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NOTICE UNDER SECTION 11(2) OF THE TRANSPORT ACT 2000

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Proposed Modifications to the Air Traffic Services Licence of NATS (En Route) PLC

The Civil Aviation Authority ("the CAA") hereby gives notice pursuant to section 11(2) of the Transport Act 2000 of a proposal to make modifications to Conditions 1, 5, 6, 10, 20, 21, 23, 24 and Schedule 1 of the air traffic services licence held by NATS (En Route) PLC ("the Licensee"). The proposed modifications are generally technical in nature or correct minor errors and omissions in the Licence. The exception is Condition 23 where the proposal is for a reduction from two months to one month in the period for the notification to the CAA of changes in North Sea Helicopter charges and in Terminal Approach Service charges. The proposed modifications and the reasons for them are as follows:

Condition 1 (3)

Insert the following definition:

" **financial year**" means both the financial year in respect of which the Licensee prepares its accounts for the purposes of the Companies Act 1985 and that in respect of which it prepares its accounts for the purposes of Condition 6."

This change is consequent upon the proposed modification to Condition 10 below in respect of the timing of the submission of the Business Plan Report.

Condition 1(3)

In the definition of "Licensee" amend "NATS (En Route) Limited" to "NATS (En Route) PLC"

This change is consequent upon the re-registering of the regulated company on 30 June 2003 as a public limited company.

Condition 1 (3)

In the definition of "Permitted Purpose", the reference in (b) to "sub-paragraphs (i) to (vii) of paragraph 5(b) of Condition 5" should be changed to "sub-paragraphs (i) to (vii) of paragraph 19(b) of Condition 5".

This is a consequence of earlier modifications to Condition 5 and simply corrects a cross-reference.

Condition 5 (19) (b) (v)

The reference to "sub-paragraph 0" should be changed to "sub-paragraph (a)" to correct a cross-reference.

Condition 6 (8)

Delete the following definition from Condition 6 (8):

“ **“financial year”** means both the financial year in respect of which the Licensee prepares its accounts for the purposes of the Companies Act 1985 and that in respect of which it prepares its accounts for the purposes of this Condition.”

This change is consequent upon the proposed modification to Condition 10 (below) in respect of the timing of the submission of the business plan report.

Condition 10 (3)

Replace: “Every year, not later than the anniversary of the business plan in each year, the Licensee shall submit:

- (a) a service and investment plan fulfilling the requirements of Paragraph 5 of this Condition; and
- (b) a business plan report fulfilling the requirements of Paragraph 6 of this Condition which shall relate to the period since the previous date on which a business plan or business plan report was submitted.”

With: “Every year the Licensee shall submit:

- (a) not later than the anniversary of the business plan in each year, a service and investment plan fulfilling the requirements of Paragraph 5 of this Condition”
- (b) not later than 4 months after the end of the financial year, a business plan report fulfilling the requirements of Paragraph 6 of this Condition which shall relate to the previous financial year.”

Currently, because the submission of the Business Plan Report is directly linked to the date of the Business Plan the Licensee has to produce the Business Plan Report before its accounts have been prepared for the end of the financial year. The Licensee argues that this adds to the cost of compliance and produces results that have less value. It is therefore proposed that the Business Plan Report should be produced after the accounts have been produced. Under the proposed modification the Licensee would have to submit the Business Plan Report no later than 4 months after the end of the financial year.

Conditions 20 and 21

The current charge control conditions include a description of two options for how charges would be set in 2004 and 2005 depending on whether or not the CAA issued a statement confirming the Composite Solution. Given that the CAA issued such a statement in March 2003, the description of one of the two options is made redundant. The following modifications a) to d) are therefore intended to simplify the Licence.

- a) Condition 20(3)(b)

Replace: “For the year starting on 1 January 2003; and if the CAA has published a statement in particular terms on or before 30 September 2003, for the years starting on 1 January 2004 and 1 January 2005;”

With: “For the years starting on 1 January 2003, 1 January 2004 and 1 January 2005,”

- b) Condition 20(3)(c)

Delete all of this section.

- c) Condition 21(3)

Delete the following from the beginning of this section:

"If the CAA has published a statement on or before 30 September 2003 in the following terms:

"The CAA considers that the licensee has achieved the following objectives:

- (a) to provide a robust financial structure for NERL;
- (b) to place control of NERL with management and shareholders; and
- (c) to demonstrate that equitable contributions have been made by NATS' investors and shareholder."

Replace: "Then the Maximum ..."

With: "The Maximum ..."

- d) Condition 21 (4)

Delete all of this paragraph and renumber paragraph 5 as paragraph 4. Consequently all references in Condition 21 to paragraph 5 would be modified to refer to paragraph 4.

Condition 21 (3)

Replace:

" I_t means the average of the Treasury Bill Discount Rate (expressed as an annual percentage interest rate) published weekly by the Bank of England, during the 12 months from the 1st September in Relevant Year $t - 1$ where the value of $((Q_{t-1}M_{t-1}) - TR_{t-1})$ is positive, or 3 per cent per annum above this average rate where the value is negative."

With:

" I_t means the average of the yield (expressed as an annual percentage interest rate) on 3 month Treasury Bills published weekly by the UK Debt Management Office, during the 12 months from the 1st September in Relevant Year $t - 1$ where the value of $((Q_{t-1}M_{t-1}) - TR_{t-1})$ is positive, or 3 per cent per annum above this average rate where the value is negative."

This is a technical change to reflect the current way in which the relevant interest rates are published.

Condition 23 (1)

Replace "two months" with "one month".

This modification would reduce the period for the advance notice to the CAA of changes in charges for North Sea Helicopters from two months to one month.

The Licensee considers that the present timescales are impractical in the context of the arrangements for consulting users on charges for these services.

Condition 23 (2)

Replace "two months" with "one month".

This modification would reduce from two months to one month the period for the advance notice to the CAA of changes in charges for Terminal Approach Services (other than changes to charges which are specified in or ascertainable from contracts existing at the time of the grant of the Licence) following consultation with users.

This modification would bring the timescales into line with those being proposed for Condition 23(1) and 24(3).

Condition 24 (3)

Replace: "not later than one month prior to the date the CAA publishes the charges in accordance with sections 74-81 of the Act"

With: "not later than one month prior to the date it intends to give effect to such change"

Currently if the Licensee wishes to change Oceanic charges, it is required to submit information to the CAA one month before the CAA publishes the changes. The Licensee has no control over when the CAA publishes the relevant changes neither can it confidently predict when publication will take place.

Schedule 1 (1)

Replace: "in section 2-1-1"

With "in sections 2-1-1 and 2-1-2"

This corrects an omission in the Licence.

Any representations concerned the proposed modifications set out in this notice should be made by no later than **Friday 10 October 2003** to:

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Civil Aviation Authority
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London
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Or preferably by e-mail to: paul.taylor@caaerg.org.uk

All responses will be treated as public information and the CAA will place copies on its website soon after the end of the consultation period.

PK Taylor
Licence Manager
10 September 2003