHARTERS

[48.04.1](#) Sub-charters

SUBPART 5: INSURANCE

[48.05.1](#) Insurance

SUBPART 6: TRANSFER OF RESPONSIBILITIES BETWEEN STATES

[48.06.1](#) Article 83 *bis* agreement

[48.06.2](#) Personnel licensing

[48.06.3](#) Airworthiness

[48.06.4](#) Recognition

[48.06.5](#) Transfer of responsibilities

[48.06.6](#) Operations under article 83 *bis*

SUBPART 1: GENERAL

48.01.1 Application

- (1) This Part applies to all aircraft lease agreements involving Namibian air service operators, Namibian registered aircraft and foreign registered aircraft operated by Namibian air service operators.
- (2) The provisions of this Part apply with the necessary changes to any dry lease agreement whereby either the lessor or the lessee is a Namibian entity but not an air service operator.
- (3) The provisions of this Part apply with the necessary changes to any sub-lease agreement.

SUBPART 2: FINANCIAL OR CAPITAL LEASES

48.02.1 Filing of lease agreement

- (1) Any Namibian operator, who enters into a financial or capital lease agreement as lessee in respect of an aircraft, must -
 - (a) provide the Executive Director with a certified copy thereof; and
 - (b) adhere to the provisions of the Convention on the International Recognition of Rights in Aircraft, where applicable.
- (2) Any aircraft, acquired on a financial or capital lease, to be used for the provision of an air service, shall -
 - (a) be deemed to be on a dry lease, and the provisions of Regulation 48.03.1 shall apply with the necessary changes; and
 - (b) be put on the Namibian Civil Aircraft Register, if not already so registered, in accordance with the provisions of Part 47.

SUBPART 3: OPERATING LEASES

48.03.1 Dry lease-in

- (1)
 - (a) An operator who intends to dry lease-in an aircraft for the purpose of providing an air service therewith, shall submit an application to the Executive Director in the appropriate prescribed form signed by both parties, together with the appropriate fee as prescribed in Part 187 for prior approval to dry lease-in the aircraft.
 - (b) Where a dry lease involving a foreign operator is approved by the Executive Director, a copy of the duly completed form, must be forwarded to the International Air Services Council or the Domestic Air Service Council, as applicable, for record keeping purposes.
- (2) The oversight responsibilities in respect of a dry lease-in of a foreign registered aircraft may be fully or partially transferred in terms of an Article 83bis Agreement from the appropriate authority of the State of Registry to the appropriate authority of the State of the Operator.
- (3) Subject to such conditions as he or she may determine, the Executive Director may grant approval for a lease agreement if satisfied that -
 - (a) an aircraft to be leased-in is type-certificated in accordance with the requirements prescribed in Part 21;

- (b) an aircraft to be leased-in shall be maintained in accordance with an approved maintenance programme, the design and application of which shall observe human factors principles, and current manufacturer's maintenance manual;
- (c) an aircraft to be leased-in shall be operated under operating certificate held by a concerned lessee and an applicant shall not operate an air service concerned contrary to any provision of the Act or the Air Services Act, 1949;
- (d) if a foreign-registered aircraft -
 - (i) the transfer of responsibilities, as contemplated in subregulation (2), has been effected;
 - (ii) an appropriate authority of a State of Registry is in a position to carry out its oversight responsibilities effectively;
 - (iii) the duration of a dry lease-in concerned is for a period not exceeding six consecutive calendar months in any 12-months period calculated from the commencement date of such lease; and
 - (iv) the number of foreign registered aircraft leased by a concerned operator constitutes not more than half the number of aircraft listed on that operator's operating certificate.
- (4) When the conditions, contemplated in sub-regulation (3)(d), are not met, the aircraft to be dry leased-in must be registered in Namibia as prescribed in Part 47 of these Regulations, and -
 - (a) the aircraft shall be subject to the airworthiness certification, maintenance, and inspection procedures prescribed by the Regulations in respect of Namibian registered aircraft;
 - (b) the responsibility or custody of the aircraft and control of all operations shall be vested in the lessee operator;
 - (c) the responsibility for the airworthiness and maintenance of the aircraft shall be vested in the lessee operator; and
 - (d) the registration of the aircraft shall be valid only for the duration of the lease agreement, and for as long as the aircraft is operated in accordance with the Regulations, the terms or conditions specified in the lessee operator's operating certificate, the related operations specifications, and the lessee operator's operations and maintenance control manuals.
- (5) The conditions of approval referred to in sub-regulation (3) must be made part of the lease agreement, and in particular must specify the responsibilities of the parties involved in respect of
 - (a) airworthiness of the aircraft and performance of maintenance;
 - (b) signing the maintenance release;
 - (c) flight and cabin crew member certification;
 - (d) crew member training, competency and currency;
 - (e) scheduling of crew members;
 - (f) dispatch or flight-following; and
 - (g) insurance arrangements.
- (6) A dry lease agreement between Namibian operators must include the arrangements concerning the party's respective responsibilities in respect of the airworthiness of the aircraft.

48.03.2 Dry lease-out

- (1) An operator of a Namibian registered aircraft may dry lease-out the aircraft to any other Namibian operator (the lessee), subject to the provisions of sub-regulation (2).
- (2) The provisions referred to in sub-regulation (1), include confirmation in the lease agreement of the parties' respective responsibilities in respect of the continued airworthiness of the aircraft; and that the aircraft will be operated in terms of the operating certificate held by the lessee.
- (3) An operator (the lessor) of a Namibian registered aircraft may dry lease-out the aircraft to any other operator (the lessee) in a Contracting State.
- (4) Upon application by an operator (the lessor) of a Namibian registered aircraft in the appropriate prescribed form, the Executive Director may remove the aircraft from the operating certificate held by such operator.
- (5) The removal, contemplated in sub-regulation (4), in respect of an aircraft to be dry leased-out to an operator in a Contracting State, shall be conditional on -
 - (a) the appropriate authority of the State of the Operator to whom such aircraft is dry leased concluding an Article 83bis Agreement with the Minister of Works and Transport whereby it has accepted responsibility for surveillance of the maintenance and operation of such aircraft in terms of the applicable requirements of Subpart 6; and
 - (b) such aircraft being maintained according to an approved maintenance schedule and current manufacturers maintenance manual.
- (6) When a Namibian registered aircraft is dry leased-out to an operator in a State that is not a Contracting State, the Minister of Works and Transport may not transfer responsibility for surveillance of the maintenance and operation of the aircraft to the relevant authority of that State, and the lessor operator shall be liable for any costs incurred by the Authority in carrying out its oversight function in respect of such aircraft. The lessor operator shall be liable also for any such costs in respect of an aircraft for which no transfer of duties, as contemplated in sub-regulation (5)(a), has been agreed upon.
- (7) The provisions of sub-regulations (5) and (6) shall apply with the necessary changes in respect of a dry leased-out aircraft remaining on the operating certificate of the lessor.

48.03.3 Wet lease-in

- (1) A Namibian operator who intends to wet lease-in an aircraft for the purpose of providing an air service therewith, must -
 - (a) be the holder of an appropriate operating certificate applicable to the category and type of aircraft, as defined in the Air Services Act, 1949; and
 - (b) submit an application to the Executive Director in the appropriate prescribed form, signed by both parties, together with the appropriate fee as prescribed in Part 187 for prior approval to wet lease-in the aircraft. Where the Executive Director approves a wet lease-in involving a foreign operator, a copy of the duly completed form prescribed in Document NAM-CATS 48 must be forwarded to the International Air Services Council or the Air Service Licensing Council, as applicable, for record keeping purposes.
- (2) The duration of the lease agreement concerned, in respect of foreign-registered aircraft, shall be limited to a maximum period of six consecutive calendar months in any 12-months period calculated from the date on which the Executive Director approves the lease.

- (3) The approval referred to in sub-regulation (2) may, subject to such conditions as the Executive Director may determine, be granted if such aircraft -
- (a) is wet leased-in from an operator (the lessor) who is the holder of an operating certificate or similar document issued by an appropriate authority;
 - (b) has been type-certificated by an appropriate authority;
 - (c) holds a valid certificate of airworthiness or similar document issued by an appropriate authority;
 - (d) is maintained and operated in accordance with safety standards at least equivalent to the safety standards referred to in these Regulations in respect of aircraft operated in a commercial air transport operation; and
 - (e) will be operated in terms of the operating certificate or similar document held by the lessor: Provided that, if the operator concerned is a foreign operator, the appropriate authority of the State of the Operator and the Minister of Works and Transport may enter into an Article 83bis Agreement as provided for in Subpart 6 in terms of which it is agreed that the aircraft shall be operated in terms of the operating certificate of the Namibian lessee, and that certain specified oversight responsibilities be transferred from that authority to the Executive Director.
- (4) The lessee must -
- (a) satisfy the Executive Director that the safety standards of the lessor are not less than the applicable safety standards referred to in these Regulations; and
 - (b) ensure that any law applicable to the aircraft to be wet leased-in, and the maintenance or operation thereof, is complied with.
- (5) The total number of wet leased-in aircraft, either foreign or Namibian registered, may not constitute more than half the number of aircraft listed on the operating certificate of the operator referred to in sub-regulation (1) (the lessee).
- (6) The conditions of approval referred to in sub-regulation (1)(b) must be part of the lease agreement between the lessor and the lessee.
- (7) Should any agreement, contemplated in sub-regulation (3)(e), have been concluded, such agreement must be formally registered with the Council of ICAO and the appropriate authority of any third State affected must be notified.

48.03.4 Wet lease-out

- (1)
- (a) The Namibian operator of a Namibian registered aircraft who intends to wet lease-out the aircraft to any non Namibian operator, where the non Namibian operator is licensed in a non contracting State, must remain the operator of the aircraft in terms of his or her operating certificate, and responsibility for surveillance of the maintenance and operation of such aircraft may not be transferred to the appropriate authority of the State of the Operator to which such aircraft is wet leased-out.
 - (b) The provisions of Regulation 48.03.2(6) in respect of the cost of oversight by the Authority shall apply with the necessary changes.
- (2)

- (a) Subject to the provisions of sub-regulation (3), the Namibian operator of a Namibian registered aircraft may wet lease-out the aircraft to any non Namibian operator in a Contracting State.
 - (b) In such case, and upon application by such operator in the prescribed form, the Executive Director may remove the aircraft from the operating certificate held by such Namibian operator: Provided that -
 - (i) the appropriate authority of the State of the Operator to whom such aircraft is wet leased has accepted, in writing, responsibility for surveillance of the maintenance and operation of such aircraft, as provided for in Article 83bis of the Convention; and
 - (ii) such aircraft is maintained according to an approved maintenance schedule.
- (3)
- (a) A non Namibian licensed lessee operator may only use a wet leased-out Namibian registered aircraft, in commercial air transport operations to and from Namibia if the lessee has the underlying traffic rights to enter Namibia.
 - (b) The Namibian registered wet leased aircraft does not need to be listed on the Foreign Operator's Permit of the lessee.
- (4)
- (a) A Namibian operator, intending to wet lease-out an aircraft to another Namibian operator must submit an application to the Executive Director in the appropriate prescribed form as , signed by both parties, together with the appropriate fee as prescribed in Part 187 for prior approval to wet lease out the aircraft.
 - (b) Where the Executive Director approves a wet lease-out of an aircraft to another Namibian operator, a copy of the duly completed form must be forwarded to the Air Services Licensing Council or the International Air Services Council, as applicable, for record keeping purposes.
- (5) Any conditions prescribed in granting such approval must be incorporated by the operators into the lease agreement.
- (6) Notwithstanding the provisions of sub-regulations (4) and (5), the Executive Director may provide any Namibian operator with a list of Namibian operators from whom aircraft may be wet leased-in by such operator without prior approval.
- (7) A Namibian operator, who agrees to wet lease-out an aircraft to another Namibian operator, must remain the operator of the aircraft and must retain the functions and responsibilities prescribed in his, her or its operating certificate.
- (8) Notwithstanding the provisions of sub-regulation (5), the lessee operator, who in terms of the Air Services Act, 1949 is required to be actively and effectively in control of the air service, must ensure that the lessor operator adheres to the conditions of the latter's operating certificate and its operating specifications, which conditions may not be in conflict or less than the conditions of the lessee operator's operating certificate.
- (9) The terms of an approved wet lease agreement between Namibian operators must include -
- (a) the arrangement concerning the operating certificate under which the flights with the leased aircraft shall be operated; and
 - (b) any deviation from the operating certificate under which the flights with the leased aircraft shall be operated.

48.03.5 Damp lease

- (1) When an aircraft is damp leased with only a partial crew (whether flight or cabin crew) the provisions of Regulations 48.03.3 and 48.03.4 applies with the necessary changes in respect of the crew provided as part of the lease, while Regulations 48.03.1 and 48.03.2 applies with the necessary changes in respect of the aircraft provided by the lessee.
- (2) The cabin or flight crew members provided by the lessee for the operation must undergo the Standard Operating Procedures (SOP) training of the lessor prior to the commencement of any commercial air transport operation.

SUBPART 4: SUB-CHARTERS

48.04.1 Sub-charters

- (1) In exceptional circumstances, as contemplated in Document NAM-CATS 48, an operator may sub-charter an aircraft with or without flight crew: Provided that -
 - (a) the sub-charter period does not exceed five consecutive days; and
 - (b) the sub-charterer informs the Executive Director, within 24 hours, of such sub-charter.
- (2) In the case of Part 121 operations, the provisions of sub-regulation (1) apply only to wet lease operations.

SUBPART 5: INSURANCE

48.05.1 Insurance

Any reference to insurance in this Part means a reference to the prescribed compulsory insurance in terms of the Air Services Act, 1949 and the Civil Aviation Act.

SUBPART 6: TRANSFERS OF RESPONSIBILITIES BETWEEN STATES

48.06.1 Article 83bis agreement

- (1) The Minister of Works and Transport, being duly authorised, may in the case of dry or wet leased aircraft in accordance with the requirements contained in this Subpart enter into an Article 83bis Agreement for the transfer of certain or all the functions and duties of the State of Registry of an aircraft to the State of Operator, where such functions and duties can more adequately be discharged by the State of the Operator and thereafter register such agreement with the Council of ICAO.
- (2) The functions and duties, referred to in sub-regulation (1)(a) are the functions and duties allocated by the Convention to the State of Registry in respect of -
 - (a) Article 12 of the Convention: “Rules of the Air”, including the prosecution of all persons violating the rules and Regulations relating to the flight and manoeuvre of aircraft in force in a particular Contracting State;
 - (b) Article 30 of the Convention: “Aircraft radio equipment”, including the installation and operation of radio transmitting apparatus in aircraft operated in the air space of a Contracting State;
 - (c) Article 31 of the Convention: “Certificates of Airworthiness”, the issuing or rendering valid thereof by the State of Registry; and

- (d) Article 32 of the Convention: “Licences of Personnel”, the issuing or rendering valid thereof by the State of Registry.
- (3) The transfer of any function or duty, contemplated in sub-regulation (1)(a) shall not have effect in respect of any other Contracting State before either -
 - (a) the Article 83bis Agreement between the States in which it is embodied has been registered with the ICAO Council and made public pursuant to Article 83; or
 - (b) the existence and scope of the Article 83bis Agreement have been directly communicated to the appropriate authorities of the other Contracting State or States concerned by a State party to the agreement.
- (4) Similarly as provided for in sub-regulation (1), the Minister of Works and Transport may accept certain or all of the functions and duties of the appropriate authority of a State of Registry in respect of an aircraft on that State’s aircraft register and, to the extent provided for in terms of the relevant Article 83bis Agreement, deem such aircraft to be a Namibian aircraft for the purpose of these Regulations.
- (5) If Namibia is a State of an Operator with respect to a dry lease-in or wet lease-in of an aircraft operating under an Article 83 *bis* Agreement, the Executive Director shall transmit, a copy of such Article 83 *bis* Agreement together with a summary thereof in the format as prescribed in Document NAM-CATS 48, to ICAO for registration.
- (6) If Namibia is a State of Registry, with respect to a dry-lease out or a wet-lease out of an aircraft operating under an Article 83 *bis* Agreement, the Executive Director shall transmit a copy of such Article 83 *bis* Agreement together with a summary thereof in the format as prescribed in Document NAM-CATS 48, to ICAO for registration.

48.06.2 Personnel licensing

- (1) A Namibian air services operator who dry leases-in a foreign aircraft must satisfy the Executive Director that -
 - (a) the flight and cabin crew to be designated for duty on the aircraft already possess valid licences or approvals issued by the State of Registry, or that arrangements have been made for such personnel to obtain the necessary licences or approvals; and
 - (b) all the Regulations of the State of Registry in respect of personnel licensing and the allocation, training and checking of flight and cabin crew are adhered to.
- (2) If there is reasonable belief that the lessee operator is not complying with the appropriate Regulations of the State of Registry, contemplated in sub-regulation (1)(b), the appropriate authority of that State must be advised and a request made that the matter be investigated.
- (3) In terms of an Article 83bis Agreement as contemplated in Regulation 48.06.01, Namibia may take responsibility for oversight of the matters contemplated in sub-regulation (1)(b).
- (4) The Executive Director may, on conditions prescribed by him or her, issue validations to the lessee operator’s flight and cabin crew members, designated for duty in respect of a Namibian aircraft, dry leased-out to a foreign operator.
- (5) A validation, contemplated in subregulation (4), may be issued in the format prescribed in Document NAM-CATS 48.

48.06.3 Airworthiness

- (1) A Namibian air services operator who dry leases-in a foreign aircraft must satisfy the Executive Director that -

- (a) the AMO, responsible for the continued airworthiness of the aircraft, already possesses valid licences or approvals issued by the State of Registry, or that arrangements have been made for such organisation to obtain the necessary licences or approvals; and
 - (b) the organisation, contemplated in paragraph (a), must carry out its maintenance functions in accordance with all the applicable Regulations of the State of Registry.
- (2) In the case of a reasonable belief that the lessee operator is not complying with the applicable Regulations of the State of Registry, the appropriate authority of that State must be advised and a request made that the matter be investigated.
 - (3) In terms of an agreement as contemplated in Regulation 48.06.01, the Minister of Works and Transport may take responsibility for oversight of the matters contemplated in sub-regulation (1)(b).
 - (4) In respect of an aircraft, dry leased-out to a foreign operator, the Executive Director may, on conditions prescribed by him or her, approve a foreign-based AMO to carry out all or part of the maintenance on the aircraft in accordance with the aircraft's approved maintenance schedule and remove the aircraft from the Namibian Civil Aircraft Register for the duration of the dry lease-out, facilitating its registration in the State of the Operator.

48.06.4 Recognition

- (1) The Executive Director shall recognise an Article 83bis Agreement between two Contracting States that have ratified Article 83bis whereby the State of the Operator is substituted for the State of Registry, within the limits established by the transfer arrangements, provided that -
 - (a) the Article 83bis Agreement has been duly registered with ICAO; or
 - (b) the affected third-party States have been informed directly by at least one of the States party to the Article 83bis Agreement.
- (2) The Executive Director is not obliged to recognise the transfer of functions and duties between States that are not parties to Article 83bis or States that are parties to it, but which have not registered the Article 83bis Agreement with ICAO or where Namibia has not been informed directly by at least one of the States party to the Article 83bis Agreement, of the transfer.
- (3) The Executive Director shall recognize the validity of licences and certificate where Contracting States, that have ratified Article 83bis, have transferred the authority to render valid or to renew crew licences, radio licences and certificates of airworthiness pursuant to Article 83bis from the State of Registry to the State of the Operator, if he or she has been officially informed of such transfer, provided that these licences and certificates have been issued, rendered valid or renewed by the appropriate authority of the State of the Operator fully meeting the requirements of Annexes 1 and 8 to the Convention.

48.06.5 Transfer of responsibilities

- (1) The Article 83bis Agreement must specifically mention the functions and duties to be transferred and those functions not mentioned will be deemed to remain with the State of Registry. A listing of responsibilities regarding airworthiness that may or may not be transferred between States is contained in Document NAM-CATS 48.
- (2) Where an Article 83bis Agreement has been concluded, the State of Registry shall be relieved of responsibility and, where applicable, of liability in respect of the functions and duties duly transferred to the Authority, and the latter must apply these Regulations.

- (3) The Department of Transport must ensure that prescribed information concerning the existence of an Article 83bis Agreement relating to aircraft operating to or from Namibia's territory is promptly relayed to any Namibian authority involved in inspection.
- (4) For the purpose of identifying individual States' responsibility for safety oversight on the occasion of any verification process, such as ramp inspections, a certified true copy of the Article 83bis Agreement and of the operating certificate under which the aircraft is operated and in which it is listed must be carried on board the aircraft at all times while the Article 83bis Agreement is in force.
- (5) Document NAM-CATS 48 contains examples of suitable Article 83bis Agreements.

48.06.6 Operations under article 83 bis

- (1) An operator of an aircraft operating under an Article 83 *bis* Agreement shall ensure that a certified copy of such Article 83 *bis* Agreement summary referred to in regulation 48.06.1 and an English translation thereof where such agreement summary is issued in a language other than English, is carried on board such aircraft.
- (2) An operator of an aircraft operating under an Article *bis* Agreement shall on request by an authorised officer, inspector, or authorised person, make such Article 83 *bis* Agreement summary available in order to determine which functions and duties have been transferred under such Agreement by a State of Registry to a State of an Operator, when conducting surveillance activities, such as ramp checks.

View NAMCAR: Part 48

NAM-CATS 48
Leasing of Aircraft

LIST OF TECHNICAL STANDARDS

48.04.1 **SUB-CHARTERS**

1. Sub-charter with or without flight crew

48.06.5 **TRANSFER OF RESPONSIBILITIES**

1. Responsibilities transferable between States
2. Example of an agreement between States

DRAFT

48.04.1 SUB-CHARTERS

1. Sub-charter with or without flight crew

An operator may sub-charter an aircraft or flight crew or both an aircraft and flight crew in circumstances where such operator is faced with an immediate, urgent and unforeseen need for a replacement aircraft or flight crew or both.

48.06.5 TRANSFER OF RESPONSIBILITIES

1. Responsibilities transferable between States

The following are responsibilities that may be transferred between States:

RESPONSIBILITIES OF [STATE 1] AND [STATE 2] REGARDING AIRWORTHINESS

| ICAO Doc | Subject | Responsibilities of the State of Registry ([State 1]) | Responsibility of the State of Operator ([State 2]) |
|---|--|--|---|
| Annex 8, Part II, Chapter 4; Doc 9760, Volume II, Part B, Chapter 8 | Mandatory continuing airworthiness information | Ensure that [State 2 – CAA] and the [operator] receive all the applicable mandatory continuing airworthiness information | Ensure that the [operator] complies with mandatory continuing airworthiness information transmitted by [State 1 – CAA] |
| Annex 6, Part I, 5.2.4 | Operation of aircraft in compliance with its certificate of airworthiness (C of A) | | Assume State of Registry’s responsibility as defined in 5.2.4 of Annex 6, Part 1 |
| Annex 6, Part I, 8.1.2 | Operator’s maintenance responsibility | Approve maintenance organisations used by the [operator] except for line stations away from operator’s main base | Approve line stations from the [operator’s] main base |
| Annex 6, Part I, 8.2.1 to 8.2.4 | Operator’s maintenance control manual (MCM) | | Ensure that guidance is contained in the MCM, approve the MCM and transmit a copy to [State 1 – CAA] |
| Annex 6, Part I, 8.4.1 to 8.4.3 | Maintenance records | Inspect maintenance records and documents every six months | Ensure that records are kept in accordance with 8.4.1 to 8.4.3 of Annex 6, Part I, and inspect in accordance with the requirements of the AOC |
| Annex 6, Part I, 8.5.1 to 8.5.2 | Continuing airworthiness information | Ensure that the airworthiness requirements of [State 1] are known to both [State 2 – CAA] and [operator] | Ensure that the airworthiness requirements of [State 1] and [State 2] are complied with and adequate procedures are incorporated in the MCM |
| Annex 6, Part I, 8.6; Doc 9760, Volume II, Part B, Chapter II, attachment to – A | Modifications and repairs | Ensure that they have been previously approved by the States of Design and of Manufacture | Ensure that the requirements are contained in the MCM and approve the MCM |

2. Example of an agreement between States

The following is an example of an Article 83bis agreement:

MODEL AGREEMENT

Model Agreement between [State 1] and [State 2] on the implementation of Article 83bis of the Convention

WHEREAS the Protocol relating to Article 83bis of the Convention on International Civil Aviation (Chicago, 1944) (hereinafter referred to as "the Convention"), to which [State 1] and [State 2] are parties, entered into force on 20 June 1997;

WHEREAS Article 83bis, with a view to enhanced safety, provides for the possibility of transferring to the State of the Operator all or part of the State of Registry's functions and duties pertaining to Articles 12, 30, 31 and 32 a) of the Convention;

WHEREAS, in line with Doc 9760 (Airworthiness Manual), Volume II, Part B, Chapter 10, and in light of Doc 8335 (Manual of Procedures for Operations Inspection, Certification and Continued Surveillance), Chapter 10, it is necessary to establish precisely the international obligations and responsibilities of [State 1] (State of Registry) and [State 2] (State of the Operator) in accordance with the Convention;

WHEREAS, with reference to the relevant Annexes to the Convention, this Agreement organizes the transfer from [State 1] to [State 2] of responsibilities normally carried out by the State of Registry, as set out in Sections 3 and 4 below;

The Government of [State 1], represented by its [Civil Aviation Authority], and the Government of [State 2], represented by its [Civil Aviation Authority],

Hereinafter referred to as "the Parties", have agreed as follows on the basis of Articles 33 and 83bis of the Convention:

ARTICLE I - SCOPE

Section 1. [State 1] shall be relieved of responsibility in respect of the functions and duties transferred to [State 2], upon due publicity or notification of this Agreement as determined in paragraph b) of Article 83bis.

Section 2. The scope of this Agreement shall be limited to [types of aircraft] on the register of civil aircraft of [State 1] and operated under leasing arrangement by [operator], whose principal place of business is in [State 2]. The list of aircraft concerned, identified by type, registration number and serial number, is reproduced in Attachment I, which also indicates the term of each leasing arrangement.

ARTICLE II - TRANSFERRED RESPONSIBILITIES

Section 3. Under this Agreement, the Parties agree that [State 1] transfers to [State 2] the following functions and duties, including oversight and control of relevant items contained in the respective Annexes to the Convention:

Annex 1: Personnel Licensing, issuance and validation of licences.

Annex 2: Rules of the Air, enforcement of compliance with applicable rules and regulations relating to the flight and manoeuvre of aircraft.

Annex 6: Operation of Aircraft (Part1-International Commercial Air Transport Aeroplanes), all responsibilities which are normally incumbent on the State of Registry. Where responsibilities in Annex 6, Part 1, may conflict with responsibilities in Annex 8 -Airworthiness of Aircraft, allocation of specific responsibilities is defined in Attachment 2.

Section 4. Under this Agreement, while [State 1] will retain full responsibility under the Convention for the regulatory oversight and control of Annex 8-Airworthiness of Aircraft, the responsibility for the approval of line stations used by the [operator], which are located away from its main base, is transferred to [State 2]. The procedures related to the continuing airworthiness of aircraft to be followed by the [operator] will be contained in the operator's maintenance control manual (MCM). Attachment 2 hereunder describes the responsibilities of the Parties regarding the continuing airworthiness of aircraft.

ARTICLE III - NOTIFICATION

Section 5. Responsibility for notifying directly any States concerned of the existence and contents of this Agreement pursuant to Article 83bis) rests with [State 2] as the State of the Operator, as needed. This Agreement, as well as any amendments to it, shall also be registered with ICAO by [State 1] as the State of Registry or [State 2] as the State of the Operator, as required by Article 83 of the Convention and in accordance with the Rules for Registration with ICAO of Aeronautical Agreements and Arrangements (Doc 6685).

Section 6. A certified true copy [in each language] of this Agreement shall be placed on board each aircraft to which this Agreement applies.

Section 7. A certified true copy of the air operator certificate (AOC) issued to [operator] by [State 2], in which the aircraft concerned will be duly listed and properly identified, will also be carried on board each aircraft.

ARTICLE IV - COORDINATION

Section 8. Meetings between [State 1-CAA] and [State 2-CAA] will be held at [three-] month intervals to discuss both operations and airworthiness matters resulting from inspections that have been conducted by respective inspectors. For the sake of enhanced safety, these meetings will take place for the purpose of resolving any discrepancies found as a result of the inspections and in order to ensure that all parties are fully informed about the [operator's] operations. The following subjects will be among those reviewed during these meetings:

- . Flight operations
- . Continuing airworthiness and aircraft maintenance
- . Operator's MCM procedures, if applicable
- . Flight and cabin crew training and checking
- . Any other significant matters arising from inspections

Section 9. Subject to reasonable notice, [State 1-CAA] will be permitted access to [State 2-CAA] documentation concerning [operator] in order to verify that [State 2] is fulfilling its safety oversight obligations as transferred from [State 1].

Section 10. During the implementation of this Agreement, and prior to any aircraft subject to it being made the object of a sub-lease, [State 2], remaining the State of the Operator, shall inform [State 1]. None of the duties and functions transferred from [State 1] to [State 2] may be carried out under the authority of a third State without the express written agreement of [State 1].

ARTICLE V - FINAL CLAUSES

Section 11. This Agreement will enter into force on its date of signature, and come to an end for aircraft listed in Attachment I at the completion of the respective leasing arrangements under which they are operated. Any modification to the Agreement shall be agreed by the parties thereto in writing.

Section 12. Any disagreement concerning the interpretation or application of this Agreement shall be resolved by consultation between the Parties.

Section 13. In witness thereof, the undersigned directors of civil aviation of [State 1] and [State 2] have signed this Agreement.

For the Government of [State 1]

For the Government of [State 2]

[Signature]

[Signature]

[Name, title, place and date]

[Name, title, place and date]

Attachments:

Attachment I: Aircraft Affected by this Agreement

Attachment 2: Responsibilities of [State 1] and [State 2] Regarding Airworthiness

Attachment 3: Article 83 *bis* agreement summary

Attachment 1

AIRCRAFT AFFECTED BY THIS AGREEMENT

Aircraft type:

Registration number:

Serial number:

Leasing term:

Date:

Attachment 2

RESPONSIBILITIES OF [STATE 1] AND [STATE 2] REGARDING AIRWORTHINESS

| ICAO Doc | Subject | Responsibilities of the State of Registry ([State 1]) | Responsibility of the State of Operator ([State 2]) |
|--|--|--|---|
| Annex 8, Part II, Chapter 4; Doc 9760, Volume II, Part B, Chapter 8 | Mandatory continuing airworthiness information | Ensure that [State 2 – CAA] and the [operator] receive all the applicable mandatory continuing airworthiness information | Ensure that the [operator] complies with mandatory continuing airworthiness information transmitted by [State 1 – CAA] |
| Annex 6, Part I, 5.2.4 | Operation of aircraft in compliance with its certificate of airworthiness (C of A) | | Assume State of Registry’s responsibility as defined in 5.2.4 of Annex 6, Part 1 |
| Annex 6, Part I, 8.1.2 | Operator’s maintenance responsibility | Approve maintenance organisations used by the [operator] except for line stations away from operator’s main base | Approve line stations from the [operator’s] main base |
| Annex 6, Part I, 8.2.1 to 8.2.4 | Operator’s maintenance control manual (MCM) | | Ensure that guidance is contained in the MCM, approve the MCM and transmit a copy to [State 1 – CAA] |
| Annex 6, Part I, 8.4.1 to 8.4.3 | Maintenance records | Inspect maintenance records and documents every six months | Ensure that records are kept in accordance with 8.4.1 to 8.4.3 of Annex 6, Part I, and inspect in accordance with the requirements of the AOC |
| Annex 6, Part I, 8.5.1 to 8.5.2 | Continuing airworthiness information | Ensure that the airworthiness requirements of [State 1] are known to both [State 2 – CAA] and [operator] | Ensure that the airworthiness requirements of [State 1] and [State 2] are complied with and adequate procedures are incorporated in the MCM |
| Annex 6, Part I, 8.6; Doc 9760, Volume II, Part B, Chapter II, attachment to – A | Modifications and repairs | Ensure that they have been previously approved by the States of Design and of Manufacture | Ensure that the requirements are contained in the MCM and approve the MCM |

Annex 6, Part 1, 8.7 and 8.8

Approved maintenance organisation and maintenance release

Responsibilities of the State of Registry ([State 1])

Approval of the [operator's] base maintenance organization and procedures in accordance with 8.7 and 8.8 of Annex 6, Part I, and communication to [State 2-CAA] of related procedures to be included in the MCM.

Responsibilities of the State of the Operator ([State 2])

Approval of the [operator's] line maintenance arrangements away from base. Ensure that procedures are contained in the MCM and approve the MCM.

Attachment 3

| ARTICLE 83 bis AGREEMENT SUMMARY | | | | | | | |
|--|------------------------------------|---|----------------------------------|---------------------------------------|---|--------------------------|--|
| Title of the Agreement: | | | | | | | |
| State of Registry: | | | | | Focal point: | | |
| State of Operator: | | | | | Focal point: | | |
| Date of signature: | | By State of Registry ¹ : | | | | | |
| | | By State of the Operator ¹ : | | | | | |
| Duration: | | Start date ¹ : | | | End Date (if applicable) ² : | | |
| Languages of the Agreement: | | | | | | | |
| ICAO Registration No.: | | | | | | | |
| Umbrella Agreement (if any) with ICAO Registration number: | | | | | | | |
| Chicago Convention | | ICAO Annexures affected by the transfer to the State of the Operator of responsibility in respect of certain functions and duties | | | | | |
| Article 12: Rules of the Air | | Annex 2, all chapters | | | Yes | <input type="checkbox"/> | |
| | | | | | No | <input type="checkbox"/> | |
| Article 30 a): Aircraft radio equipment | | Radio Station Licence | | | Yes | <input type="checkbox"/> | |
| | | | | | No | <input type="checkbox"/> | |
| Articles 30 b) and 32 a): Personnel Licensing | | Annex 1, Chapters 1, 2, 3 and Annex 6 Part I, Radio Operator or Part III, section II, Composition of the flight crew (radio operator) and/or Part II, Qualifications and/or Flight crew member licensing or Part III, Section III, Qualifications | | | Yes | <input type="checkbox"/> | Annex 6: [Specify Part and paragraph] ³ |
| | | | | | No | <input type="checkbox"/> | |
| Article 31: Certificates of Airworthiness | | Annex 6 Part I or Part III, Section II | | | Yes | <input type="checkbox"/> | [Specify Part and chapters] ³ |
| | | | | | No | <input type="checkbox"/> | |
| | | Annex 6 Part II or Part III, Section III | | | Yes | <input type="checkbox"/> | [Specify Part and chapters] ³ |
| | | | | | No | <input type="checkbox"/> | |
| | | Annex 8 Part II, Chapters 3 and 4 | | | Yes | <input type="checkbox"/> | [Specify chapters] ³ |
| | | | | | No | <input type="checkbox"/> | |
| Aircraft affected by the transfer of responsibilities to the State of the Operator | | | | | | | |
| Aircraft make, model, series | Nationality and Registration marks | Serial no | AOC # (Commercial air transport) | Dates of transfer of responsibilities | | | |
| | | | | From ¹ | To (if applicable) ² | | |
| | | | | | | | |