

EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION

EUROCONTROL

- Measures of the Permanent Commission -

MEASURE N°06/122

delegating authority to the Agency to conclude a bilateral agreement relating to terminal charges with Croatia Control Ltd

THE PERMANENT COMMISSION,

Having regard to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation, as amended at Brussels on 12 February 1981, and in particular Articles 2.2(c), 6.3, 11.3 and 12 thereof,

Having regard to the Multilateral Agreement relating to Route Charges, dated 12 February 1981, and in particular Articles 3.2. (i) and (j) thereof;

On the proposal of the Agency, the enlarged Committee and the Provisional Council

HEREBY TAKES THE FOLLOWING MEASURE:

The Agency is delegated authority to conclude a bilateral agreement relating to terminal charges with Croatia Control Ltd, on the basis of the draft agreement attached, which shall be signed on behalf of the Organisation by the Director General of the Agency.

Done at Brussels on 30.08.06

For the President of the Commission,

To be signed

B. KVASNICA
Vice-President of the Commission

Draft Agreement
between
The European Organisation For The Safety Of Air Navigation (EUROCONTROL)
and
Croatia Control Ltd
relating to
Terminal Charges

The European Organisation for the Safety of Air Navigation (EUROCONTROL), represented by its Director General, hereinafter referred to as "EUROCONTROL",

and

Croatia Control Ltd, hereinafter referred to as "CCL",

Having regard to the provisions of Articles 2 § 2(c), 6 § 3, 11 § 3 and 12 of the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960 as amended at Brussels in 1981;

Having regard to the provisions of Article 3 § 2(i) of the Multilateral Agreement relating to Route Charges of 12 February 1981;

Having regard to the Measure N° { } taken by the Commission on { } delegating authority to the Agency to conclude a bilateral agreement relating to terminal charges with Croatia Control Ltd.

HAVE AGREED AS FOLLOWS:

ARTICLE 1 - (Purpose)

CCL hereby entrusts EUROCONTROL with the calculation, billing, accounting and collection on its behalf of charges for terminal air navigation services in accordance with the laws and regulations in force in Croatia, and with the provisions set out in Annex I to this Agreement.

ARTICLE 2 - (Billing and Payment of Terminal Charges)

The terminal charges shall be billed in Euros and payable to EUROCONTROL in accordance with the Conditions of Payment set out in Annex I.

ARTICLE 3 - (Treatment of Claims and Information to Users)

EUROCONTROL is entrusted with the treatment of claims submitted by users. EUROCONTROL shall provide to the users information in respect of the terminal charges.

ARTICLE 4 - (Collection of Terminal Charges)

EUROCONTROL shall collect the terminal charges and take appropriate actions where a debtor has not paid the amount due. For that purpose, the terminal charges shall constitute a claim by EUROCONTROL, in accordance with the provisions set out in Annex I.

ARTICLE 5 - (Disbursement of Terminal Charges)

Terminal charges collected by EUROCONTROL on behalf of CCL in performance of this task shall be remitted, inclusive of accrued interests, if any, but exclusive of bank charges incurred by EUROCONTROL relating to the collection of terminal charges, to CCL, in accordance with the provisions set out in Annex I.

ARTICLE 6 - (Accounting)

- 6.1. EUROCONTROL shall produce annual accounts for the terminal charges in the form of a Balance Sheet and Income and Expenditure account. The accounts shall be produced according to accepted international standards. The accounts shall be expressed in Euros.
- 6.2. EUROCONTROL shall, on request, agree that the audit of the financial operations on behalf of CCL be effected in accordance with the Financial Regulations and the Rules

of Application of those Regulations applicable to the EUROCONTROL Route Charges System.

- 6.3. CCL may, at its own request, or at the invitation of EUROCONTROL, participate in the auditing of the EUROCONTROL accounts in respect of the terminal charges.

ARTICLE 7 - (Transmission of Data)

Flight data collection and transmission to EUROCONTROL shall be the sole responsibility of CCL. Those data transmitted by CCL for the purpose of calculating EUROCONTROL route charges shall be used.

ARTICLE 8 - (Costs)

- 8.1. The costs in respect of the execution of this Agreement shall be calculated on an annual basis.

The collection costs for the four months period starting on 1st September 2006 (operational phase) are estimated at EUR 15.000.

- 8.2. A breakdown of the above costs and the method of calculation are shown in Annex II to this Agreement.

- 8.3. The costs in respect of the execution of this Agreement shall be assessed on the basis of the most realistic estimates possible at the time of conclusion of this Agreement and the current rules for the charging of Agency services adopted by EUROCONTROL's governing bodies.

If the charging rules of the Agency are modified, the new rules shall apply to this Agreement with effect from the date of their entry into force. Any revision of the costs shall be taken into account where it has been duly approved by EUROCONTROL's governing bodies.

- 8.4. The amount due by CCL to EUROCONTROL for the purposes of this Agreement shall correspond to the costs in respect of the execution of this Agreement, i.e. the costs incurred by EUROCONTROL in respect of the tasks performed by it, as certified by the EUROCONTROL financial services.

ARTICLE 9 - (Payment of the Costs)

CCL shall make advance payments equal to one quarter of the annual costs in respect of the execution of this Agreement, commencing from the start date of operations and then at intervals of three months.

At the end of each calendar year EUROCONTROL shall draw up a statement of expenditure, subject to the revision arrangements provided for in § 8.3 above and of the amounts paid by CCL. Negative or positive balances shall be billed or reimbursed to CCL.

The bills shall be drawn up by EUROCONTROL in euro and paid to EUROCONTROL in the same currency within 30 days following the date of the bills.

ARTICLE 10 - (Liability)

CCL shall indemnify EUROCONTROL and its staff against any claims by third parties for damages incurred as a result of executing the terms and conditions of this Agreement except in the case of gross negligence or wrongful misconduct on the part of EUROCONTROL and its staff.

ARTICLE 11 - (Arbitration)

Any dispute which may arise between the Parties to this Agreement concerning the interpretation or application thereof, and which is not possible to settle by direct negotiation or by any other method, will be referred to arbitration as provided for under Article 31 of the EUROCONTROL Convention as amended at Brussels in 1981.

ARTICLE 12 - (Suspension of Agreement)

In the event of a state of crisis, conflict or war, this Agreement may be suspended by a mutual decision of the Parties or by unilateral written notice of one Party to the other.

ARTICLE 13 - (Amendments)

The Parties may by exchange of letter between CCL and the Director General of EUROCONTROL modify:

- a) Annex I, provided the amendment has no financial implications;
- b) the expenditure detailed in Annex II, provided the budgetary procedures to which the two Parties are subject have been complied with beforehand.

ARTICLE 14 - (Date of Effect and Duration)

- 14.1. This Agreement shall enter into force on the date of signature by both Parties for an unlimited period. The calculation and billing of terminal charges shall commence with effect from 1st September 2006.
- 14.2. However, either Party may terminate this Agreement at any time subject to one year's written notice.
- 14.3. The notifying Party shall be liable for any costs resulting from the termination of this Agreement unless the reason of such termination is attributable to the other Party's responsibility.

Done at { } on the { } of { } in the English language.

For Croatia Control Ltd,

For EUROCONTROL,

Drožen Ramljak
Director

Víctor M. Aguado
Director General

OPERATING SPECIFICATIONS

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1. GENERAL

1.1 These operating specifications cover the services to be provided by EUROCONTROL which consist of calculating, billing, collecting and accounting for terminal charges on behalf of CCL, in accordance with the principles of the International Civil Aviation Organization (ICAO) as described in ICAO Document 9082.

1.2 CCL shall provide EUROCONTROL with similar reporting tables as for route charges. These tables shall include information on staff complement, investment plans, traffic and cost forecasts as well as related comments.

CCL shall provide EUROCONTROL with a detailed description of the method applied for allocating costs between en-route air navigation services and terminal air navigation services.

1.3 EUROCONTROL shall maintain separate accounts.

1.4 EUROCONTROL shall ensure that all data required for the execution of the present Agreement shall be stored on magnetic support, in accordance with the same conditions applying in the EUROCONTROL Route Charges System.

1.5 The listings and outputs to be dispatched to CCL are specified at Appendix 4.

1.6 CCL shall cooperate with EUROCONTROL in the calculation and collection of the terminal charges.

2. CHARGING

2.1 Definition of a chargeable flight

A terminal charge shall be levied for each flight operated in accordance with ICAO rules and regulations (General Air Traffic) departing from any aerodrome or designated aerodrome situated within the Flight Information Regions (FIRs) listed at Appendix 1.

2.2 Charging formula for the terminal charge

2.2.1 The terminal charge **R** shall be calculated in accordance with the following formula:

$$R = t \times N$$

where **t** is the unit rate of charge and **N** the number of service units corresponding to terminal services made available.

2.2.2 The unit rate of charge **t** shall be notified to EUROCONTROL in Euros with a maximum of two decimal points, together with the corresponding cost-base and service units forecast.

Changes of unit rate shall only be effective on a first day of a month. The notification of change must be received by EUROCONTROL not later than the first day of the month for which the new unit rate applies.

The unit rate of charge **t** shall be published by CCL.

- 2.2.3 For a given departing flight, the number of service units in respect of terminal charges, designated **N**, shall be the quotient, obtained by dividing by fifty the Maximum Take-off Weight (MTOW), to the power 0.70. The Maximum Take-off Weight shall be expressed in metric tons and shall be the one used for calculating the EUROCONTROL route charge for the flight concerned.

For the purpose of calculating the charge, **N** shall be expressed as a figure taken to two decimal places.

2.3 Exempted flights

CCL shall apply the same exemption criteria for terminal charges as it applies for EUROCONTROL route charges within the FIRs listed at Appendix 1. CCL should notify the categories of flights exempted from the payment of terminal charges collected by EUROCONTROL. These categories shall include:

1. Flights performed exclusively under visual flight rules (VFR);
2. Flights performed by aircraft of which the maximum take-off weight authorised is less than two (2) metric tons;
3. Flights performed exclusively for the transport, on official mission, of the reigning Monarch and his/her immediate family, Heads of State, Heads of Government, and Government Ministers. In all cases, this must be substantiated by the appropriate status indicator on the flight plan;
4. Search and rescue flights authorised by a competent SAR body.
5. Training flights performed exclusively for the purpose of obtaining a licence, or a rating in the case of cockpit flight crew, and where this is substantiated by an appropriate remark on the flight plan. Flights must be performed solely within the airspace of Croatia. Flights must not serve for the transport of passengers and/or cargo, nor for positioning or ferrying of the aircraft;
6. Flights performed exclusively for the purpose of checking or testing equipment used or intended to be used as ground aids to air navigation, excluding positioning flights by the aircraft concerned;
7. Flights terminating at the aerodrome from which the aircraft has taken off and during which no intermediate landing has been made (circular flights);
8. Military flights of any State.

2.4 Consultation with users

Consultation with users in respect of the terminal charge shall be the sole responsibility of CCL. EUROCONTROL shall be invited to attend with observer status any user consultation meetings organised by CCL.

CCL shall provide EUROCONTROL with supporting documents prepared or made available for user consultation meetings.

3. FLIGHT DATA COLLECTION, TRANSMISSION AND PROCESSING

CCL shall provide information to EUROCONTROL on all matters which necessitate modifications of flight messages or the user data files, for instance the national aircraft register.

4. BILLING, CLAIMS AND INFORMATION TO USERS

4.1 General

The documents to be dispatched to users are as follows:

- (1) bill for terminal charge
- (2) pro forma statement (statement of flights)
- (3) statement of account
- (4) credit note
- (5) bill for interest on late payment
- (6) credit note for interest on late payment
- (7) VAT annex to bill
- (8) VAT annex to credit note

These documents shall bear the EUROCONTROL letterhead. The bill and the statement of account shall show that the terminal charge being levied is payable to EUROCONTROL.

Appendix 3 details the variable fields to be shown on these documents.

4.2 Billing cycle

Billing periods shall be the same as within the EUROCONTROL Route Charges System.

4.3 User claims

User claims shall be processed in accordance with the EUROCONTROL Route Charges System's procedures.

4.4 Value Added Tax (VAT)

Value added tax shall be billed, handled and accounted for in accordance with laws and regulation in force in Croatia, as notified by CCL.

4.5 Information to users

EUROCONTROL shall keep the users informed by means of information circulars where necessary. EUROCONTROL shall provide to the users upon request information in respect of the terminal charge.

5. COLLECTION OF CHARGES

- 5.1 Proceedings for recovery of the amount due shall be instituted either by EUROCONTROL or, at EUROCONTROL's request, by CCL.
- 5.2 CCL shall inform EUROCONTROL of the procedures applied in CCL and of the competent courts, tribunals or administrative authorities.
- 5.3 The person liable to pay the terminal charge shall be the person who was the operator of the aircraft at the time when the flight was performed. Where an ICAO designator is used in the flight identification, the identity of the operator of the flight shall be deemed to be that of the aircraft-operating agency to whom the ICAO designator was allocated at the time of the flight.

If the identity of the operator is not known, the owner of the aircraft shall be regarded as the operator, unless he proves which other person was the operator.

If the operator defaults, then both the operator and the aircraft owner shall be jointly and severally liable for unpaid charges, if the applicable national law so permits.

- 5.4 Where a debtor has not paid the amount due in respect of terminal charges, EUROCONTROL shall initiate enforced recovery, which may include detention of aircraft if the applicable national law so provides.

6. FUND MANAGEMENT

- 6.1 Terminal charges collected on behalf of CCL shall be disbursed to CCL under the same conditions as for the route charges collected.
- 6.2 The funds shall be invested by EUROCONTROL to the benefit of CCL for the duration between their actual collection and disbursement to CCL.
- 6.3 Payments to third parties out of the terminal charges collected on behalf of CCL could be arranged on request.

7. ACCOUNTING

- 7.1 The financial year shall begin on 1 January.
- 7.2 The write-off procedures stipulated in the EUROCONTROL Financial Regulations relating to the Route Charges System shall apply, where appropriate, to the terminal charge.
- 7.3 Accounting data to be sent by EUROCONTROL are listed in Appendix 4.

8. PROTECTION OF DATA

All data relating to the terminal charges shall be protected by EUROCONTROL according to the principles applied in the EUROCONTROL Route Charges System.

Flight Information Regions

Zagreb Flight Information Region

Conditions of Payment of Terminal Charges

Clause 1

1. The amounts billed shall be payable in Euro into the EUROCONTROL Central Route Charges Office's bank account shown on the bill.
2. The amount of the charge is due on the date of performance of the flight. The latest value date by which payment must be received by EUROCONTROL shall be shown on the bill.
3. The time granted to users for payment of the terminal charge, i.e. the interval between the bill date and the date for payment shown on the bill, shall be identical to the time granted to users for payment of the EUROCONTROL route charges.

Clause 2

Payment shall be deemed to have been received by EUROCONTROL on the value date on which the amount due was credited into the banking establishment designated by EUROCONTROL, referred to in Clause 1 paragraph 1. The value date shall be the date on which EUROCONTROL can use the funds.

Clause 3

1. Payments shall be accompanied by a statement giving the references, dates and amounts in respect of bills paid and of any credit notes deducted.
2. Where a payment is not accompanied by the details specified in paragraph 1 above so as to allow its application to a specific bill or bills, EUROCONTROL will apply the payment:
 - first to interest, and then
 - to the oldest bills unpaid.

Clause 4

1. Claims against bills must be submitted to EUROCONTROL in writing or by an electronic medium previously approved by EUROCONTROL. The latest date by which claims must be received by EUROCONTROL shall be shown on the bill. The interest between this date and the date of the bill shall be the same as for the EUROCONTROL route charges.
2. The date of submission of claims shall be the date on which the claims are received by EUROCONTROL.
3. Claims must be detailed and should be accompanied by any relevant supporting evidence.
4. Submission of a claim by a user shall not entitle him to make any deduction from the relevant bill unless so authorised by EUROCONTROL.
5. Where EUROCONTROL and a user are mutually debtor and creditor no compensation payments shall be effected without EUROCONTROL's prior agreement.

Clause 5

1. Any charge which has not been paid by the latest date for payment shall be increased by the addition thereto of interest. The interest, entitled Interest on Late Payment, shall be simple interest calculated from day to day on the unpaid overdue amount.
2. The interest will be calculated and billed in Euros. The interest rate will be published by CCL.

Clause 6

Where a debtor has not paid the amount due, measures may be taken to enforce recovery.

Specifications of documents

1. BILL

- a) Identification of the type of charges
- b) Date of issue
- c) Flight period
- d) Bill reference
- e) User code/User name
- f) User billing address
- g) To be paid before (date)
- h) Amount to be paid
- i) Method of payment (bank details)
- j) Claims to be submitted before (date)
- k) Change of company title or address
- l) Failure to pay
- m) Interest on late payment

2. PRO FORMA STATEMENT (STATEMENT OF FLIGHTS)

- a) Identification of the type of charges
- b) Date of issue
- c) Flight period
- d) Bill reference
- e) Page number
- f) User Code/User Name
- g) User billing address
- h) Day of flight
- i) Line (item) number
- j) Flight number or aircraft registration
- k) Flight details:
 - time of departure
 - airport of departure
 - airport of arrival
 - aircraft type
- l) Code of exemption
- m) Deducted
- n) Charge
- o) Cumulative total

3. STATEMENT OF ACCOUNT

- a) Identification of the type of charges
- b) Date of issue
- c) Reference of Statement
- d) Page Number
- e) User Code / User Name
- f) User billing address
- g) Value date of item
- h) Item code
- i) Item reference
- j) Amount debit
- k) Amount credit
- l) Balance of each billing
- m) Overall balance
- n) CRCO bank details (for payments)

4. CREDIT NOTE

- a) Identification of the type of charges
- b) Date of issue
- c) Note number
- d) Credit note reference
- e) Page number
- f) User Code/User Name
- g) User billing address
- h) P.F. Line Number
- i) Date of flight
- j) Flight number or aircraft registration
- k) Flight details:
 - time of departure
 - airport of departure
 - airport of arrival
 - aircraft type
- l) Code of exemption
- m) Rebilling (Indicator for the rebilling of a flight)
- n) Charge amount (credited)
- o) Cumulative totals of charged amounts (credited)

5. BILL FOR INTEREST ON LATE PAYMENT

- a) Identification of the type of charges
- b) Date of issue
- c) Page No
- d) Interest bill reference
- e) User Name
- f) User billing address
- g) State of Service provider
- h) Interest due
- i) Interest already billed
- j) Interest amount to be paid
- k) Bill reference of unpaid bill
- l) From date
- m) To date
- n) Overdue amount
- o) Interest rate
- p) Number of days
- q) Interest amount
- r) Total interest amount
- s) CRCO bank details (for payments)

6. CREDIT NOTE FOR INTEREST ON LATE PAYMENT

- a) Identification of the type of charges
- b) Date of issue
- c) Page No
- d) Interest credit note reference
- e) User Name
- f) User billing address
- g) State of Service provider
- h) Interest due
- i) Interest already billed
- j) Interest amount credited
- k) Bill reference of unpaid bill
- l) From date
- m) To date
- n) Overdue amount
- o) Interest rate
- p) Number of days
- q) Interest amount
- r) Total interest amount
- s) CRCO bank details

7. (VAT) ANNEX TO BILL

- a) Identification of the type of charges
- b) Document identification ("ANNEX TO BILL")
- c) Date of issue
- d) Flight period
- e) Document reference
- f) User code/User name
- g) User billing address
- h) User VAT number
- i) Identification of the service provider on behalf of which the VAT invoice is issued
- j) Service provider VAT number
- k) Amount liable to VAT
- l) VAT rate %
- m) VAT amount
- n) Total inclusive of VAT

8. (VAT) ANNEX TO CREDIT NOTE

- a) Identification of the type of charges
- b) Document identification ("ANNEX TO CREDIT NOTE")
- c) Date of issue
- d) Flight period
- e) Document reference
- f) User code/User name
- g) User billing address
- h) User VAT number
- i) Identification of the service provider on behalf of which the VAT invoice is issued
- j) Service provider VAT number
- k) Amount liable to VAT
- l) VAT rate %
- m) VAT amount
- n) Total inclusive of VAT

Listings and outputs to be dispatched to CCL

These are the listings and outputs to be sent to CCL by EUROCONTROL in addition to the documents sent in accordance with standard procedures (e.g. for the purposes of claims processing) and in addition to the annual accounts.

1. Billing

Report containing, in respect of the corresponding period of flight, the following information in respect of CCL's terminal charges:

- total number of flights
- total number of service units
- accrued income in Euros

2. Recovery

Computer listing containing the information in respect of amounts due by flight periods and by user (monthly).

3. Accounting

- Situation of terminal charges billed
- Situation of terminal charges received
- Situation of terminal charges disbursed
- Balance - amount still outstanding

ANNEX II

Estimate of EUROCONTROL Collection Costs (in EUR)

2006

Personnel

Personnel costs	47.000
	<hr/>
Missions	p.m.
	<hr/>
Legal matters	p.m.
	<hr/>
Total 1	47.000
	<hr/>

Operating Expenditure

Supplies-Accommodation	8.000
	<hr/>
Communications	6.000
	<hr/>
Other expenditure	p.m.
	<hr/>
Total 2	14.000
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TOTAL (1 year) **61.000**

TOTAL (01/09/06 - 31/12/06) **15.000**
