

# NAM-CATS 48

## Leasing of Aircraft

### 1. INTRODUCTORY NOTES

- 1.1 *Section 227 of the Civil Aviation Act, 2016 empowers the Executive Director of Civil Aviation to issue technical standard for civil aviation. Section 227 of the Civil Aviation Act, 2016 further empowers the Executive Director of Civil Aviation to incorporate into a technical standard any international aviation standard or any amendment without publishing the text of such standard or any amendment by mere reference to the title, number and year of issue of such standard or amendment or to any other particulars by which such standard or amendment is sufficiently identified.*
- 1.2 *The Executive Director of Civil Aviation has, pursuant to the empowerment mentioned above, issued technical standards relating to Regulation Part 48 (Standards Relating to the Leasing of Aircraft) to be known as Document NAM-CATS-48.*
- 1.3 *Document NAM-CATS-48 comprises the standards, rules, requirements, methods, specifications, characteristics and procedures which are applicable in respect of the leasing of aircraft.*
- 1.4 *Each reference to a technical standard in this document, is a reference to the corresponding regulation in the Namibian Civil Aviation Regulations.*
- 1.5 *Where there is any perceived disparity of meaning or inconsistency between these technical standards and the regulations, the provisions of the regulations will take precedence.*
- 1.6 *Where there is a difference between a standard or procedure prescribed in ICAO documents and the Civil Aviation Technical Standards (CATS), the CATS standard will prevail.*
- 1.7 *The abbreviation “CAR” is used throughout this document when referring to any civil aviation regulation.*

1.8 *The abbreviations “TS” or “CATS” are used throughout this document when referring to any technical standard.*

1.9 *In this document the words “Executive Director” refers to the chief executive officer of the Authority appointed pursuant to section 34 of the Civil Aviation Act 2016 being the Executive Director of Civil Aviation.*

## **2. AMENDMENTS TO THE TECHNICAL STANDARDS**

2.1 *The NCAA Airworthiness Division has responsibility for the technical content of this technical standard.*

2.2 *This technical standard is issued, and may only be amended, under the authority of the Executive Director of Civil Aviation.*

2.3 *Requests for changes to the content of this technical standard must be forwarded to the Executive Director and may come from:*  
*(a) technical areas within NCAA; or*  
*(b) aviation industry service providers or operators; or*  
*(c) pilots, engineers and maintenance organization staff.*

2.4 *The need to change the content of this technical standard may arise for any of the following reasons:*

*(a) to ensure safety;*

*(b) to ensure standardisation;*

*(c) to respond to changed NCAA regulations or standards;*

*(d) to respond to changes initiated by ICAO;*

*(e) to accommodate proposed initiatives or new technologies.*

2.5 *The NCAA may approve trials of new procedures or technologies to develop appropriate standards.*

### **48.04.1**

#### **SUB-CHARTERS**

##### **1.**

**Sub-charter with or without flight crew**

An operator may sub-charter an aircraft 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.

#### 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])	Responsibilities 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, <a href="#">Part 1</a>
Annex 6, Part I, 8.1.2	Operator's maintenance responsibilities	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, –Part III, Chapter 10, Attachment A to Chapter 10	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 I, 8.7 to 8.8	Approved maintenance organization and maintenance release	Approval of the [operator's] base maintenance organization and procedures in accordance with 8.7 to 8.8 of Annex 6, Part I, and communication to [State 2-CAA] of related procedures to be included in the MCM.	Approval of the [operator's] line maintenance arrangements away from base. Ensure that procedures are contained in the MCM and approve the MCM.

## 2.

### Example of an agreement between States

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

#### MODEL AGREEMENT

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

**WHEREAS** the Protocol relating to Article 83*bis* 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 83*bis*, 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 83*bis* 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 83*bis*.

**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 83 *bis*) *b*) 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 1 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 1**  
**AIRCRAFT AFFECTED BY THIS AGREEMENT**

Aircraft type	Registration number	Serial number	Leasing term
[A320]			[date]
[B737]			[date]
[E120]			[date]
[IL62]			[date]

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

ICAO Doc	Subject	Responsibilities of the State of Registry ([State 1])	Responsibilities 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, <a href="#">Part 1</a>
Annex 6, Part I, 8.1.2	Operator's maintenance responsibilities	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, – Part III, Chapter 10, Attachment A to Chapter 10	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 I, 8.7 to 8.8	Approved maintenance organization and maintenance release	Approval of the [operator's] base maintenance organization and procedures in accordance with 8.7 to 8.8 of Annex 6, Part I, and communication to [State 2-CAA] of related procedures to be included in the MCM.	Approval of the [operator's] line maintenance arrangements away from base. Ensure that procedures 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.