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NOTICE OF REVISED SERVICE CHARGES

JUNE 2013

GENERAL

Pursuant to Section 36 of the Civil Air Navigation Services Commercialization Act, S.C. 1996, c. 20 (the "ANS Act"), the following document provides notice (the "Notice") of **NAV CANADA's proposed revised charges for air navigation services to become effective October 1, 2013, except as otherwise noted.** A document setting out additional details in relation to these proposals, including a justification in relation to the charging principles established under Section 35 of the ANS Act, is available upon request from NAV CANADA.

Persons interested in making representations to NAV CANADA with regard to the proposals set out in this Notice may do so by writing to the address set out under Section 3 so as to be received by NAV CANADA not later than August 30, 2013.

NAV CANADA applies service charges to the following categories of air navigation services: (i) terminal, (ii) enroute, and (iii) oceanic.

Except for the revisions proposed in this Notice, all the existing charges and related terms and conditions, as set out in earlier Announcements pertaining to charges, remain in effect.

This Notice consists of three sections:

- 1) Proposed Modification to the Application of the Enroute Charge for Flights which Land or Take Off in Canada;
- 2) Proposed Modifications to Credit Terms and Conditions; and
- 3) Additional Information Regarding the Notice and on Making Representations to NAV CANADA.

1. PROPOSED MODIFICATION TO THE APPLICATION OF THE ENROUTE CHARGE FOR FLIGHTS WHICH LAND OR TAKE OFF IN CANADA

1.1. Background

The Enroute charge is for air navigation services, other than terminal and oceanic services, provided or made available to flights in Canadian-controlled airspace, excluding the Gander Oceanic Flight Information Region / Control Area (FIR/CTA).

Historically NAV CANADA has applied the Enroute charge to flights landing or taking off in Canada only in cases where one aerodrome had a staffed facility and the other was either staffed or certified. This served as a practical way to limit the application of the charge to flights where services were being provided and billing data available.

There has been a growing volume of flights in the exempted category in recent years. In particular, volumes have increased for flights between staffed facilities and uncertified aerodromes. In many cases, the aircraft involved are jet aircraft and larger propeller aircraft that consume considerable enroute services.

It is felt that it is no longer equitable nor warranted that these flights should be excluded from Enroute charges and that the application of the charge should be modified. In doing so, charges would not be altered to affect flights either between unstaffed aerodromes or between any two aerodromes north of 60° North latitude.

1.2. Proposed Revision

Current Application

The existing application of the Enroute charge, originally set out in the Announcement of New and Revised Service Charges dated September 1997, and subsequently modified in the Announcement of New and Revised Service Charges dated September 1998 and the Announcement of Revised Service Charges dated December 13, 2002, is as follows:

The Enroute charge will apply to both overflights and flights which land or take off in Canada. With respect to flights which land or take off in Canada, the Enroute charge applies:

- (a) to flights between two Canadian airports, at least one of which is an airport where NAV CANADA applies the Terminal Services charge; and
- (b) to international flights.

For the purpose of NAV CANADA charges, airport means a certified aerodrome, or an uncertified aerodrome with air navigation services staffed either by NAV CANADA or by a person acting under the authority of the Minister of National Defence.

Proposed Application

It is proposed that the current application be replaced with the following:

The charge applies to both overflights and flights which land or take off in Canada. With respect to flights which land or take off in Canada, the Enroute charge applies:

- (a) to flights between two Canadian aerodromes, where at least one of which is not located north of 60° North latitude, and at least one of which is an aerodrome where NAV CANADA applies the Terminal Services charge; and
- (b) to flights between two Canadian airports that are located north of 60° North latitude, and at least one of which is an airport where NAV CANADA applies the Terminal Services charge; and
- (c) to international flights.

For the purpose of NAV CANADA charges, airport means a certified aerodrome, or an uncertified aerodrome with air navigation services staffed either by NAV CANADA or by a person acting under the authority of the Minister of National Defence.

2. PROPOSED MODIFICATIONS TO CREDIT TERMS AND CONDITIONS

2.1 Background

The Credit Terms and Conditions are the basis for NAV CANADA's ability to collect Air Navigation Service charges. Proposed changes to the policy include a definition of the term "customer", modifications to Dun & Bradstreet's Financial Stress Score (FSS) Risk Class thresholds and other policy language changes to clarify certain administrative practices.

2.2 Proposed Addition to Terms and Conditions

It is proposed that the following section be added to the Terms and Conditions to clearly define the term "customer":

Application

This policy applies in respect of a "customer" receiving, or having made available to them, air navigation services from NAV CANADA.

A "customer" means any person, which includes an individual, partnership, corporation, trust, unincorporated organization, government or agency or political subdivision thereof, or any other form of legal entity, including "affiliated" customers. Customers are affiliated customers if one of them is the subsidiary of the other, both are subsidiaries of the same customer, or each of them is controlled by the same person. A customer is a subsidiary of another customer if it is controlled by that other customer.

A customer is controlled by a person or other customer if

- (i) with respect to any entity, the ownership at the relevant time of securities carrying more than 50% of the exercisable voting rights attached to all outstanding securities of that entity, other than by way of security only, if the votes carried by those securities are sufficient to elect a majority of that entity's board of directors to otherwise provide for effective control of that entity;
- (ii) with respect to an entity without securities, the ability to manage the business and affairs of the entity;
- (iii) with respect to a partnership, the ability to manage the business and affairs of that partnership; and
- (iv) with respect to a trust, the ability to appoint and remove trustees of that trust.

2.3 Proposed Revision to Credit Security Arrangements

Current Credit Security Arrangements

Credit security arrangements were set out in the Announcement of Revised Service charges dated August 18, 2000 and subsequently modified in Announcements dated December 21, 2001; July 21, 2003; and April 2006. They are currently set out as follows:

Where an aircraft operator has significant and/or overdue charges or where NAV CANADA, acting reasonably and in good faith, is of the opinion that NAV CANADA charges will not be paid when due, NAV CANADA may seek credit security arrangements from the operator in a form and substance satisfactory to NAV CANADA.

The amount of outstanding charges, including both amounts billed and amounts accrued for unbilled charges, for any one customer or group of affiliated companies shall not exceed \$4 million at any time. When NAV CANADA determines that the maximum of \$4 million may be exceeded, it shall advise the customer that its billing and/or payment frequency shall be increased and/or a refundable deposit may be required as necessary to ensure the maximum is not exceeded. Where the customer makes a refundable deposit, the amount must remain on deposit for a minimum of six (6) months and NAV CANADA will remit to the depositor every six (6) months the interest earned based on the six (6) month Canadian Dollar Offered Rate (CDOR) or similar market rate at time of deposit or renewal. In appropriate circumstances, NAV CANADA may also require advance payments or deposits on account of charges.

A customer shall be required to pay for the provision or availability of air navigation services in advance or provide satisfactory security for such payment on the basis of an estimate of charges to be incurred, in the following circumstances:

- A customer fails to make a payment or any part of a payment in accordance with NAV CANADA's payment terms and conditions on three occasions or more;
- The customer's Dun & Bradstreet Financial Stress Score Risk Class is a 3, 4 or 5, or Dun & Bradstreet equivalent failure score as amended from time to time;
- A customer's credit is rated and its credit rating is below or falls to below B as determined by Standard & Poor's and/or B2 as determined by Moody's;
- If a customer is under creditor protection (e.g., Companies' Creditors Arrangement Act (CCAA) in Canada or Chapter 11 in the United States) or any other form of financial restructuring in accordance with applicable insolvency legislation or the customer has publicly announced that it may file for creditor protection or bankruptcy; or
- The customer has not provided NAV CANADA, upon request, with financial information such as credit ratings, credit reports, analyst reports, current audited financial statements, etc. which NAV CANADA deems sufficient to enable it to assess and conclude that the creditworthiness of the customer is satisfactory.

Without limiting NAV CANADA's general discretion to require security arrangements, where a customer has not been invoiced previously by NAV CANADA for ANS services, or has not been invoiced within the previous six months, and where monthly total charges are expected to exceed \$1,000, the customer will be required to make a pre-payment in an amount equal to twice the estimated monthly total charges. The pre-payment amount will be subject to adjustments based on changes in the level of the estimated monthly total charges.

Proposed Credit Security Arrangements

It is proposed that the current credit security arrangements be replaced with the following:

Where an aircraft operator has significant and/or overdue charges or where NAV CANADA, acting reasonably and in good faith, is of the opinion that NAV CANADA charges will not be paid when due, NAV CANADA may seek credit security arrangements from the operator in a form and substance satisfactory to NAV CANADA.

The amount of outstanding charges, including both amounts billed and amounts accrued for unbilled charges, for any customer shall not exceed \$4 million at any time. When NAV CANADA determines that the maximum of \$4 million may be exceeded, it shall advise the customer that its billing and/or payment frequency shall be increased and/or a refundable deposit may be required as necessary to ensure the maximum is not exceeded. Where the customer makes a refundable deposit, the amount must remain on deposit for a minimum of six (6) months and NAV CANADA will remit to the depositor every six (6) months the interest earned based on the six (6)

month Canadian Dollar Offered Rate (CDOR) or similar market rate at time of deposit or renewal. In appropriate circumstances, NAV CANADA may also require advance payments or deposits on account of charges.

A customer shall be required to pay for the provision or availability of air navigation services in advance or provide satisfactory security for such payment on the basis of an estimate of charges to be incurred, in the following circumstances:

- A customer fails to make a payment or any part of a payment in accordance with NAV CANADA's payment terms and conditions on three occasions or more;
- The customer's Dun & Bradstreet Financial Stress Score Risk Class is a 4 or 5, or the failure score equivalent, as amended from time to time;
- A customer's credit is rated and its credit rating is below or falls to below B as determined by Standard & Poor's or B2 as determined by Moody's;
- If a customer is under creditor protection (e.g., Companies' Creditors Arrangement Act (CCAA) in Canada or Chapter 11 in the United States) or any other form of financial restructuring in accordance with applicable insolvency legislation or the customer has publicly announced that it may file for creditor protection or bankruptcy; or
- The customer has not provided NAV CANADA, upon request, with financial information such as credit ratings, credit reports, analyst reports, current audited or unaudited financial statements, etc. which NAV CANADA deems sufficient to enable it to assess and conclude that the creditworthiness of the customer is satisfactory.

Without limiting NAV CANADA's general discretion to require security arrangements, where a customer has not been invoiced previously by NAV CANADA for ANS services, or has not been invoiced within the previous six months, and where total monthly charges are expected to exceed \$1,000, the customer will be required to make a pre-payment, which will remain on account for a minimum of two years, in an amount equal to twice the estimated monthly total charges. The pre-payment amount will be subject to adjustments based on changes in the level of the estimated monthly total charges.

3. ADDITIONAL INFORMATION REGARDING THE NOTICE AND ON MAKING REPRESENTATIONS TO NAV CANADA

Further details of this proposal, including a justification for the proposal in relation to the charging principles, are provided in a document entitled *Details and Principles Regarding Proposed Revised Service Charges* ("Details and Principles") which is available on request. The Notice and the Details and Principles documents are posted on NAV CANADA's Internet site (www.navcanada.ca).

Information on the existing charges is provided in NAV CANADA's announcements on service charges and *Customer Guide to Charges*, which are also available on the Internet site.

A hard copy of the Details and Principles document may be obtained by contacting NAV CANADA:

in writing: NAV CANADA
P.O. Box 3411, Station "D"
Ottawa, Ontario
Canada K1P 5L6
Attention: Director, Customer and Commercial Services

by e-mail: service@navcanada.ca

by facsimile: 1-613-563-3426

by telephone: 1-800-876-4693

Pursuant to Section 36 of the ANS Act, persons interested in making representations to NAV CANADA with regard to the proposals contained in this Notice may do so in writing to the following address:

NAV CANADA
P.O. Box 3411, Station "D"
Ottawa, Ontario
Canada K1P 5L6
Attention: Vice-President,
Revenue and Pension Administration

by facsimile: 1-613-563-7994

Note: Representations must be received by NAV CANADA not later than the close of business on August 30, 2013.

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Caution Concerning Forward-looking Information

This document contains certain statements about our future expectations. Because forward-looking statements involve future risks and uncertainties, actual results may be quite different from those expressed or implied in these statements. Examples include terrorist attacks, war, health epidemics or pandemics, natural disasters, weather patterns, labour negotiations, arbitrations, workforce recruitment, training and retention, general industry conditions, capital market and economic conditions, the ability to collect customer service charges and reduce operating costs, changes in interest rates, changes in laws, tax changes, adverse regulatory developments or proceedings and lawsuits. The forward-looking statements contained in this document represent our expectations as of June 17, 2013, and are subject to change after this date. We disclaim any intention or obligation to update or revise any forward-looking statements included in this document whether as a result of new information, future events or for any other reason.