

**AIR SERVICES AGREEMENT**

**BETWEEN**

**THE AUSTRIAN FEDERAL GOVERNMENT**

**AND**

**THE GOVERNMENT OF THE REPUBLIC OF CHILE**

The Austrian Federal Government and the Government of the Republic of Chile hereinafter referred to as “the Parties”; being parties to the Convention on International Civil Aviation opened for signature at Chicago on December 7, 1944;

Desiring to promote an air transportation system based on fair competition among airlines in the marketplace,

Desiring to contribute to the progress of international air transportation;

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

Desiring to conclude an Agreement for the purpose of establishing air services between and beyond their respective territories;

Have agreed as follows:

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## **ARTICLE 1**

### **Definitions**

For the purpose of this Agreement, unless otherwise stated, the term:

1. “Aeronautical authorities” means, in the case of the Republic of Austria, the Ministry of Transport, Innovation and Technology; and in the case of the Republic of Chile, the Civil Aeronautics Board, or its successor agency or agencies, or its successor agency or agencies;
2. “Agreement” means this Agreement as well as any amendment thereto;
3. “Contracting Party” is a State that has formally agreed to be bound to this Agreement;
4. “Air transportation” means any public carriage by aircraft of passengers, baggage, cargo, and mail, separately or in combination, for remuneration, hire, or otherwise;
5. “Agreed services” means scheduled international air services on the route(s) specified in this Agreement for the transport of passengers, baggage, cargo and mail;
6. “Air service”, “International Air Service”, “Airline” and “Stop for non-traffic purposes” have the meanings assigned to them in Article 96;
7. “Convention” means the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944, and includes:
  - a. any amendment that has entered into force under Article 94(a) of the Convention and has been ratified by both Parties, and
  - b. any Annex or any amendment thereto adopted under Article 90 of the Convention, insofar as such Annex or amendment is at any given time effective for both Parties;
8. “ICAO” designates the International Civil Aviation Organization;

9. "Designated airline" means the airline or airlines designated and authorized in accordance with Article 3 of this Agreement;
10. "Price" means any tariff, fare, rate, or charge for the carriage of passengers, baggage, and cargo and the conditions under which this tariff, fare, rate, or charge applies, excluding remuneration and other conditions relating to carriage of mail;
11. "Self-handling" means a situation in which the airport user directly provides for himself one or more categories of ground handling services and concludes no contract of any description with a third party for the provision of such services; for the purpose of this definition, among themselves airport users shall not be deemed to be third parties where:
  - a) one holds the majority in the other, or
  - b) a single body has a majority holding in each.
12. "Territory" has the meaning assigned to it in Article 2 of the Convention;
13. "User charge" means a charge imposed on airlines for the provision of airport infrastructure, airport environmental, air navigation, or aviation security facilities or services including related services and facilities;
14. "State subsidy or support" means the provision of support on a discriminatory basis to a designated airline, directly or indirectly, by the state or by a public or private body designated or controlled by the state. Without limitation, it may include the setting-off of operational losses; the provision of capital, non-refundable grants or loans on privileged terms; the granting of financial advantages by forgoing profits or the recovery of sums due; the forgoing of a normal return on public funds used; tax exemptions; compensation for financial burdens imposed by the public authorities; or discriminatory access to airport facilities, fuels or other reasonable facilities necessary for the normal operation of air services.
15. References in this Agreement to nationals of the Republic of Austria shall be understood as referring to nationals of European Union Member States;
16. References in this Agreement to airlines of the Republic of Austria shall be understood as referring to airlines designated by the Republic of Austria;

17. References in this Agreement to the “EU Treaties” shall be understood as referring to the Treaty on European Union and the Treaty on the Functioning of the European Union.
18. References in this Agreement to the “European Free Trade Association” shall be understood as referring to its Member States Iceland, Liechtenstein, Norway and Switzerland.

## **ARTICLE 2**

### **Grant of Rights**

1. Each Contracting Party grants to the other Contracting Party the following rights for the conduct of scheduled air services to this Agreement by the designated airlines of the other Contracting Party:
  - a. the right to fly across its territory without landing;
  - b. the right to make stops in its territory for non-commercial purposes;
  - c. the right to make stops in the said territory for the purpose of taking up and disembarking passengers, cargo and mail, separately or in combination destined for or coming from point(s) in the territory of the first Contracting Party; and
  - d. the right to make stops in its territory for the purpose of taking up and disembarking passengers, cargo and mail, separately or in combination while operating international routes from or to third countries, and the right to take up and disembarking passengers, cargo and mail, separately or in combination in third countries, coming from or bound to the territory of the other Contracting Party through its own territory. Fifth freedom traffic rights shall be granted only on the basis of an agreement between the aeronautical authorities of both Contracting Parties.
3. Designated airlines may operate their services both regular and non-regular as frequently and with such aircraft type as they may deem fit.

4. Nothing in paragraph (1) shall be deemed to confer on the airlines designated by one Contracting Party the privilege of taking on board, in the territory of the other Contracting Party, passengers, baggage and cargo including mail for remuneration or hire and destined for another point in the territory of that other Contracting Party ('cabotage').
5. The designated airlines of one Contracting Party shall have the right to use all airways, airports, and other facilities in the territory of the other Contracting Party on a non-discriminatory basis.
6. Each designated airline may, on any or all flights and at its option:
  - a. operate flights in either or both directions;
  - b. combine different flight numbers within one aircraft operation;
  - c. serve intermediate and beyond points; and points in the territories of the Parties on the routes in any combination and in any order in accordance with the provisions of Article 2 paragraph 1;
  - d. omit stops at any point or points; and
  - e. transfer traffic from any of its aircraft to any other of its aircraft at any point on the routes, whether it is the traffic of passengers, cargo, and mail, or exclusively the traffic of cargo from one aircraft to another or to several aircraft other than those used over the same route before the stop, whether these are its own aircraft or operated under any of the modalities specified in Article 8.

### **ARTICLE 3**

#### **Designation and Authorization**

1. Each Contracting Party shall have the right to designate as many airlines as it wishes to conduct air transportation in accordance with this Agreement, and to withdraw or alter such designations. Such designations shall be transmitted to the other Contracting Party in writing through diplomatic channels.

2. On receipt of such a designation, and of applications from the designated airline(s), the other Contracting Party shall grant the appropriate authorizations and permissions with minimum procedural delay, provided:
  - (a) In the case of an airline designated by the Republic of Austria:
    - (i) it is established in the territory of the Republic of Austria under the EU Treaties and has a valid Operating Licence in accordance with European Union law; and
    - (ii) effective regulatory control of the airline is exercised and maintained by the European Union Member State responsible for issuing its Air Operator's Certificate and the relevant aeronautical authority is clearly identified in the designation; and
    - (iii) the airline is owned directly or through majority ownership and it is effectively controlled by Member States of the European Union or States of the European Free Trade Association and/or by nationals of such states.
  - (b) In the case of an airline designated by the Republic of Chile:
    - (i) it is established in the territory of the Republic of Chile and has a valid Operating Licence in accordance with the applicable law of the Republic of Chile; and
    - (ii) the Republic of Chile exercises and maintains effective regulatory control of the airline and is responsible for issuing its Air Operator's Certificate; and
    - (iii) the airline is incorporated and has its principal place of business in the territory of the Republic of Chile.
3. The aeronautical authorities of a Contracting Party may require the airline designated by the other Contracting Party to demonstrate that it is qualified to meet the conditions set forth by the laws and regulations as normally and reasonably applied to the operation of air transportation.



4. When an airline has been so designated and authorized, it may commence operation of the agreed services in accordance with the relevant provisions of this Agreement and with minimum procedural delay.

#### **ARTICLE 4**

##### **Revocation, Suspension or Limitation of Authorization**

1. Either Contracting Party may revoke, suspend or limit the operating authorization or technical permissions of an airline designated by the other Contracting Party where:
  - (a) In the case of an airline designated by the Republic of Austria:
    - (i) it is not established in the territory of the Republic of Austria under the EU Treaties or does not have a valid Operating Licence in accordance with European Union law; or
    - (ii) effective regulatory control of the airline is not exercised or not maintained by the European Union Member State responsible for issuing its Air Operator's Certificate, or the relevant aeronautical authority is not clearly identified in the designation; or
    - (iii) the airline is not owned, directly or through majority ownership, or it is not effectively controlled by Member States of the European Union or the European Free Trade Association and/or by nationals of such States; or
    - (iv) the air carrier holds an air operators certificate issued by a European Union Member State and the Republic of Chile demonstrates that, by exercising traffic rights under this Agreement, the air carrier would be circumventing restrictions on traffic rights imposed by a bilateral agreement between the Republic of Chile and the other European Union Member State; or
    - (v) the air carrier holds an air operators certificate issued by a European Union Member State and there is no bilateral air services agreement between the Republic of Chile and that European Union Member State,

and traffic rights to that European Union Member State have been denied to the air carrier designated by the Republic of Chile.

(b) In the case of an airline designated by Chile:

- (i) it is not established in the territory of Chile or does not have a valid Operating Licence in accordance with the applicable law of Chile; or
  - (ii) effective regulatory control of the airline is not exercised or not maintained by Chile or Chile is not responsible for issuing its Air Operator's Certificate; or
  - (iii) the airline is not incorporated and does not have its principal place of business in the territory of the Republic of Chile.
2. When an airline has been so designated and authorized in accordance with this Article, it may at any time begin to operate the agreed services, in accordance with the provisions of the present Agreement.
  3. Unless immediate action is essential to prevent infringement of the laws and regulations referred to above or unless fair competition, safety or security requires action in accordance with the provisions of Article 14 (Capacity and Fair Competition), 6 (Safety) or 7 (Security), the rights enumerated in paragraph 1 of this Article shall be exercised only after consultations between the aeronautical authorities in conformity with Article 17 (Consultations and Amendments) of this Agreement.

## **ARTICLE 5**

### **Application of Laws and Regulations**

1. The laws and regulations of each Contracting Party governing the entry into, stay in, and departure from the country of aircraft engaged in air transportation, and those governing migration, customs, and health measures, shall also be applied within that territory to the operations of the company designated by the other Contracting Party. Such application shall not be discriminatory for third countries.

2. The laws and regulations of one Contracting Party governing entry into, stay in and departure from its territory of passengers, crew, cargo or mail such as formalities regarding entry, exit, emigration, immigration, customs, health and quarantine shall apply to passengers, crew, cargo and mail carried by aircraft of the airlines designated by the other Contracting Party whilst they are within the said territory.
3. Each Contracting Party shall, upon request, supply to the other Contracting Party copies of the relevant laws and regulations referred to in this Article.

## **ARTICLE 6**

### **Safety**

1. Either Contracting Party may request consultations at any time concerning the safety standards kept by the other Contracting Party in any area relating to aircrews, aircrafts, or their operation of the designated airlines. Such consultations shall take place within thirty (30) days of that request.
2. If, following such consultations, one Contracting Party finds that the other Contracting Party does not effectively maintain and administer safety standards and requirements in these areas that are at least equal to the minimum safety standards established at that time pursuant to the Convention, the other Contracting Party shall be notified by the first Contracting Party of such findings and the steps considered necessary to conform with those minimum standards, and the other Contracting Party shall take appropriate corrective actions. Failure by the other Contracting Party to take appropriate action within fifteen (15) days or such longer period as may be agreed, shall be grounds for the application of paragraph (1) of Article 4 (Revocation, Suspension or Limitation of Authorization) of this Agreement.
3. Notwithstanding the obligations mentioned in Article 33 of the Convention it is agreed that any aircraft operated by or on behalf of a designated airline of one Contracting Party providing services from or to the territory of the other Contracting Party, shall, when it is in the territory of the latter, be subject to inspection by authorized representatives of the other Contracting Party, on board and around the aircraft to check both the validity of the aircraft documents and those of its crew and the apparent

condition of the aircraft and its equipment (in this Article called “ramp inspection”), provided that this does not cause unnecessary delays to the aircraft operation.

4. If any such ramp inspection or series of ramp inspections gives rise to:
  - a) serious concerns that an aircraft or the operation of an aircraft does not comply with the minimum standards established at that time pursuant to the Convention, or
  - b) serious concerns that there is a lack of effective maintenance and administration of safety standards established at that time pursuant to the Convention,

the Contracting Party carrying out the inspection shall, for the purposes of Article 33 of the Convention, be free to conclude that the requirements under which the certificate or licences in respect of that aircraft or in respect of the crew of that aircraft 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.
5. In the event that access for the purpose of undertaking a ramp inspection of an aircraft operated by or on behalf of the airline or airlines of one Contracting Party in accordance with paragraph (3) of this Article is denied by a representative of that airline or airlines, the other Contracting Party shall be free to infer that serious concerns of the type referred to in paragraph (4) of this Article arise and draw the conclusions referred in that paragraph.
6. Each Contracting Party reserves the right to suspend or vary the operating authorization of an airline or airlines of the other Contracting Party immediately in the event the first Contracting Party concludes, whether as a result of a ramp inspection, a series of ramp inspections, a denial of access for ramp inspection, consultation or otherwise, that immediate action is essential to the safety of the airline’s operation.
7. Any action by one Contracting Party in accordance with paragraphs (2) or (6) above shall be discontinued once the basis for the taking of that action ceases to exist.
8. Where the Republic of Austria has designated an airline whose regulatory control is exercised and maintained by an European Union Member State, the rights of the other

Contracting Party under this Article shall apply equally in respect of the adoption, exercise or maintenance of safety standards by that other European Union Member State and in respect of the operating authorization of that airline.

## **ARTICLE 7**

### **Aviation Security**

1. In accordance with their rights and obligations under International Law, the Contracting Parties reaffirm their mutual obligation to protect the security of civil aviation against acts of unlawful interference as an integral part of this Agreement.
2. Each Contracting Party shall, at the request of the other Contracting Party, provide all necessary assistance to prevent acts of unlawful seizure of aircraft and other unlawful acts against the safety of their passengers, crew, aircraft, airports, and air navigation facilities, and to address any other threat to the security of civil air navigation.
3. Without limiting the generality of their rights and obligations under international law, the Contracting Parties shall act in conformity with the provisions of the Convention on Offenses and other Certain Acts Committed on Board Aircraft, signed at Tokyo on September 14, 1963; the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970, and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on September 23, 1971, and the Protocol for the Suppression of Unlawful Acts of Violence in Airports serving International Civil Aviation, signed at Montreal on February 24, 1988, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on March 1, 1991, provided both Contracting Parties are parties to said Conventions, as well as any other Convention or Protocol regarding civil aviation security ratified by both Contracting Parties.
4. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions set by the International Civil Aviation Organization and designated as Annexes to the Convention on International Civil Aviation, insofar as such provisions are applicable to the Contracting Parties. They shall require that operators of aircraft of their registry, operators of aircraft who have their principal place of business or permanent residence in their territory or, in the case of the Republic of Austria, operators of aircraft which are established in its territory under the EU Treaties and have valid Operating Licences in accordance with European Union law, and

operators of airports in their territory act in conformity with such aviation security provisions.

5. Each Contracting Party agrees that its operators of aircraft may be required to observe the aviation security provisions required by the other Contracting Party for entry into, departure from, and while within the territory of the other Contracting Party. Each Contracting Party shall ensure that adequate measures are applied within its territory to protect aircraft and inspect passengers, crew, carry-on items, cargo, and aircraft stores, prior to and during boarding or loading. Each Contracting Party shall also give positive consideration to any request from the other Contracting Party for special aviation security measures to meet a particular threat.
6. When an incident or threat of an incident of unlawful seizure of civil aircraft or other unlawful acts against the safety of passengers, crew, aircraft, airports, or air navigation facilities occurs, the Contracting Parties shall assist one other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat.
7. When a Contracting Party has reasonable grounds to believe that the other Contracting Party has departed from the aviation security provisions of this Article, the aeronautical authorities of that Contracting Party may request immediate consultations with the aeronautical authorities of the other Contracting Party. Such consultations shall start within fifteen (15) days of receipt of such a request from either Contracting Party. Failure to reach a satisfactory agreement on the issues involved within 15 days from the date of such request shall constitute grounds for application of paragraph (1) of Article 4 of this Agreement (Revocation, Suspension or Limitation of Authorization) When required by a serious emergency, either Contracting Party may take interim action prior to the expiry of a month period.

## **ARTICLE 8**

### **Commercial Representation and Opportunities**

1. Airline representation
  - a) The designated airlines of each Contracting Party shall have the right to establish offices in the territory of the other Contracting Party for the promotion and

sale of air transportation as well as, in accordance with the legislation of such other Contracting Party, other facilities required for the provision of air transportation.

b) The designated airlines of each Contracting Party shall be entitled, in accordance with the laws and regulations of the other Contracting Party relating to entry, residence, and employment, to bring in and maintain in the territory of the other Contracting Party managerial, sales, technical, operational, and other specialist staff required for the provision of air transportation.

c) These staff requirements may, at the option of the designated airlines, be satisfied by their own personnel of any nationality or by using the services of any other organization, company or airline operating in the territory of the other Contracting Party and authorized to perform such services in the territory of that Contracting Party.

d) The representatives and staff shall be subject to the laws and regulations in force in the other Contracting Party. Consistent with such laws and regulations, each Contracting Party should grant the necessary work permits, national employment visas, residence permits or other similar documents, if applicable, as soon as possible to the representatives and staff referred to in paragraph 1.b) of this Article, if all conditions are met.

e) The competent authorities of each Contracting Party will take all necessary steps to ensure that the representation of the airlines designated by the other Contracting Party may exercise their activities in an efficient way.

## 2. Ground Handling

Each designated airline shall have the right to perform its own ground-handling services in the Territory of the other Contracting Party (hereinafter "self-handling services") or, otherwise to contract these services out ("third Contracting Party-handling"), in full or in part, at its option, with any of the suppliers authorized for the provision of such services. Where or as long as the laws and regulations applicable to ground handling in the territory of one Contracting Party prevent or limit either the freedom to contract these services out or self-handling, each designated airline shall be treated on a non-discriminatory basis as regards their access to self-handling and ground handling services provided by a supplier or suppliers.

## 3. Sales, Conversion and Transfer of Funds and Revenues

- a) Designated airlines of either Contracting Party may engage in the sale of air transportation and related services in the territory of the other Contracting Party directly, and/or, at the airline's discretion, through its agents, other intermediaries appointed by the air carrier, through another air carrier or through the internet. Each designated airline shall have the right to sell such transportation and related services, and any person shall be free to purchase such transportation and related services in the currency of that territory or in freely convertible currencies, in accordance with the local currency legislation.
- b) Each Contracting Party shall grant to the designated airlines of the other Contracting Party the right to convert into freely convertible currencies and to remit local revenues obtained in the territory of the former Contracting Party to its home territory or to the country or countries of its choice in excess of sums locally disbursed. Conversion and remittance shall be permitted promptly at the rate of exchange applicable to current transactions and remittance prevailing on the date of conversion and remittance.
- c) The air carriers of each Contracting Party shall be permitted to pay for local expenses, including airport charges and purchases of fuel, in the territory of the other Contracting Party in the local national currency. At their discretion, the air carriers of each Contracting Party may pay for such expenses in the territory of the other Contracting Party in freely convertible currencies in accordance with local currency legislation.

#### 4. Code Sharing

In operating or holding out the authorized services on the agreed routes, any designated airline of either Contracting Party may enter into cooperative marketing arrangements such as blocked space and code-sharing, with designated airlines of either Contracting Party and/or an airline or airlines of a third country. Should such a third country not authorize or allow comparable arrangements between the airlines of the other Contracting Party and other airlines on services to, from and via the territory of such third country, the aeronautical authorities of the concerned Contracting Party have the right not to accept such arrangements.

The above provisions are subject to the conditions that (a) the airlines in such arrangements hold the appropriate authority and (b) the airline tickets and any other



document regarding conditions of the air services and/or air waybills state clearly the buyer or user of the service, the airline that will actually operate each segment of the service, and the airline with which will enter into a commercial-contractual relation.

The airlines are required to file proposed code-sharing and blocked-space arrangements with the aeronautical authorities of both Contracting Parties in accordance with the laws and regulations of each Contracting Party.

5. Leasing

Subject to the laws and regulations of each Contracting Party, the designated airlines shall have the right to perform the agreed services on the specified routes using aircraft (or aircraft and crew) leased from any company, including companies of third States.

6. Intermodal transport

Subject to the laws and regulations of each Contracting Party, the designated airlines of each Contracting Party shall be permitted to employ, in connection with air transport, any intermodal transport to or from any points in the territories of the Contracting Parties or third countries. Airlines may elect to perform their own intermodal transport or to provide it through arrangements, including code share, with other modes of transport. Such intermodal services may be offered as a through service and at a single price for the air and intermodal transport combined, provided that passengers and shippers are informed as to the providers of the transport involved.

7. Servicing, Maintenance, or Repair of Aircraft

Each designated airline shall have the right to provide its own servicing, maintenance, or repair of aircraft in the territory of the other Contracting Party or otherwise to contract these services out, in full or in part, at its option, with any of the suppliers authorized for the provision of such services and licensed at the given airports. Servicing and defect rectification can also be performed for airlines where a) one holds the majority in the other, or b) a single body has a majority holding in each.

## **ARTICLE 9**

### **Exemption from Customs and other Duties**

1. Aircraft operated on international air transportation by the designated airlines of either Contracting Party, as well as the regular equipment, spare parts, fuel, lubricants, and aircraft stores (including items of food and beverages) on board such aircraft shall be exempt from all customs duties, inspection fees and other duties or taxes on arriving in the territory of the other Contracting Party, provided that such equipment and supplies remain on board the aircraft until re-exported.
2. The following shall also be exempt from duties and taxes, with the exception of charges based on the cost of the service provided:
  - a. aircraft stores taken on board in the territory of either Contracting Party, within the limits set by the competent authorities of the Contracting Party and for use on board the aircraft engaged in the services agreed upon with the other Contracting Party; and
  - b. spare parts introduced into the territory of either Contracting Party for the servicing or repair of aircraft operated by the designated airline or airlines of the other Contracting Party in the agreed services; and
  - c. fuel and lubricants destined to supply aircraft operated on a specified route by the designated airline(s) of the other Contracting Party, even if these supplies are to be used on the part of the journey performed over the territory of the Contracting Party in which they are taken on board.

Equipment and supplies referred to in paragraphs (a), (b) and (c) above may be required to be kept under the supervision or control of customs authorities.

3. The regular airborne equipment, as well as materials and supplies on board aircraft of either Contracting Party may be unloaded in the territory of the other Contracting Party only upon authorization of customs authorities of the former. In such a case, they may be required to be kept under the supervision of such authorities until re-exported or until otherwise disposed of in accordance with customs regulations.

## **ARTICLE 10**

### **Traffic In Direct Transit**

Passengers, baggage and cargo including mail in direct transit across the territory of either Contracting Party and not leaving the area of the airport reserved for such purpose shall be exempt from custom duties, charges and other similar taxes.

## **ARTICLE 11**

### **Recognition of Certificates And Licences**

1. Certificates of airworthiness, certificates of competency and licences issued or validated in accordance with the laws and regulations of one Contracting Party, including, in the case of the Republic of Austria, European Union laws and regulations, and unexpired shall be recognized as valid by the other Contracting Party for the purpose of operating the agreed services, provided always that such certificates or licences were issued or validated, equal or above the minimum standards established under the Chicago Convention.
2. Paragraph (1) also applies with respect to an airline designated by the Republic of Austria whose regulatory control is exercised and maintained by another European Union Member State.
3. Each Contracting Party, however, reserves the right to refuse to recognize, for flights above its own territory, certificates of competency and licences granted or validated to its own nationals by the other Contracting Party or by any other State.

## **ARTICLE 12**

### **User Charges**

1. User charges that may be imposed by the competent charging bodies on designated airlines of the other Contracting Party shall be just, reasonable, and not unjustly discriminatory.
2. Each Contracting Party shall encourage consultations among the competent charging bodies in the territory and the airlines using the services and facilities, and shall encourage the competent charging bodies and the airlines to exchange information as may be necessary to permit an accurate review of the reasonableness of the charges.
3. Each Contracting Party shall ensure that the competent charging authorities or bodies provide users with reasonable notice of any proposal for changes in user charges to enable those authorities to consider the views expressed by the users before changes are made.

### **ARTICLE 13**

#### **Capacity and Fair Competition**

1. Each Contracting Party shall allow a fair and equal opportunity for the designated airlines of both Contracting Parties to compete in providing the international air transportation governed by this Agreement.
2. The capacity of international air transport offered by the designated airlines shall be determined freely by each of them based upon commercial considerations in the marketplace. Consistent with this right, neither Contracting 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 Contracting Party, except as may be required for customs, technical, operational, or environmental reasons under uniform conditions consistent with Article 15 of the Convention and always on a non-discriminatory basis.
3. Airlines designated by a Contracting Party may be required to submit their flight schedules for approval to the aeronautical authorities of the other Contracting Party at least thirty (30) days before the proposed date of their introduction. The same

procedure shall apply to any modification thereof. In special cases this time limit may be reduced subject to the consent of the said authorities.

4. Neither Contracting Party shall allow its designated airline or airlines, either in conjunction with any other airline or airlines or separately, to abuse market power in a way which has or is likely or intended to have the effect of severely weakening a competitor or excluding a competitor from a route.
5. Neither Contracting Party shall provide or permit state subsidy or support for or to its designated airline or airlines in such way that would adversely affect the fair and equal opportunity of the airlines of the other Contracting Party to compete in providing international air transportation.
6. Where a Contracting Party provides state subsidy or support to a designated airline in respect of services operated under this Agreement, it shall require that airline to identify the subsidy or support clearly and separately in its accounts.
7. If one Contracting Party has substantiated concerns that its designated airlines are being subjected to discrimination or unfair practices, or that a subsidy or support is being considered or provided by the other Contracting Party would adversely affect or is adversely affecting the fair and equal opportunity of the airlines of the first Contracting Party to compete in providing international air transportation, the aeronautical authorities of that Contracting Party may request immediate consultations with the aeronautical authorities of the other Contracting Party. Such consultations shall start within thirty (30) days of receipt of such a request from either Contracting Party. Failure to reach a satisfactory agreement within thirty (30) days from the start of such consultations shall constitute grounds to suspend the exercise of the rights specified in Article 2 (Grant of Rights) of the present Agreement by the airline designated by the other Contracting Party, or to revoke the operating authorization, or to impose such conditions as it may deem necessary on the exercise of these rights.

## **ARTICLE 14**

### **Pricing**

1. Each designated airline shall establish the prices for air transportation based upon commercial considerations in the marketplace. Intervention by the Contracting Parties shall be limited to:
  - a. prevention of unreasonably discriminatory prices or practices;
  - b. consumer protection 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. Neither aeronautical authority of the Contracting Parties shall take unilateral action to prevent the introduction of a proposed price or a price charged by a designated airline of either Contracting Party, except as set out herein in paragraphs 3 and 4 of this Article.
3. Prices to be charged to or from its territory by airlines of either Party may be required to be submitted to the aeronautical authorities of the other Party or to the corresponding entities for notification or registration. The airlines of the Contracting Parties shall provide immediate access, on request, to information on historical, existing, and proposed prices to the aeronautical authorities of the Contracting Parties in a manner and format acceptable to those aeronautical authorities.
4. If either Aeronautical Authority of the Contracting Parties believes that the price proposed or in effect is inconsistent with the considerations set forth in paragraph (1) of this Article, it shall notify the other Contracting Party of the reasons for its dissatisfaction as soon as possible. Aeronautical authorities of both Contracting Parties shall make their best effort to settle the issue. Each Contracting Party may request consultations. These consultations shall be held not later than thirty (30) days after receipt of the request, and the Contracting Parties shall cooperate in securing information necessary for a reasonable resolution of the issue.

## **ARTICLE 15**

### **Provision Of Statistics**

The aeronautical authorities of one Contracting Party shall supply the aeronautical authorities of the other Contracting Party, at their request, with such statistics as may be reasonably required for information purposes subject to the laws and regulations of each Contracting Party.

## **ARTICLE 16**

### **Consultations and Amendments**

1. Either Contracting Party may, at any time, request consultations relating to this Agreement. Such consultations shall begin at the earliest possible date, but not later than sixty (60) days from the date the other Contracting Party receives the request, unless otherwise agreed.
2. If either of the Contracting Parties considers it desirable to modify any provision of this Agreement, it may at any time request consultations with the other Contracting Party. Such consultations (which may be prepared by discussions between the Aeronautical Authorities), shall begin within a period of sixty (60) days from the date of the request, unless both Contracting Parties agree to an extension of this period.
3. Modifications so agreed upon shall be approved by each Contracting Party and shall enter into force on the first day of the second month, following the month on which the two Contracting Parties have notified each other by an exchange of diplomatic notes that the requirements for its entry into force under their respective legal procedures have been fulfilled.

## **ARTICLE 17**

### **Settlement of Disputes**

1. Any dispute arising between the Contracting Parties as to the interpretation or application of this Agreement shall be first settled by consultations between the Contracting Parties. If the Contracting Parties fail to reach a settlement through consultation, they can agree to submit the dispute for decision to an arbitrator, or the dispute may at the request of either Contracting Party be submitted for decision to an arbitral panel.
2. This arbitral panel shall be composed of three members established as follows:
  - a. Each Contracting Party shall designate an arbitrator within thirty (30) days after receipt of the request of arbitration. Within sixty (60) days after the two arbitrators have been appointed, they shall appoint, by mutual agreement, a third arbitrator, who will act as President of the arbitration panel; and
  - b. If either Contracting Party does not designate an arbitrator or if the third arbitrator is not designated as stated in subparagraph a), the arbitrator or arbitrators shall, at the request of either Contracting Party, be designated by the President of the Council of the International Civil Aviation Organization within 30 days. If the President of the Council is a national of either Contracting Party, the appointment shall be made by the most senior Vice President who is not disqualified for the same reason.
3. The Contracting Parties undertake to comply with the procedure, decisions and the judgment handed down by the arbitral panel. If decisions handed down in accordance with this Article are not observed by either Contracting Party or the designated airlines of either of them, the other Contracting Party may limit, impede, or revoke any right or privilege granted to the other non-compliant Contracting Party pursuant to this Agreement.
4. Costs incurred as a result of the arbitral panel shall be shared equally by the Contracting Parties.

## **ARTICLE 18**

### **Termination**



1. Either Contracting Party may, at any time, give notice in writing to the other Contracting Party of its decision to terminate this Agreement through diplomatic channels. Such notice shall be sent simultaneously to the International Civil Aviation Organization. This Agreement shall terminate twelve (12) months after receipt by the other Contracting Party of the relevant notice, unless such notice is withdrawn before the expiry of the above term by mutual agreement of the Contracting Parties.
2. Should the Contracting Party fail to acknowledge receipt of the notice of termination, such notice shall be deemed to have been received fourteen (14) days after the date ICAO acknowledges receipt thereof.

## **ARTICLE 19**

### **Multilateral Agreement**

Should a multilateral agreement adopted by both Contracting Parties with regard to any matter referred to herein become effective, this Agreement shall be adjusted to the provisions of the multilateral agreement.

## **ARTICLE 20**

### **Registration with ICAO**

This Agreement and all amendments thereto shall be registered with the International Civil Aviation Organization.

## **ARTICLE 21**

### **Non-Discrimination**

The Parties understand that this Agreement is based on the Principle of Non-Discrimination, in terms that each Contracting Party shall grant to the other Contracting Party an equal and non-discriminatory treatment concerning the airlines designated by

each Contracting Party, particularly in relation to the rights and obligations set forth in this Agreement.

## **ARTICLE 22**

### **Entry into Force**

This Agreement shall enter into force sixty (60) days after the date of the last exchange of notes whereby one of the Contracting Parties communicates to the other Contracting Party, through the diplomatic channels, that all necessary internal procedures have been complied with.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE AT ....., this .... day of ....., ....., in two identical copies, in German, Spanish and English languages, each text being equally authentic. In case of divergence of interpretation of this Agreement the English text shall prevail.

FOR THE AUSTRIAN FEDERAL  
GOVERNMENT

FOR THE GOVERNMENT OF THE  
REPUBLIC OF CHILE