

Air Transport Agreement

Between

New Zealand

And

**The Separate Customs Territory Of Taiwan, Penghu, Kinmen, And
Matsu**

New Zealand and the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu (hereinafter referred to as “Chinese Taipei”), collectively referred to as “the Parties”:

Desiring to apply the principles set forth in the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944;

Desiring to create opportunities for air transport services between and beyond the Parties’ respective flight information regions; and

Desiring to ensure the highest degree of safety and security in international air services and reaffirming their grave concern about acts or threats against the security of aircraft, which jeopardise the safety of persons or property, adversely affect the operation of air services and undermine public confidence in the safety of civil aviation.

Have agreed as follows:

Article 1

Definitions

For the purposes of this Agreement, unless the context otherwise states, the term:

- (a) "competent authorities" means for each Party the authority or authorities as notified in writing from time to time by one Party to the other Party;
- (b) "Agreement" means this Agreement, its Annex and any amendments thereto;
- (c) "Convention" means the Convention on International Civil Aviation done at Chicago on 7 December 1944;
- (d) "designated airline" means an airline designated and authorised in accordance with Article 2 (Designation and Authorisation) of this Agreement;
- (e) "Internationally ticketed passenger" means a person who has an entitlement to air travel for a sector within a Party, the entitlement being included in ticketing for an international journey which
 - (i) began outside the Party; or
 - (ii) began inside the Party and is to continue outside the Party;
- (f) "Route Schedule" refers to the Route Schedule set out in the Annex to this Agreement;

- (g) "capacity" means the amount(s) of services provided under this Agreement;
- (h) "price" means any fare, rate or charge for the carriage of passengers (and their baggage) and/or cargo (excluding mail) in air services charged by airline(s), including their agents, and the conditions governing the availability of such fare, rate or charge; and
- (i) "air service", "international air service", "airline" and "stop for non-traffic purposes", shall have the same meaning as assigned to them in Article 96 of the Convention.

Article 2

Designation and Authorisation

1. The competent authorities of each Party may designate in writing multiple airlines to operate scheduled services on the agreed commercial air routes specified in the Route Schedule and may withdraw or alter such designation.
2. On receipt of such designation and application from the designated airline for operating authorisation and technical permission, each Party shall ensure that appropriate authorisation and permission is granted with minimum procedural delay, provided that:
 - (a) the designated airline is incorporated and has its principal place of business and effective regulatory control in the Party designating the airline;

- (b) the designated airline is qualified to meet the conditions prescribed under the laws and regulations normally applicable to the operation of international air transport by the Party receiving the designation.
3. In any case where the other Party is not satisfied that the conditions set out in subparagraphs 2(a) and 2(b) above have been met, it shall have the right to refuse to issue an operating authorisation.

Article 3

Revocation and Suspension of Authorisation

Notwithstanding the provisions of Article 2, each Party shall have the right to revoke, suspend or limit by the imposition of conditions, the operating authorisation granted to an airline designated by the other Party, if such designated airline, in operating its air services in accordance with this Agreement, fails to comply with any law or regulation applicable by the Party receiving the designation, or fails to comply with any term or condition prescribed in this Agreement, provided that unless immediate action is essential to prevent further infringement of laws and regulations or terms and conditions above-mentioned, this right shall be exercised only after consultations with the other Party.

Article 4

Traffic Rights

1. The airlines designated by both Parties shall have rights to take on and discharge passengers, cargo and mail either separately or in

combination at all points on the agreed commercial air routes specified in the Route Schedule. Airlines of both Parties shall also have the rights of flying across and landing for non-traffic purposes in the flight information region under each other's jurisdiction.

2. Nothing in this Article shall be deemed to confer on the airline or airlines designated by one Party the right to participate in cabotage, including the carriage of passengers, their baggage, cargo, or mail carried for compensation.

Article 5

Applicability of Laws and Regulations

1. The applicable laws and regulations governing entry into or departure from either Party of aircraft engaged in international scheduled air services, or the operation and navigation of such aircraft within either Party, shall apply to the airlines designated by the other Party.
2. Neither Party shall give preference to its designated airline(s) or any other airline over an airline designated by the other Party engaged in similar air services in the application of its laws and regulations.

Article 6

Aviation Safety

1. The Parties shall, in their mutual relations, act in conformity with the aviation safety provisions established by the International Civil Aviation Organization and designated as annexes to the Convention.
2. Each Party shall recognise as valid, for the purpose of operating the air services provided for in this Agreement, certificates of airworthiness, certificates of competency, and licences issued or validated by the competent authorities of the other Party and still in force, provided that the requirements for such certificates or licences are at least equal to the minimum standards which may be established pursuant to the Convention. Each Party may, however, refuse to recognise as valid for the purposes of flights above or landing within the flight information region under each other's jurisdiction, certificates of competency and licences granted to or validated for its own citizens by the competent authorities of the other Party.
3. If the privileges or conditions of the licences or certificates referred to in paragraph 2 above, issued by the competent authorities of one Party to any person or designated airline or in respect of an aircraft used in the operation of the agreed services, should permit a difference from the minimum standards established under the Convention, the other Party may request consultations between the competent authorities with a view to clarifying the practice in question.
4. Consultations concerning the safety standards and requirements maintained and administered by the competent authorities of the other Party relating to aeronautical facilities, crew members, aircraft, and

operation of the designated airlines shall be held within 30 days of receipt of a request from either Party, or such other period as may be mutually determined. If, following such consultations, the competent authorities of one Party find that the competent authorities of the other Party do not effectively maintain and administer safety standards and requirements in these areas that are at least equal to the minimum standards established pursuant to the Convention, the competent authorities of the other Party shall be notified of such findings and the steps considered necessary to conform with these minimum standards. Failure to take appropriate corrective action within 30 days, or such other period as may be accepted by the competent authorities of the Party that made the findings, shall constitute grounds for withholding, revoking, suspending or imposing conditions on the authorisations of the airlines designated by the other Party.

5. Each Party accepts that any aircraft operated by, or, where approved, on behalf of, an airline of one Party, may, while on the ground within the other Party, be the subject of an examination by the competent authorities of the other Party, on board and around the aircraft to verify the validity of the relevant aircraft documents and those of its crew members and the apparent condition of the aircraft and its equipment (for the purpose of this Article “ramp inspection”), provided such ramp inspection does not cause an unreasonable delay in the operation of the aircraft.
6. If the competent authorities of one Party, after carrying out a ramp inspection, find that:
 - (a) an aircraft or the operation of an aircraft does not comply with the minimum standards established at that time pursuant to the Convention; and/or

(b) there is a lack of effective maintenance and administration of safety standards established at that time pursuant to the Convention;

the competent authorities of that Party may, at their discretion, determine that the requirements under which the certificates or licences in respect of that aircraft or its crew members had been issued or rendered valid, or that the requirements under which that aircraft is operated, are not equal to or above the minimum standards established pursuant to the Convention. This same determination may be made in the case of denial of access for ramp inspection.

7. The competent authorities of each Party shall have the right, without consultation, to withhold, revoke, suspend or impose conditions on the authorisations of an airline of the other Party in the event the competent authorities of the first Party conclude that immediate action is essential to the safety of airline operations.
8. Any action by the competent authorities of one Party in accordance with paragraphs 4 or 7 above shall be discontinued once the basis for the taking of that action ceases to exist.

Article 7

Aviation Security

1. The Parties, recognising their responsibilities to develop international civil aviation in a safe and orderly manner, reaffirm that their obligation to protect, in their mutual relationship, the security of civil aviation

against acts of unlawful interference forms an integral part of this Agreement.

2. The Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of aircraft and other unlawful acts against the safety of passengers, crew, aircraft, airports and air navigation facilities and any other threat to aviation security.
3. The Parties shall, in their mutual relations, act in conformity with the provisions of the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963; the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970; the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on 23 September 1971, the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988, and the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991.
4. The Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as annexes to the Convention; they shall require that operators of aircraft registered by the competent authorities of the Parties or operators who have their principal place of business or permanent residence in the Parties and the operators of airports in the Parties act in conformity with such aviation security provisions.
5. Each Party agrees to observe the security provisions required by the other Party for entry into that other Party and to take adequate measures to protect aircraft and to inspect passengers, crew, their

carry-on items as well as cargo and aircraft stores prior to and during boarding or loading. Each Party shall also give positive consideration to any request from the other Party for special security measures to meet a particular threat.

6. When an incident or threat of an incident of unlawful seizure of aircraft or other unlawful acts against the safety of passengers, crew, aircraft, airports and air navigation facilities occurs, the Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat thereof.
7. When a Party has reasonable grounds to believe that the other Party has departed from the aviation security provisions of this Article, the first Party may request immediate consultations with the second Party. Failure to reach a satisfactory agreement within 30 days from the date of such request will constitute grounds by the requesting Party to withhold, revoke, limit or impose conditions on the operating authorisation or technical permission of an airline or airlines designated by the other Party. When required by an emergency, a Party may take interim action prior to the expiry of 30 days.

Article 8

Commercial Opportunities

1. The airlines of each Party shall have the right to establish offices in the other Party for the promotion and sale of air services.
2. The designated airlines of each Party shall be entitled, in accordance with the laws, regulations and rules of the other Party relating to entry, residence and employment, to bring in and maintain in the other Party

managerial, sales, technical, operational and other specialist staff required for the provision of air services.

3. Any airline of each Party may engage in the sale of air services in the other Party directly and, at the airline's discretion, through its agents. Each airline shall have the right to sell such transport and any person shall be free to purchase such transport, in the currency of the other Party or in freely convertible currencies.
4. Each airline shall have the right to convert and remit abroad to the airline's choice of place, on demand, local revenues in excess of sums locally disbursed. Conversion and remittance shall be permitted promptly without restrictions or taxation in respect thereof at the rate of exchange applicable to current transactions and remittance on the date the carrier makes the initial application for remittance.
5. The airlines of each Party shall be permitted to pay for local expenses, including purchases of fuel, in the other Party in local currency. At their discretion, the airlines of each Party may pay for such expenses in the other Party in freely convertible currencies according to local currency regulation.
6. Notwithstanding anything contained in this Article, the exercise of rights under this Article shall be in accordance with the applicable domestic laws, regulations and rules, and the Parties stipulate that the laws, regulations and rules shall be administered in a non-discriminatory fashion and consistent with the purposes of the Agreement.
7. Each designated airline shall have the right to perform its own ground-handling in the other Party ("self-handling") or, at its option, select among competing agents for such services in whole or in part. The rights shall be subject only to physical constraints resulting from

considerations of airport safety. Where such considerations preclude self-handling, ground services shall be available on an equal basis to all airlines; charges shall be based on the costs of services provided; and such services shall be comparable to the kind and quality of services which would be available if self-handling were possible.

8. Notwithstanding any other provision of this Article, airlines and indirect providers of cargo transport of both Parties shall be permitted, without restriction, to employ in connection with international scheduled air services any surface transport for cargo to or from any points in the Parties or in third parties, including transport to and from all airports with customs facilities, and including, where applicable, the right to transport cargo in bond under applicable laws and regulations. Such cargo, whether moving by surface or by air, shall have access to airport customs processing and facilities. Airlines may elect to perform their own surface transport or to provide it through arrangements with other surface carriers, including surface transport operated by other airlines and indirect providers of cargo air services. Such intermodal cargo services may be offered at a single, through price for the air and surface transport combined, provided that shippers are not misled as to the facts concerning such transport.

Article 9

Co-operative Marketing Arrangements

1. In operating or holding out international air services on the routes specified in the Route Schedule, any designated airline may enter into cooperative arrangements, including but not limited to code-sharing

arrangements, with any other airline including airlines of third parties. All airlines operating or holding out such services must hold the appropriate authority including route rights, traffic rights and capacity entitlement and meet the requirements normally applied to such arrangements.

2. The designated airlines of both Parties will, when holding services out for sale, in terms of code-share, blocked-space or other joint venture arrangements, make it clear to the purchaser at the point of sale which airline will be the operating airline on each sector of the service and with which airline(s) the purchaser is entering into a contractual relationship.
3. The competent authorities of each Party may require code-sharing arrangements to be filed for approval before their introduction.

Article 10

Leasing Arrangements

1. The designated airline of each Party may provide services under this Agreement using aircraft (without crew) leased from any company, including other airlines, provided that the aircraft meet the safety standards and requirements.
2. The competent authorities of each Party may require leasing arrangements to be filed for approval before their introduction.

Article 11

Customs Duties and Charges

1. On arriving in one Party, aircraft operated in international air transport by the designated airlines of the other Party, their regular equipment, ground equipment, fuel, lubricants, consumable technical supplies, spare parts (including engines), aircraft stores (including but not limited to such items of food, beverages and liquor, tobacco and other products destined for sale to or use by passengers in limited quantities during flight), and other items intended for or used solely in connection with the operation or servicing of aircraft engaged in international air transport shall be exempt, on the basis of reciprocity, from all import restrictions, customs duties, excise taxes, and similar fees and charges that are (1) imposed by the competent authorities, and (2) not based on the cost of the services provided, provided that such equipment and supplies remain on board the aircraft.

2. The following shall also be exempt, on the basis of reciprocity, from the taxes, levies, duties, fees and charges referred to in paragraph 1 of this Article with the exception of charges based on the cost of the service provided:
 - (a) aircraft stores introduced into or supplied in a Party and taken on board, within reasonable limits, for use on outbound aircraft of an airline of the other Party engaged in international air transport, even when these stores are to be used on a part of the journey performed over the flight information region under the jurisdiction of the Party in which they are taken on board;

- (b) ground equipment and spare parts (including engines) introduced into a Party for the servicing, maintenance, or repair of aircraft of an airline of the other Party used in international air transport;
 - (c) fuel, lubricants and consumable technical supplies introduced into or supplied in a Party for use in an aircraft of an airline of the other Party engaged in international air transport, even when these supplies are to be used on a part of the journey performed over the flight information region under the jurisdiction of the Party in which they are taken on board; and
 - (d) promotional and advertising materials introduced into or supplied in one Party and taken on board, within reasonable limits, for use on outbound aircraft of an airline of the other Party engaged in international air transport, even when these stores are to be used on a part of the journey performed over the flight information region under the jurisdiction of the Party in which they are taken on board.
3. Equipment and supplies referred to in paragraphs 1 and 2 of this Article may be required to be kept under the supervision or control of the appropriate authorities.
 4. The exemptions provided by this Article shall also be available where the designated airlines of one Party have contracted with another airline, which similarly enjoys such exemptions from the other Party, for the loan or transfer in the other Party of the items specified in paragraphs 1 and 2 of this Article.

Article 12

Capacity

1. Each Party shall allow each designated airline to determine the frequency and capacity of the international scheduled air services it offers based on commercial considerations of the marketplace.
2. Neither Party shall unilaterally limit the volume of traffic, frequency, or regularity of service, or the aircraft type or types operated by the designated airlines of the other Party, except as may be required for customs, technical, operational, or environmental reasons under uniform conditions consistent with principles set out in Article 15 of the Convention.

Article 13

Pricing

1. Each Party shall allow prices for air services to be decided by each designated airline based on commercial considerations in the marketplace. Intervention by the Parties shall be limited to:
 - (a) prevention of unreasonably discriminatory prices or practices;
 - (b) protection of consumers from prices that are unreasonably high or restrictive due to the abuse of a dominant position; and
 - (c) protection of airlines from prices that are artificially low due to direct or indirect governmental subsidy or support.

2. Each Party may require notification or filing of price proposed by the designated airline(s) of both Parties for carriage to or from any points in the Party. Such notification or filing may be required before the proposed date of introduction.

Article 14

Consultations

1. The competent authorities of either Party may, at any time, request consultation on the interpretation, application, implementation or amendment of this Agreement or compliance with this Agreement.
2. Such consultations shall take place between the competent authorities and begin within a period of 60 days from the date the other Party receives a written request, unless otherwise agreed by the Parties.

Article 15

Settlement of Disputes

Any dispute which may arise between the Parties in the framework of this Agreement shall be settled according to Article 4 of Chapter 15 (Air Transport Services) of the *Agreement between New Zealand and The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu on Economic Cooperation*.

Article 16

Amendments

1. Any amendment of this Agreement and its Annexes shall be made by written agreement between the Parties.
2. Such amendment shall enter into force on the date agreed between the Parties.

Article 17

Termination

Either Party may, at any time, give notice in writing to the other Party of its intention to terminate this Agreement. This Agreement shall terminate 12 months after the date of receipt of the notice by the other Party, unless the notice is withdrawn by agreement before the end of this period.

Article 18

Entry into force

The Parties shall notify each other of the completion of the legal procedure required for bringing this Agreement into force. This Agreement shall enter into force on the date specified in such notification.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective authorities, have signed this Agreement.

Done in _____, on the _____ day of _____, 2013, in duplicate in the English language.

For New Zealand

**For the Separate Customs
Territory Of Taiwan, Penghu,
Kinmen And Matsu**

ANNEX

Section 1

Route Schedule

The airlines designated to provide scheduled air services in accordance with Article 2 of this Agreement shall be entitled to operate, in both directions, over the following commercial air routes:

- (a) Route for the airlines designated by the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu:

From points in the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu via intermediate points to a point or points in New Zealand and beyond.

- (b) Route for the airlines designated by New Zealand:

From points in New Zealand via intermediate points to a point or points in the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, and beyond.

Section 2

Operational Flexibility

The designated airlines of each Party may, on any or all flights and at the option of each airline:

- (a) operate flights in either or both directions;
- (b) market code-share services within the other Party to points behind the gateway point provided that such services form part of the through international journey;

- (c) combine different flight numbers within one aircraft operation;
- (d) serve intermediate and beyond points and points in the Parties on the routes in any combination and in any order;
- (e) omit stops at any point or points;
- (f) transfer traffic from any of its aircraft to any of its other aircraft at any point on the routes; and
- (g) exercise stopover co-terminal traffic rights, including carriage of internationally ticketed passengers;

without directional or geographic limitation and without loss of any right to carry traffic otherwise permissible under this Agreement, provided that the point of origin or destination is in that Party.

Section 3

Change of Gauge

On any segment or segments of the commercial air routes, any designated airline may perform international scheduled air services without any limitation as to change in type or number of aircraft operated, at any point on the route, provided that, in the outbound direction, transport beyond such point is a continuation of transport from the Party that has designated the airline and, in the inbound direction, transport to the Party that has designated the airline is a continuation of transport from beyond such point.