

MEMORANDUM OF UNDERSTANDING

**Integration of the Aviation Pandemic Preparedness Plan into the National
Pandemic Preparedness Plan**

Entered into between

NATIONAL DEPARTMENT OF TRANSPORT

Established in terms of Section 2 of the South African
Civil Aviation Authority Act, (Act No. 40 of 1998)

herein represented by **Mr.** in his capacity as Minister of Transport who warrants
that he is duly authorised thereto

And

THE DEPARTMENT OF HEALTH

herein represented by Dr. in his capacity as Minister of Health
who warrants that he is duly authorised thereto

DEFINITIONS

“**affected**” means persons, baggage, cargo, containers, conveyances, goods, postal parcels or human remains that are infected or contaminated, or carry sources of infection or contamination, so as to constitute a public health risk;

“**affected area**” means a geographical location specifically for which health measures have been recommended by WHO under these Regulations;

“**aircraft**” means an aircraft making an international voyage;

“**airport**” means any airport where international flights arrive or depart;

“**competent authority**” means an authority responsible for the implementation and application of health measures under these Regulations;

“**contamination**” means the presence of an infectious or toxic agent or matter on a human or animal body surface, in or on a product prepared for consumption or on other inanimate objects, including conveyances, that may constitute a public health risk;

“**conveyance**” means an aircraft, ship, train, road vehicle or other means of transport on an international voyage;

“**decontamination**” means a procedure whereby health measures are taken to eliminate an infectious or toxic agent or matter on a human or animal body surface, in or on a product prepared for consumption or on other inanimate objects, including conveyances, that may constitute a public health risk

“**departure**” means, for persons, baggage, cargo, conveyances or goods, the act of leaving a territory;

“**disease**” means an illness or medical condition, irrespective of origin or source, that presents or could present significant harm to humans;

“**disinfection**” means the procedure whereby health measures are taken to control or

kill infectious agents on a human or animal body surface or in or on baggage, cargo, containers, conveyances, goods and postal parcels by direct exposure to chemical or physical agents;

“disinsection” means the procedure whereby health measures are taken to control or kill the insect vectors of human diseases present in baggage, cargo, containers, conveyances, goods and postal parcels;

“event” means a manifestation of disease or an occurrence that creates a potential for disease;

“free pratique” means permission for a ship to enter a port, embark or disembark, discharge or load cargo or stores; permission for an aircraft, after landing, to embark or disembark, discharge or load cargo or stores; and permission for a ground transport vehicle, upon arrival, to embark or disembark, discharge or load cargo or stores; health measure does not include law enforcement or security measures;

“ill person” means an individual suffering from or affected with a physical ailment that may pose a public health risk;

“infection” means the entry and development or multiplication of an infectious agent in the body of humans and animals that may constitute a public health risk;

“inspection” means the examination, by the competent authority or under its supervision, of areas, baggage, containers, conveyances, facilities, goods or postal parcels, including relevant data and documentation, to determine if a public health risk exists;

“isolation” means separation of ill or contaminated persons or affected baggage, containers, conveyances, goods or postal parcels from others in such a manner as to prevent the spread of infection or contamination;

“medical examination” means the preliminary assessment of a person by an authorized health worker or by a person under the direct supervision of the competent authority, to determine the person’s health status and potential public health risk to others, and may include the scrutiny of health documents and a physical examination when justified by the circumstances of the individual case;

“National IHR Focal Point” means the national centre, designated by each State Party, which shall be accessible at all times for communications with WHO IHR Contact Points under these Regulations;

“point of entry” means a passage for international entry or exit of travelers, baggage,

cargo, containers, conveyances, goods and postal parcels as well as agencies and areas providing services to them on entry or exit;

“public health emergency of international concern” (PHEIC) means an extraordinary event which is determined, as provided in these Regulations:

(i) to constitute a public health risk to other States through the international spread of disease and

(ii) to potentially require a coordinated international response

“public health observation” means the monitoring of the health status of a traveler over time for the purpose of determining the risk of disease transmission;

“public health risk” means a likelihood of an event that may affect adversely the health of human populations, with an emphasis on one which may spread internationally or may present a serious and direct danger;

“quarantine” means the restriction of activities and/or separation from others of suspect persons who are not ill or of suspect baggage, containers, conveyances or goods in such a manner as to prevent the possible spread of infection or contamination;

“reservoir” means an animal, plant or substance in which an infectious agent normally lives and whose presence may constitute a public health risk;

“scientific evidence” means information furnishing a level of proof based on the established and accepted methods of science;

“surveillance” means the systematic ongoing collection, collation and analysis of data for public health purposes and the timely dissemination of public health information for assessment and public health response as necessary;

“suspect” means those persons, baggage, cargo, containers, conveyances, goods or postal parcels considered by a State Party as having been exposed, or possibly exposed, to a public health risk and that could be a possible source of spread of disease;

“vector” means an insect or other animal which normally transports an infectious agent that constitutes a public health risk;

“WHO IHR Contact Point” means the unit within WHO which shall be accessible at all times for communications with the National IHR Focal Point.

“signature date” means the date on which this agreement is signed by the last party;

2. INTERPRETATION

2.1 In this agreement, unless inconsistent with the context, words referring to one gender include a reference to the other gender, the singular includes the plural and vice versa, and natural persons include artificial persons and vice versa.

2.2 The headings of the clauses in this agreement are for the purposes of convenience

and reference only and shall not be used in the interpretation of, nor modify nor amplify this agreement, nor any clause hereto.

2.3 Any annexure or schedules to this agreement shall be deemed to form part of this agreement. Where any term is defined within a particular clause other than this clause, that term shall bear the meaning ascribed to it in that clause wherever it is used in this agreement;

2.4 Any provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definitions clause, shall be given effect as if it were a substantive provision of this agreement.

3. INTRODUCTION

- 3.1 The National Department of Transport (hereinafter referred to as DOT) requires the service of the National Department of Health (hereinafter referred to as DOH) to ensure the implementation of the International Health Regulations (2005)
- 3.2 The purpose of the IHR are to prevent ,protect against ,control and provide a health response to the international spread of disease in ways that is consummate with and restricted to public health risks, and which avoid unnecessary interference with international traffic and trade
- 3.2 It also requires the incorporation of the Aviation Pandemic Preparedness Plan into the **National Epidemic Preparedness and Response**
- 3.3 This agreement shall apply in respect of ICAO Annex 9, which requires States to establish a National Aviation Plan in preparation for an outbreak of a communicable disease posing a public health or public health emergency of International concern.
- 3.4 Article 14 of ICAO requires each State to take effective measures to prevent the spread of communicable diseases by means of air navigation and requires States to keep in close consultation with the agencies concerned with International Regulations relating to sanitary measures applicable to aircraft.
- 3.5 The aim of the Aviation Pandemic Preparedness Plan is to mitigate the risk of a pandemic at a population level, as well as that of the travellers and crew on board an aircraft and mitigate the financial impact from a pandemic.
- 3.6 The overall aim being that of ensuring availability, continuity and sustainability of critical air transport services.
- 3.7 The DOT undertakes to coordinate the development of the Aviation Pandemic Preparedness Plan and to ensure the Integration of the plan into the National Pandemic Preparedness Plan prepared by the DOH
- 3.8 The DOT has a duty to comply with the Standards and Recommended Practices of ICAO, as prescribed by the Annexes 6,9,11 and 14 and to comply with the requirements of the International Health Regulations of 2005
- 3.9 The DOT will coordinate its activities in terms of this agreement through the SACAA Aviation Medicine Division. For the purpose of this MOU, the SACAA/AVMED

reference will acknowledge the Medical Department as a single DOH focal for its work within the Memorandum

- 3.10 The MOU establishes a framework for liaison between the DOT and the DOH with the aim of ensuring the effective coordination of policy issues, coordination and investigation within their respective responsibilities to ensure aviation safety, and the implementation of the Aviation Preparedness Plan, the National Pandemic Preparedness Plan and International Health Regulations.
- 3.11 The Memorandum of Understanding describes the scope of the DOT responsibilities, for safety of crew and passengers and seeks to differentiate the overlapping safety and health responsibilities of the DOT and the DOH. Also included in this is the reference to the CAA Aviation Medicine Department which has a strategic health component but it should be noted that responsibility for its ICAO compliance is retained by the Department of Transport.
- 3.12 Under the Memorandum of Understanding, both the DOT and the DOH are committed to a close co-operation to minimise duplication of regulatory efforts and to avoid any conflict between regulatory requirements where both authorities have an interest.
- 3.13 Interface between the SACAA and DOH may arise in many instances, including but not limited to:
 - 3.13.1 the regulation of safety of aerodromes
 - 3.13.2 training of crew
 - 3.13.3 communication (media); and
 - 3.13.4 health and safety of aircrew and passengers
- 3.14 It is the responsibility of every individual at management level of both departments to adopt an intelligent, open and expeditious approach to achieve effective liaison between the DOT and DOH. This will involve discussions at the working level to agree how the statutory requirements, and the standards issued under them should be interpreted in particular circumstances and to determine ways in reconciling any differences that may arise. Reference to high level of management may be necessary in some cases.

4. COMMENCEMENT AND DURATION

4.1 The terms and conditions of this agreement shall enter into force on the signature date and will endure, subject to clause 4.2 below, for an indefinite period.

4.2 Notwithstanding clause 4.1 above, either party may terminate this agreement by giving the other party not less than sixty (60) days written notice of termination.

4.3 Termination of this agreement will have the effect of relieving the parties of their respective obligations under the agreement and neither party shall be entitled to any compensation or damages as a result of such termination, unless such obligations accrued to the other party before termination.

5. SCOPE OF AGREEMENT

Incorporation of the Aviation Pandemic Preparedness Plan into the National Epidemic Preparedness and Response

Incorporation of the following IHR Articles(24,25,27,28.30,31,32,35,36,38,40,41,43 and 46) and Annex 1B,4,5 and 9 into the Aviation Pandemic Preparedness Plan.

This agreement shall apply in respect of ICAO Annex 9, which requires States to establish a National Aviation Plan in preparation for an outbreak of a communicable disease posing a public health or public health emergency of International concern.

6. WARRANTIES

The Department of Health warrants that:-

It has, within the National Institute of Communicable Diseases/Ports Health and Disease Surveillance ensure the implementation of International Health Regulations(2005-Article 3), which stated that States in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to legislate and to implement legislation in pursuance of their health policies. In doing so they should uphold the purpose of these Regulations.

7. RESPONSIBILITIES OF THE DEPARTMENT OF HEALTH

In preparation for a suspected case of communicable disease, the Department of Health undertake to –

- 7.1 Adopts and oversee and implement the revised International Health Regulations (2005) in accordance with the purpose and scope set out in Article 2 and the principles embodied in Article 3
- 7.2 Incorporation of the Aviation Pandemic Preparedness Plan into the National Pandemic Preparedness Plan.
- 7.3 Appointment or designation of a National IHR Focal Point and authorities responsible for implementation of these measures under the regulations; and
- 7.4. Identification of the National IHR Focal Points and WHO IHR Contact Points for urgent communication between State Parties and WHO;and
- 7.5 Ensure availability of competent authorities or designated personnel at airports and;
- 7.6 Develop training plan of IHR awareness of WHO phases of influenza phases for airport public health officials; and
- 7.7 Develop airport standard operating procedure reflects compliance with the International Health Regulations; and
- 7.8 Ensure that all Health Part of the Aircraft Declaration are completed and delivered to the competent authority (Article 38);and
- 7.9 Ensure that aircraft shall not be refused *free pratique* by States Parties for public health reasons; in particular they shall not be prevented from embarking or disembarking, discharging or loading cargo or stores, or taking on fuel, water, food and supplies.
- 7.10 Ensure when there is a suspected case of communicable disease that no traveler on

board the aircraft shall leave its vicinity and no cargo shall be removed from that vicinity, unless authorized by the competent authority(Article 28); and

- 7.11 Informs the competent authority of the point of entry when managing a suspected travelers under public observation (Article 30)
- 7.12 May compel the traveler to undergo minimal invasive examinations, vaccines or quarantine, isolation or under public health observation.
- 7.13 Where a traveler is isolated or quarantined, provide appropriate accommodation, clothing protection of baggage and appropriate medical treatment.
- 7.14 Ensure that there are no conditions on board that could constitute a public health risk (Article 27(3b)).
- 7.15 Isolation of the aircraft, as necessary, to prevent the spread of disease, such additional measures should be reported to the National IHR Focal Point (Article 27).
- 7.16 Disinfect, decontaminate, disinfect or derat the aircraft, as appropriate, or cause these measures to be carried out under its supervision (Article 27); and
- 7.17 Ensure that travelers are not subjected to invasive medical examination, vaccination or other prophylaxis health as a measure relating to entry of travelers except when in the following conditions:
- a) when necessary to determine whether a public health risk exist
 - b) as a condition of entry for any traveler seeking temporary or permanent residence.
 - c) as a condition of entry for travelers pursuant to Article 43, 23 or Article 6 and 7;and
- 7.18 Ensure that travelers in possession of certificate of vaccine issued in conformity of Annex 6 and 7 ,are not denied entry as a consequence of disease which the certificate refers, even when coming from an affected area unless if competent authority has verified that vaccination not ineffective(Annex 36)
- 7.19 Strengthen the national disease surveillance, prevention, control and response systems (Article 5).
- 7.20 Provide reliable information on the risk, severity and progression of the pandemic and

the effectiveness of interventions during the pandemic (Article 13, 12).

- 7.21 Designation of appropriate ambulances and medical facilities hospitals & Laboratories), public and private able to manage suspected communicable diseases.
- 7.22 Provision of Anti-Virals during outbreak and development of health promotion material.
- 7.23 Ensure continuous communication with WHO during an outbreak/pandemic (Article 43).
- 7.24 Maintain confidentiality of the medical data; and
- 7.26 Play a central role in the implementation of Food Control Regulations to prevent food borne diseases ;and
- 7.27 Ensure that the water source to the aircrafts is infection free and conduct ongoing monitoring of the water supply chain (Article 58);and
- 7.28 Determine/define measures to be used for entrance and exit screening during a pandemic; and
- 7.29. Engage the Defence Force to assist in the implementation of screening at airports during a pandemic ;and
- 7.30 Except for travelers seeking temporary or permanent residence, ensure travelers are not charged for medical examinations, vaccination, isolation or quarantine provided on arrival that is not a published requirement or published less than 10 days.
- 7.31 Where charges are made, ensure conformity of the tariff and not exceed the cost of the service.

8. RESPONSIBILITIES OF THE DEPARTMENT OF TRANSPORT

The Department of Transport undertakes to –

- 8.1 Compile and develop the National Aviation Pandemic Preparedness Plan (NAPP) in compliance with Article 14 of the Convention and Annex 9 of ICAO;
- 8.2 Develop regulations and technical standards meet ICAO Standards and Recommended Practices (Part 64, 91,121,139);and
- 8.3 Development a Memorandum of Understanding between South African Civil Aviation

Authority and Department of Health; and

8.4 Establishment of the Aviation Preparedness Committee

8.5 Continuous revision of the NAPP to ensure that the State's meets its obligations and is consistent with National Pandemic Preparedness Plan of the Department of Health; and

8.6 Clearly define roles and responsibilities of stakeholders involved in aviation; and

8.7 Provide strategic guidance and technical support to stakeholders related to the implementation of the CAPSCA project.

8.8 Development, promotion, production and dissemination of suitable training materials that can be used in the training of persons concerned with the implementation of the NAPP(Simulation Exercise)

8.9 Ensure that there is effective strategies to secure compliance with aviation pandemic preparedness standards;

8.10 Coordinate and conducted inspections to ensure compliance.

8.11 Collation, analysis and dissemination of information on any related information to the pandemic preparedness planning.

8.12 Continuous monitoring and evaluation of the implementation of the plan.

9. INDEMNITY

Each party indemnifies the other party against, and holds it harmless from any claim, changes expenses or damage which may be instituted or suffered by any person, including legal costs on an attorney and client scale incurred, as a result or in consequence of services rendered by that particular party in respect of the safety oversight of the operations and maintenance of the aircraft concerned, in terms of this agreement, or otherwise from any failure to render anything safe whatsoever, unless a party proves gross contributory negligence (including omissions) or intent on the part of the other party.

10. ENTIRE AGREEMENT AND AMENDMENT

This agreement contains the full and complete understanding between the parties and supersedes all prior arrangements and understandings whether written or oral

appertaining to the subject matter of this agreement and may not be amended or varied except by an instrument or document in writing signed by the parties.

11. ASSIGNMENT

Neither party may assign or transfer this agreement or any part thereof, without the prior written consent of the other party, to a third party.

12. NOTICES

12.1 All notices required to be given hereunder shall be deemed to have been sufficiently given if sent by mail addressed as set out below or to such other address as may be designated by either party by written notice to the other, or by facsimile at the numbers provided here below:

SACAA

Ikhaya Lokundiza 1
Building 16 Treur Close
Waterfall Park
Bekker Street
Midrand
Fax no: 011 – 545 1181

Private Bag X 73
Halfway House
1685

DEPARTMENT OF HEALTH

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12.2. Notice will be deemed given:

12.2.1 in the case of hand delivery, upon written acknowledgment or receipt by an officer or other duly authorised employee, agent or representative of the receiving party;

12.2.2 in the case of a facsimile, twenty four (24) hours after successful transmission.

12.2.3. seven (7) days after posting, if posted by registered post to the party's address in terms of this clause.

13. SECRECY AND CONFIDENTIALITY

13.1 Each party shall (and procure that its advisors shall), at all times keep the contents of this agreement confidential and shall keep confidential any information which it has acquired or may acquire in relation to the services to be rendered in terms of this agreement:

13.1.1 which is publicly available or becomes publicly available through no act or default of any such party; or

13.1.2 which was in the possession of a party prior to its disclosure otherwise than as a result of any breach by such party of any obligation of confidentiality owed to any other parties whether pursuant to this agreement or otherwise; or

13.1.3 which is disclosed to a party by a third party which did not acquire the information under an obligation of confidentiality; or

13.1.4 which is independently acquired by such party as a result of work carried out by a person to whom no disclosure of such information has been made;

13.1.5 and shall not use or disclose such information except with the consent of the other parties to whom such information relates or in accordance with an order of a court of competent jurisdiction or in order to comply with any law or governmental regulations by which any party concerned is bound or as may be requested by any governmental authority.

14. FORCE MAJEURE

14.1 Neither party shall be held liable for or in respect of any loss or damage or deemed to be in default for any delay or failure in performance of its obligations under this agreement resulting from force majeure circumstances. Such circumstances shall include but not be limited to war, riot, usurped power, civil commotion, fire, industrial dispute, strikes, acts of God, acts of Government, acts of public enemy, boycott, embargo or form of strike, explosions, failure of communications system, default of carrier or any cause or other circumstances beyond the control of the parties.

14.2 The party pleading force majeure shall notify the other party of the circumstances constituting the same and of the obligations that are affected and will take every reasonable measure to minimise the delays or inconvenience arising there from.

14.3 If the force majeure circumstances persist for more than twenty-one (21) days after the initial notification by the party pleading force majeure, either party may serve the other party with a seven (7) days notice of termination of the agreement.

DONE AND SIGNED AT _____ ON THE ____ DAY OF _____ 2009.

AS WITNESSES

1. _____

2. _____

MR. COLIN JORDAAN FOR AND ON
BEHALF OF SACAA

DONE AND SIGNED AT _____ ON THE ____ DAY OF _____ 2009.

AS WITNESSES

1. _____

2. _____

..... FOR AND ON
BEHALF OF DOH