



REVISED MANAGEMENT SERVICE AGREEMENT FOR THE CODEVMET-AFI PROGRAMME

BETWEEN
THE INTERNATIONAL CIVIL AVIATION ORGANIZATION
AND
THE MEMBER STATES OF THE COOPERATIVE DEVELOPMENT OF AERONAUTICAL METEOROLOGICAL SERVICES IN THE AFRICA AND INDIAN OCEAN (CODEVMET-AFI) PROGRAMME

The [ENTITY] of (*name of the State*), hereinafter referred to as [ENTITY], represented by the (*post of the counterpart authority*) and

The International Civil Aviation Organization, hereinafter referred to as "ICAO", represented by the Secretary General;

Hereinafter referred to as the "Parties";

AGREE ON THE FOLLOWING:

1. GENERAL PROVISIONS

1.1 The Parties agree to enter into an agreement regarding management and other services to be provided by or through ICAO, as specified in this Management Service Agreement (hereinafter referred to as "this Agreement").

1.2 A detailed description of the Project(s) in relation to which specific services are going to be provided will be set out in, and designated, as Annex(es) to this Agreement, which shall form an integral part of this Agreement.

1.3 The [ENTITY] shall submit requests to ICAO for the specific services it wishes to be provided by or through ICAO through the CODEVMET-AFI steering committee. Such requests are subject to the approval by ICAO. The approved services (hereinafter referred to as "the Services") shall be specified in the Annex(es) to this Agreement and shall be furnished in accordance with ICAO's regulations, rules, directives, procedures and practices. Notwithstanding the above, the CODEVMET-AFI steering committee shall retain overall responsibility for the implementation of the Project(s).

1.4 The specific responsibilities of the Parties with regard to the contribution for the

implementation of Project(s) shall be outlined in the Annex(es) to this Agreement.

1.5 ICAO and the CODEVMET-AFI steering committee shall maintain close consultations in respect of all aspects of the provision of the Services under this Agreement.

1.6 Any change to the the scope of the Project(s) shall require negotiations between the Parties. The [ENTITY] gives power to the CODEVMET-AFI steering committee to carry out such negotiations with ICAO on its behalf.

1.7 ICAO shall, on behalf of the CODEVMET-AFI steering committee, contract for inputs required for the provision of the Services as specified in the Annex(es) to this Agreement. If such inputs involve the recruitment of personnel and/or contractors, the modality of such recruitment and the signature of the respective contracts shall be subject to agreement with the CODEVMET-AFI steering committee.

1.8 In the performance of their duties, the recruited personnel and/or contractors shall collaborate closely with officials of the [ENTITY] and shall act in conformity with such general guidelines as the CODEVMET-AFI steering committee may establish in consultation with ICAO. The latter shall furnish to the above-mentioned personnel and/or contractors whatever guidance ICAO deems necessary for the successful implementation of the Services.

1.9 Unless agreed otherwise by the CODEVMET-AFI steering committee and ICAO in the Annex(es) to this Agreement, the [ENTITY] shall be solely responsible, using funds other than those specified in the Annex(es), for the recruiting of local personnel and payment of their salaries and benefits, as well as for the administrative support (local secretarial and personal services, offices, locally produced equipment and supplies, transportation within the country, and communications) required for the execution of the Project(s) and the provision of the Services and related support.

1.10 The funds received by ICAO under this Agreement shall be administered according to applicable ICAO regulations, rules, directives, procedures and practices.

1.11 Through the signature of the this Management Service Agreement, the [Entity] becomes a member of the CODEVMET-AFI steering committee.

1.12 The [ENTITY] gives power to the steering committee, represented by its Chairperson, to liaise with ICAO and to act on all matters relating to this Management Service Agreement on its behalf, except where stated otherwise in the sections below. In particular, the [ENTITY] gives power to the Chairperson of the CODEVMET-AFI steering committee to sign Annex(es) to this Management Service Agreement or revisions thereof on its behalf.

2. FINANCING PROVISIONS

2.1 The estimated total cost of the Services will be indicated in the Annex(es) to this Agreement. For management of the Services, ICAO shall be paid Administrative Charges as indicated in the Annex(es). The total cost (Services and Administrative Charges) of the Project(s) may not exceed the amount reflected in the Annex(es) without the prior agreement of the CODEVMET-AFI steering committee.

2.2 Upon signature of the Annex(es), the [ENTITY] shall deposit the amounts detailed in the Annex(es) to cover the estimated cost of the Services and Administrative Charges. In the case of procurement services, the actual cost of such Charges shall be confirmed following a tender or request for quotation. Should the actual cost be more than the estimated cost, the [ENTITY] shall deposit such amounts to make up the difference within 30 days of being informed to that effect.

2.3 All cash receipts to, and payments made by, ICAO under this Agreement shall be recorded in a separate account, opened, inter alia, in order to place on record the receipt and administration of payments. All payments made to ICAO shall be made in United States dollars and deposited in ICAO's bank account as follows:

Pay to: //CC000305101
Royal Bank of Canada
Saint Catherine and Stanley Branch
1140 Saint Catherine Street West
Montréal, Quebec
Canada H3B 1H7

For credit to: 05101 404 6 892
Project: RAF16802 - CODEVMET-AFI
ICAO Pool Account

Swift code: ROYCCAT2

2.4 ICAO shall not be obliged to begin or continue the provision of the Services until the payments mentioned in paragraphs 2.2 and 2.6 of this Agreement have been received and ICAO shall not be obliged to pay or commit any sums exceeding the funds deposited in the aforementioned account.

2.5 ICAO shall furnish the CODEVMET-AFI steering committee with unaudited financial statements concerning the Services covered in this Agreement, showing the status of the funds in United States dollars as at the end of March, June, September and December of each year. After ICAO has concluded the provision of the Services, it shall submit to the CODEVMET-AFI steering committee a final financial statement. In the event that the CODEVMET-AFI steering committee requests that a special audit/evaluation of its account or project under this Agreement be performed by the Internal or External Auditor of ICAO, the CODEVMET-AFI steering committee shall bear the cost of such audit.

2.6 If due to unforeseen circumstances the funds received under this Agreement should prove insufficient to cover the total cost of provision of the Services and Administrative Charges, ICAO shall inform the CODEVMET-AFI steering committee to that effect, and additional funds, shall be made available to ICAO no later than 30 days of being informed to that effect, before the continuation of the project.

2.7 Any balance of funds exceeding 1,000 United States dollars which is not disbursed and not committed at the conclusion of the provision of the Services shall be returned to the [ENTITY] on request, on a pro-rated basis corresponding to the [ENTITY]'s deposited contributions compared to the overall amount of contributions received for the CODEVMET-AFI Programme, or be retained in the account for future use as determined by the [ENTITY].

3. PROCUREMENT SERVICES PROVISIONS

3.1 ICAO may acquire, at the request and on behalf of the [ENTITY] and in conformity with this Agreement and ICAO's Procurement Code, the necessary equipment and services described in the Annex(es) to this Agreement.

3.2 The [ENTITY] shall be responsible for the custom clearance process, including the payment of any tariff duties, taxes or similar fees directly related to the release from customs of the equipment and supplies that are not subject to exemption by the relevant Government.

3.3 The [ENTITY] undertakes to ensure that adequate funds are on deposit with ICAO either to cover procurement requisitions submitted and/or the related administrative overhead charges calculated in accordance with the Scale of Charges found in the Annex(es), and that in the event of ICAO notifying the [ENTITY] that funds on deposit are inadequate to cover proposed purchases and the related administrative overhead charges, the amount requested will be deposited without delay. The [ENTITY] accepts that until such time as adequate funds have been deposited, action in respect of the outstanding purchases will be held in abeyance.

3.4 Should an on-going Service(s) approved by the [ENTITY] be cancelled, deferred or otherwise modified by the [ENTITY], ICAO shall be entitled to recover its costs based on the amount of work that has been completed in the implementation of the said Purchase Requisition. ICAO shall invoice the corresponding amount to the [ENTITY].

3.5 If, after issuance of the purchase order/contract, additional funds are required to meet additional unavoidable costs, the [ENTITY] shall deposit the additional sum required within thirty days of notification by ICAO.

3.6 An amendment to a Purchase Order/Contract shall not decrease the Administrative Charges associated with the issuance of the original Purchase Order/Contract.

3.7 Following the acceptance of the equipment by ICAO on behalf of the [ENTITY], title of ownership and all associated risks of loss or damage, shall pass automatically from the supplier of the equipment to the [ENTITY].

3.8 When it is not clearly established that the equipment to be procured is intended primarily for civil aviation purposes, ICAO reserves the right to decline to undertake the procurement of the equipment.

4. ICAO PRIVILEGES AND IMMUNITIES

4.1 Nothing in or relating to this Agreement shall be deemed a waiver, express or implied, of any immunity from suit or legal process or any privilege, exemption or other immunity enjoyed or which may be enjoyed by ICAO, its officers, staff, assets and funds either pursuant to the *Convention on the Privileges and Immunities of the Specialized Agencies*, 1947 or other applicable conventions, agreements, laws or decrees.

5. CORRESPONDENCE

5.1 All correspondence relating to the implementation of this Agreement other than this signed Agreement or the amendments thereto, shall be addressed, through the Chairperson of the CODEVMET-AFI steering committee, to:

ICAO:

Regional Director
Western and Central African (WACAF) Office
Léopold Sédar Senghor International Airport
PO Box 38050, Dakar
Senegal

5.2 The [ENTITY] shall keep ICAO duly informed of all measures which it adopts for the fulfilment of this Agreement or which may affect this Agreement.

6. LIABILITY

6.1 The [ENTITY] shall indemnify, defend, and hold and save harmless, ICAO and its officials, agents and employees, from and against all suits, proceedings, claims, demands, losses, and liability of any kind or nature brought against ICAO, including, but not limited to, all litigation costs and expenses, attorney's fees, settlement payments, and damages. For the avoidance of doubt, the [ENTITY] shall be obligated, at its sole expense, to defend ICAO and its officials, agents, and employees, regardless of whether the suits, proceedings, claims, and demands in question actually give rise to or otherwise result in any loss or liability.

6.2 ICAO shall advise the [ENTITY] about any such suits, proceedings, claims, demands, losses, or liability within a reasonable period of time after having received actual notice thereof. ICAO shall have control over any assertion or defense of the privileges and immunities of ICAO or any matter relating thereto, including the assertion or defense that ICAO is acting as mandatory for the [ENTITY], for which only ICAO itself is authorized to assert and maintain. ICAO shall have the right to be represented in any such suit, proceeding, claim or demand by independent counsel of its own choosing and shall also be indemnified, held, and saved harmless by the [ENTITY] for such litigation costs and expenses and attorney's fees.

6.3 ICAO shall have the right to set-off any costs incurred pursuant to this Article from any remaining funds received under this Agreement.

6.4 The obligation under this clause shall survive the termination of this Agreement.

7. OFFICIALS NOT TO BENEFIT

7.1 The [ENTITY] warrants that no official of ICAO / <ENTER GOVERNMENT ENTITY> / Government of <ENTER COUNTRY> has been or shall be admitted by the [ENTITY] to any direct or indirect benefit arising from this Agreement, including the Annex(es).

8. FORCE MAJEURE

8.1 In the event of force majeure, the obligations and responsibilities of ICAO under this Agreement shall be suspended to the extent of its inability to perform them and for as long as such inability continues.

8.2 Force Majeure as used herein shall mean acts of nature, industrial disturbances, acts of the public enemy, civil disturbances, explosions and any other similar cause of equivalent force not caused by nor within the control of either Party and which neither Party is able to reasonably foresee and/or overcome.

9. SETTLEMENT OF DISPUTES

9.1 Amicable Settlement: Negotiations

The Parties shall use their best efforts to settle amicably through negotiation any dispute, controversy or claim arising out of, or relating to, this Agreement or the breach, termination or invalidity thereof, within a time period of ninety (90) days.

9.2 Arbitration

Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, unless settled amicably under the preceding paragraph of this Article within ninety (90) days, shall be referred by either party to arbitration in accordance with the UNCITRAL Arbitration Rules then prevailing. The Parties agree that the arbitration be conducted by an arbitral tribunal consisting of a sole arbitrator. If the Parties cannot agree on a sole arbitrator within sixty (60) days, the appointment of the arbitrator shall be made in accordance with Article 8 of the UNCITRAL Arbitration Rules. The place of arbitration shall be Montreal, Quebec, Canada, and it shall be conducted in the English language. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim.

10. ENTRY INTO FORCE, AMENDMENTS AND TERMINATION

10.1 This Agreement shall come into effect on the date on which it has been signed by the last of both Parties. It shall continue to be in force until terminated under paragraph 10.3 below. Upon coming into force, it shall supersede any existing agreements concluded between the Parties on the same subject matter.

10.2 This Agreement may be amended at any time by written agreement between the Parties.

10.3 This Agreement may be terminated at any time, by either Party, giving to the other a written notification. This Agreement shall terminate sixty (60) calendar days after receipt of the said notification. The obligations assumed by the Parties under this Agreement shall survive the termination of this

Agreement to the extent necessary to permit the orderly finalization of activities, the withdrawal of personnel, the distribution of funds and assets, the liquidation of accounts existing between the Parties, and the settlement of contractual obligations. Additional funds, if necessary, to cover the above-mentioned expenditures shall be provided by the [ENTITY] within 30 days of the notification of termination.

Agreed on behalf of the International
Civil Aviation Organization:

Agreed on behalf of the [Entity]:

Signed
by: _____

Name: Fang Liu

Title: Secretary General

Date: _____

— END —