

**AIR TRANSPORT AGREEMENT**

**BETWEEN**

**THE REPUBLIC OF MAURITIUS**

**AND**

**THE KINGDOM OF SPAIN**

The Kingdom of Spain and the Republic of Mauritius hereinafter referred to as the Contracting Parties;

Acknowledging the importance of air transportation as a means of creating and preserving friendship, understanding and co-operation between the peoples of the two countries;

Desiring to promote an international aviation system which offers fair and equal opportunities to their respective airlines for the operation of the services and which allows them to compete in accordance with the laws and regulations of each Contracting Party;

Desiring to facilitate the expansion of international air transport opportunities;

Desiring to ensure the highest degree of safety and security in international air transport and reaffirming their grave concern about acts or threats against the security of aircraft, which jeopardize the safety of persons or property; and

Being Parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December 1944;

Have agreed as follows:



## ARTICLE 1

### DEFINITIONS

For the purpose of the interpretation and application of this Agreement, except as otherwise provided herein:

- (a) the term **Convention** means the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December 1944, and includes any Annex adopted under Article 90 of that Convention, any amendment of the Annexes or Convention under Article 90 and 94 thereof so far as those Annexes and amendments have become effective for or have been ratified by both Contracting Parties;
- (b) the term **Aeronautical Authorities** means in the case of the Republic of Mauritius, the Minister to whom responsibility for the subject of civil aviation is assigned and in the case of the Kingdom of Spain, on the civil level, the Ministry of Fomento (General Directorate of Civil Aviation), or, in both cases, any person or body duly authorized to perform any function related to this Agreement exercised by the said Authorities;
- (c) the term **designated airline** means an airline designated by either Contracting Party to operate the agreed services on the specified routes as established in the Annex 2 to this Agreement and authorised in accordance with Article 3 (Designation and Operating Authorization of Airlines) of this Agreement;
- (d) the terms **territory, international air service, and stop for non traffic purposes** have the meanings specified in Articles 2 and 96 of the Convention;
- (e) the term **Agreement** means this Agreement, its Annexes and any amendments thereto;

- (f) the term **specified routes** means the routes established in the Annex 2 to this Agreement;
- (g) the term **agreed services** means the international air services which can be operated, according to the provisions of this Agreement, on the specified routes;
- (h) the term **tariff** means the prices established for the carriage of passengers, baggage and freight (except mail) including any significant additional benefit granted or provided together with the said transport as well as the commission to be paid in connection with the sale of tickets and with the corresponding transactions for the carriage of goods. It also includes the conditions of the application of the transport price and the payment of the appropriate commission;
- (i) the term **capacity** means, in relation to an aircraft, the availability of seats and/or cargo space on the said aircraft and, in relation to the agreed services, it means the capacity of the aircraft used on the said services, multiplied by the number of frequencies operated by the said aircraft during a specific period on any route or any sector of a route;
- (j) the term **intermodal air transportation** means the public carriage by aircraft and by one or more surface modes of transport of passengers, baggage, cargo and mail, separately or in combination, for remuneration or hire; .
- (k) the term **nationals**, in the case of Spain, shall be understood as referring to nationals of European Union Member States; and
- (l) the term **EU Treaties** shall be understood as referring to the Treaty on European Union and the Treaty on the Functioning of the European Union



## ARTICLE 2

### OPERATING RIGHTS

1. Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement, for the purpose of establishing scheduled international air services on the routes specified in the Annex 2 hereto.
  
2. The airlines designated by each Contracting Party shall enjoy the following rights:
  - (a) to fly over the territory of the other Contracting Party without landing;
  
  - (b) to make stops in the said territory for non-traffic purposes; and
  
  - (c) to make stops in the said territory at points specified in the Route Schedule in the Annex 2 to this Agreement for the purpose of taking on or putting down international traffic of passengers, cargo and mail, jointly or separately, in accordance with the provisions of the Annex 2 to this Agreement, to or from the territory of the other Contracting Party or to or from the territory of another State.
  
3. Airlines of either Contracting Party other than the designated airlines shall be ensured the rights specified in paragraphs (a) and (b) above.
  
4. Nothing in this Agreement shall be deemed to confer on the designated airlines of one Contracting Party rights of cabotage in the territory of the other Contracting Party.



## ARTICLE 3

### DESIGNATION AND OPERATING AUTHORIZATION OF AIRLINES

1 Each Contracting Party shall have the right to designate by written notification through diplomatic channels to the other Contracting Party, one or more airlines, for the purpose of operating the agreed services on the specified routes and to substitute another airline for an airline previously designated. Such designation shall specify the scope of the authorization granted to each airline in relation to the operation of the agreed services.

2. On receipt of such designation, and on application being made by the designated airline in the form and manner prescribed, the other Contracting Party shall grant without delay the appropriate operating authorisation and permissions, subject to the provisions of paragraphs 3 and 4 of this Article.

3. The Aeronautical Authorities of one Contracting Party may require any airline designated by the other Contracting Party to satisfy them that it is qualified to fulfil the conditions prescribed under the laws and regulations normally and reasonably applied to the operation of international air services by such authorities in conformity with the provisions of the Convention.

4. The granting of the operating authorizations referred to in paragraph 2 of this Article shall require:

4.1 in the case of an airline designated by the Republic of Mauritius:

4.1.1 it is established in the territory of the Republic of Mauritius and is licensed in accordance with the applicable laws of Mauritius; and

4.1.2 The Republic of Mauritius has and maintains effective regulatory control of the airline; and



4.1.3 the airline is owned, directly or through majority ownership, and it is effectively controlled, by the Republic of Mauritius and/or its nationals.

4.2 in the case of an airline designated by the Kingdom of Spain:

4.2.1 it is established in the territory of the Kingdom of Spain under the EU Treaties and has a valid Operating Licence in accordance with European Union Law; and

4.2.2 effective regulatory control of the airline is exercised and maintained by the European Union Member State responsible for issuing its Air Operator Certificate and the relevant Aeronautical Authority is clearly identified in the designation; and

4.2.3 the airline is owned, directly or through majority ownership, and it is effectively controlled by Member States of the European Union and/or nationals of EU Member States, and/or by other States listed in Annex 1 and/or by nationals of such other States.

5. When an airline has been so designated and authorized, it may begin at any time to operate the agreed services in accordance with the provisions established in this Agreement.



## ARTICLE 4

### REVOCATION AND SUSPENSION

1. Each Contracting Party shall have the right to revoke the operating authorisations or technical permissions or to suspend the exercise of the rights specified in Article 2 (Operating Rights) of this Agreement given to an airline designated by the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise of these rights:

- (a) 1. in the case of an airline designated by the Republic of Mauritius:
  - i) it is not established in the territory of the Republic of Mauritius or it is not licensed in accordance with the applicable laws of Mauritius; or
  - ii) the Republic of Mauritius is not maintaining effective regulatory control of the airline; or
  - iii) the airline is not owned, directly or through majority ownership, or it is not effectively controlled, by the Republic of Mauritius and/or its nationals.
  
- 2. in the case of an airline designated by the Kingdom of Spain:
  - i) it is not established in the territory of the Kingdom of Spain 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 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 and/or nationals of EU Member States, and/or by other States listed in Annex 1 and/or by nationals of such other States.
- (b) in the case of failure by that airline to comply with the laws and regulations of the Contracting Party granting these rights; or
  - (c) in any case in which that airline otherwise fails to operate the agreed services in accordance with the conditions prescribed under this Agreement; or
  - (d) in the case of failure by the other Contracting Party to comply with or apply the Safety and Security standards in accordance with Articles 11 (Safety) and 12 (Security) of this Agreement.

2. Without prejudice to the provisions under Articles 11 (Safety) and 12 (Security) and unless immediate revocation, suspension or imposition of the conditions mentioned in paragraph 1 of this Article are essential to prevent further infringement of the laws and regulations, such a right shall be exercised only after consultations with the other Contracting Party.



## ARTICLE 5

### EXEMPTIONS FROM CUSTOMS DUTIES, TAXES AND CHARGES

1. Aircraft operated by any designated airline of either Contracting Party and entering, departing again from, or flying across the territory of the other Contracting Party, as well as fuel, lubricants and other consumable technical supplies contained in the tanks or other receptacles on the aircraft, for example hydraulic fluid, cooling fluid, spare parts, regular equipment and aircraft stores on board such aircraft, intended for use in connection with the operation of the agreed services, shall be exempt from customs duties and other charges levied on the occasion of importation, exportation or transit of goods. This shall also apply to goods on board the aircraft consumed during the flight across the territory of the latter Contracting Party.

2. There shall also be exempt from the same duties and taxes, with the exception of those payments corresponding to the service performed:

- (a) aircraft stores taken on board in the territory of either Contracting Party, within the limits fixed by the Authorities of the said Contracting Party, and for use on board the aircraft engaged in international air services of the other Contracting Party;
- (b) spare parts, brought into the territory of either Contracting Party for the maintenance or repair of aircraft used on international air services by the designated airlines of the other Contracting Party;
- (c) fuels and lubricants destined to supply aircraft operated on international air services by the designated airlines of the other Contracting Party, even when 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; and



- (d) printed tickets stock, airway bills, any printed material which bears the insignia of the company printed thereon and usual publicity material distributed without charge by the designated airlines;
- (e) the aviation safety and protection equipment taken on board in the territory of either contracting party for use at airports and cargo terminals in connection with the agreed services

3. Regular airborne equipment, as well as materials and supplies on board the aircraft of either Contracting Party may be unloaded in the territory of the other Contracting Party only with the approval of the Customs Authorities of such territory. In such case, they may be placed under the supervision of the said Authorities up to such time as they are re-exported or otherwise disposed of in accordance with the Customs regulations.

4. The exemptions provided for by this Article shall also be available in situations where the designated airlines of either Contracting Party have entered into arrangements with other airlines, for the loan or transfer in the territory of the other Contracting Party, of the regular equipment and the other items referred to in this Article provided that the other airline or airlines enjoy the same exemptions from that other Contracting Party.

5. Passengers in transit across the territory of either Contracting Party as well as their baggage shall be subject to the controls established under the applicable Customs regulations. . Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes levied on imports.

6. The exemptions provided for in this Article shall be granted in accordance with the procedures established in the Customs regulations.



## **ARTICLE 6**

### **USER CHARGES**

1. User charges that may be imposed by the competent Authorities of each Party on a designated airline of the other Contracting Party shall be just, reasonable, not unjustly discriminatory, and equitably apportioned among categories of users. These charges shall be based on sound economic principles.

2. Neither Contracting Party shall impose or permit to be imposed on a designated airline of the other Contracting Party user charges higher than those imposed on its own designated airline conducting similar international air transportation using similar aircraft and associated facilities and services.

3. Each Contracting Party shall encourage appropriate consultations in order to enable the exchange of such information as may be necessary to permit an accurate review of the reasonableness of the charges in accordance with the principles enunciated in paragraphs 1 and 2 of this Article. Each Contracting Party shall encourage the giving of reasonable notice to users of any proposal for changes in user charges to enable users to express their views before changes are made.

## **ARTICLE 7**

### **TARIFFS**

1. The tariffs to be charged by the designated airlines of each Contracting Party for the international carriage in the services provided under this Agreement shall be freely established at reasonable levels, due regard being paid to all relevant factors, including the cost of operation, the characteristics of the service, the interests of users, a reasonable profit and other market considerations.



2. Each Contracting Party may require notification or filing of any tariff to be charged by its own designated airline or airlines. Neither Contracting Party shall require notification or filing of any tariff to be charged by the designated airline or airlines of the other Contracting Party.

3. Without prejudice to the applicable competition and consumer protection laws prevailing in each Contracting Party, neither Contracting Party shall take unilateral action to prevent the inauguration or continuation of an effective tariff proposed to be charged or charged by a designated airline of the other Contracting Party for international air transportation in the services provided under this Agreement. Intervention by the Contracting 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;
- (c) protection of airlines from prices that are artificially low due to direct or indirect subsidy or support; and
- (d) protection of airlines from prices that are artificially low, where evidence exists as to an intent to eliminate competition.

4. Where the Aeronautical Authorities find that a certain tariff falls within the categories set forth in paragraphs 3(a), 3(b), 3(c) and 3(d), they shall send reasoned notification of their dissatisfaction to the Aeronautical Authorities of the other Contracting Party and to the concerned airline as soon as possible, and may request consultations in accordance with paragraph 5 of this Article.



5. The Aeronautical Authorities of each Contracting Party may request the Aeronautical Authorities of the other Contracting Party consultations on any tariff charged by an airline of the other Contracting Party for the international carriage to or from the territory of the first Contracting Party, including those tariffs for which a notice of dissatisfaction has been given. These consultations shall be held not later than thirty (30) days after receipt of the request. The Contracting Parties shall cooperate in securing the necessary information for a reasoned resolution of the issue. If an agreement is reached with respect to a tariff for which a notice of dissatisfaction has been given, the Aeronautical Authorities of each Contracting Party shall use their best efforts to put that agreement into effect. Without a mutual agreement the tariff shall go into effect or continue in effect.

6. A tariff established in accordance with the provisions of this Article shall remain in unless subsequently disapproved in accordance with the provisions of paragraphs 4 and 5 above.

## ARTICLE 8

### COMMERCIAL OPPORTUNITIES

1. The designated airlines of each Contracting Party shall be allowed, on the basis of reciprocity, to maintain in the territory of the other Contracting Party, their offices and representatives, as well as their commercial, operational and technical staff as required in connection with the operation of the agreed services.

2. The request for staff may, at the option of the designated airlines of each Contracting Party, be satisfied either by their own personnel or by using the services of any other organisation, company or airlines operating in the territory of the other Contracting Party, and authorised to perform such services in the territory of that Contracting Party.



3. The representatives and staff shall be subject to the laws and regulations in force of the other Contracting Party, and, according to such laws and regulations, each Contracting Party shall process, on the basis of reciprocity and with the minimum delay, the residency and employment authorisations, visas, where applicable, or other similar documents to the representatives and staff referred to in paragraph 1 of this Article.

4. Should special circumstances require the entry or presence of staff on an emergency and temporary basis, the authorisations, visas and any other documents required by the laws and regulations of each Contracting Party shall be processed promptly so as not to delay the entry of such personnel into the State concerned.

5. Each designated airline shall have the right to provide their own ground-handling services 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 authorised for the provision of such services. Where or as long as the laws and regulations applicable to the provision of 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.

6. On a reciprocal and non discriminatory basis with respect to any other airline operating in international traffic, the airlines designated by the Contracting Parties shall be free to sell air transport services in the territories of both Contracting Parties, either directly or through an agent, and in any currency in accordance with the laws in force in each Contracting Party.

7. The airlines of one Contracting Party shall be free to transfer from the territory of the other Contracting Party to their home territory the excess of receipts over expenditure. Included in such net transfer shall be revenues from sales, made directly or through an agent of air transport services, and ancillary or supplementary services, and normal commercial interest earned on such revenues while on deposit awaiting transfer.

8. Such remittances shall be made without prejudice to any fiscal obligations in force in the territory of either Contracting Party.

9. The airlines designated by the Contracting Parties shall be granted the appropriate authorisation to make such remittances on the due dates in freely convertible currency at the official rate of exchange in force at the time of the request.

## ARTICLE 9

### LAWS AND REGULATIONS

1. Each Contracting Party's laws and regulations controlling the admission to or departure from its own territory of aircraft engaged in international air services or related to the operation of aircraft while within its territory, shall be applied to the aircraft of the designated airlines of the other Contracting Party.

2. The laws and regulations controlling the entry, movement, stay and departure of passengers, crew, baggage, mail and cargo, over the territory of each Contracting Party, and also the regulations related to the requirements of entry and departure from the country, immigration, customs and sanitary rules, shall be applied in such territory to the operations of the designated airlines of the other Contracting Party.



## ARTICLE 10

### CERTIFICATES AND LICENCES

1. Certificates of airworthiness, certificates of competence and licences issued or rendered valid in accordance with the laws and regulations of one Contracting Party and still in force shall be recognized as valid by the other Contracting Party for the purpose of operating the agreed services on the specified routes as set out in Annex 2 to this Agreement, provided that the requirements under which such certificates and licences were issued or rendered valid are equal to or above the minimum standards which may be established pursuant to the Convention.

2. Each Contracting Party reserves the right, however, of refusing to recognize the validity of the certificates of competency and the licences granted to its own nationals by the other Contracting Party, for the purpose of overflying and/or landing in its own territory.

## ARTICLE 11

### SAFETY

1. Each Contracting Party may request consultations at any time concerning safety standards in any area relating to aircrew, aircraft or their operation adopted by the other Contracting Party. 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 in any such area that are at least equal to the minimum standards established at that time pursuant to the Convention, the first Contracting Party shall notify the other Contracting Party of those

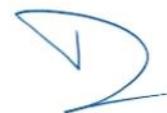
findings and the steps considered necessary to conform with those minimum standards, and that other Contracting Party shall take appropriate corrective action. Failure by the other Contracting Party to take appropriate action within fifteen (15) days or such longer period as may be agreed, shall constitute a ground for the application of Article 4 (Revocation and Suspension) of this Agreement.

3. In accordance with the obligations established in Article 16 of the Convention, it is agreed that any aircraft operated by the airline or airlines of one Contracting Party on services to or from the territory of the other Contracting Party may, while within the territory of the other Contracting Party, be made the subject of an examination, in this Article called "ramp inspection", provided this does not lead to unreasonable delay. Notwithstanding the obligations established in Article 33 of the Convention, such inspection shall be performed, by the 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.

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 the airline or airlines of one Contracting Party in accordance with paragraph 3 above is denied by the 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 above arise and draw the conclusions referred in that paragraph.

6. Each Contracting Party reserves the right to suspend or vary the operating authorisation 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 an airline 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. When the Kingdom of Spain has designated an airline whose regulatory control is exercised and maintained by another European Union Member State, the rights of the Republic of Mauritius 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 12**

### **SECURITY**

1. Consistent with their rights and obligations under international law, the Contracting Parties reaffirm that their obligation to each other to protect the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement. Without limiting the generality of their rights and obligations under international law, the Contracting Parties shall in particular act in conformity with the provisions of the

Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14<sup>th</sup> 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 which is supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971, and the Convention on Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991, and any other Convention or protocol relating to civil aviation security which has been adhered to by both Contracting Parties.

2. The Contracting 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 such aircraft, their passengers and crew, airports and air navigation facilities, and any other threat to the security of civil aviation.

3. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organisation and designated as Annexes to the Convention to the extent that such security provisions are applicable to the Contracting Parties; they shall require that operators of aircraft of their registry or operators of aircraft who have their principal place of business or head office in their territory or, in the case of the Kingdom of Spain, 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 the operators of airports in their territory act in conformity with such aviation security provisions.

4. Each Contracting Party agrees that its operators of aircraft shall be required to observe the aviation security provisions, referred to in the paragraph above required by the other Contracting Party for entry into, departure from, or while within the territory of that Contracting Party. For departure from, or while within, the territory of the Republic of

Mauritius, operators of aircraft shall be required to observe aviation security provisions in conformity with the laws of Mauritius. For departure from, or while within, the territory of the Kingdom of Spain, operators of aircraft shall be required to observe aviation security provisions in conformity with European Union law and with the Spanish current regulations on that matter. Each Contracting Party shall ensure that adequate measures are effectively applied within its territory to protect the aircraft and to inspect passengers, crew, carry-on items, baggage, cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall also give sympathetic consideration to any request from the other Contracting Party for reasonable special security measures to meet a particular threat.

5. When an incident or threat of an incident of unlawful seizure of civil aircraft or other unlawful acts against the safety of such aircraft, their passengers and crew, airports or air navigation facilities occur, the Contracting Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat thereof.

6. When a Contracting Party has reasonable grounds to believe that the other Contracting Party has departed from the aviation security provisions of this Article, that Contracting Party may request immediate consultations with the other Contracting Party.

7. Without prejudice to Article 4 (Revocation and Suspension) of this Agreement, failure to reach a satisfactory agreement within fifteen (15) days from the date of such request will constitute grounds to withhold, suspend or revoke the operating authorization or technical permission of the airlines of the other Contracting Party, or to limit or impose conditions thereon.

8. When required by an immediate and extraordinary threat, a Contracting Party may take interim action prior to the expiry of fifteen (15) days.

9. Any action taken in accordance with the paragraph 7 above shall be discontinued upon compliance by the other Contracting Party with the provisions of this Article.

## ARTICLE 13

### INTERMODAL SERVICES

1. Notwithstanding any other provision of this Agreement, designated airlines of each Contracting Party shall be permitted, to employ in connection with international air transportation any surface transportation for passengers to or from any points in the territories of the Contracting Parties or in third countries, including transport to and from all airports with customs facilities. Designated airlines may elect to perform their own surface transportation or, at their discretion, to provide it through arrangements, including code share, with other surface carriers. Such intermodal passenger services may be offered at a single, through price for the air and surface transportation combined, provided that passengers are informed as to the facts of this transportation.

2. Notwithstanding any other provision of this Agreement, designated airlines of the Contracting Parties shall be permitted to employ in connection with international air transportation any surface transport for cargo to or from any points in the territories of the Contracting Parties or third countries, including transport to and from all airports with customs facilities, under applicable laws and regulations. Access to airport customs processing and facilities shall be provided for such cargo, whether moving by surface or by air. Designated airlines may elect to perform their own surface transport or to provide it through arrangements, including code share, with other surface carriers. Such intermodal cargo services may be offered at a single, through price for the air and surface transport combined, provided that shippers are informed as to the facts concerning such transport.



## **ARTICLE 14**

### **TAX SYSTEM**

While an Agreement governing the tax system of the airlines to avoid the double taxation between the Contracting Parties is not applicable, each Contracting Party shall exempt the designated airlines of the other Contracting Party whose effective management head offices are located in the territory of such a Contracting Party, on a mutual basis, from all taxes and charges on profits and earnings obtained from agreed service operations without prejudice to compliance with the formal obligations legally laid down by each Contracting Party.

## **ARTICLE 15**

### **CAPACITY**

1. There shall be a fair and equal opportunity for the designated airlines of the Contracting Parties to operate the agreed services on the routes specified in Annex 2 to this Agreement.
2. The agreed services on any of the routes specified in the Annex 2 to this Agreement shall have as their primary objective the provision of capacity adequate for transportation of traffic between the territories of the two Contracting Parties.
3. In operating the agreed services, the frequencies, capacity to be provided by the designated airlines of each Contracting Party shall be established by mutual agreement between the Aeronautical Authorities of the two Contracting Parties.



## ARTICLE 16

### TIMETABLES

1. A designated airline of a Contracting Party shall submit to the Aeronautical Authorities of the other Contracting Party for its approval, the timetable of its intended services, at least thirty (30) days prior to the start of the operation, specifying the frequency, the type of aircraft, configuration and number of seats to be made available to the public.
2. Any subsequent changes to the approved timetables of a designated airline shall be submitted to the Aeronautical Authorities of the other Contracting Party for its approval.
3. If a designated airline wishes to operate flights supplementary to those covered in the approved timetables, it shall obtain prior permission of the Aeronautical Authorities of the Contracting Party concerned.
4. The approval of timetables or changes thereto submitted by a designated airline, shall not be refused by a Contracting Party without a valid reason.

## ARTICLE 17

### STATISTICS

The Aeronautical Authorities of either Contracting Party, may be required to supply to the Aeronautical Authorities of the other Contracting Party, the information and statistics related to the traffic carried by the designated airlines on the agreed services to and from the territory of the other Contracting Party.



## ARTICLE 18

### CONSULTATIONS

In a spirit of close cooperation, the Aeronautical Authorities of the Contracting Parties shall consult each other from time to time with a view to ensuring the implementation of, and satisfactory compliance with the provisions of the Agreement.

## ARTICLE 19

### MODIFICATIONS

1. If either Contracting Party considers it desirable to modify any of the provisions of this Agreement, it may request consultation with the other Contracting Party. Such consultation may be between the Aeronautical Authorities and may be conducted by discussion or correspondence and shall begin within a period of sixty (60) days from the date of the request. Any modifications so agreed shall come into force in accordance with Article 24 (Entry into Force).

2. Modifications to the Annexes to this Agreement may be made by direct agreement between the competent Aeronautical Authorities of the Contracting Parties and confirmed by exchange of diplomatic notes. Consultations to this effect may be conducted by discussion or correspondence and shall begin within a period of sixty (60) days from the date of the request.



## ARTICLE 20

### SETTLEMENT OF DISPUTES

1. If any dispute arises between the Contracting Parties relating to the interpretation or application of this Agreement, the Contracting Parties shall, in the first place, endeavour to settle it by direct negotiation.
  
2. If the Contracting Parties fail to reach a settlement by negotiation the dispute may, at the request of either Contracting Party, be submitted for decision to a tribunal of three arbitrators, one to be nominated by each Contracting Party and a third to be appointed by the two so nominated. Each Contracting Party shall nominate an arbitrator within a period of sixty (60) days from the date of receipt by either Contracting Party from the other of a notice through diplomatic channels requesting arbitration on the dispute. The third arbitrator shall be appointed within a further period of sixty (60) days as from the designation of the second arbitrator. This third arbitrator shall be a national of another State, shall act as the President of the Tribunal and shall determine the venue where the Arbitration shall be held. If either Contracting Parties fails to nominate an arbitrator within the period specified, the President of the Council of the International Civil Aviation Organization may be requested by either Contracting Party to appoint an arbitrator or arbitrators, as the case requires. In such a case, the third arbitrator shall be a national of a third State and shall act as the President of the Tribunal.
  
3. The Contracting Parties undertake to comply with any decision made by the Tribunal constituted under paragraph 2 of this Article.
  
4. Each Contracting Party shall bear the expenses and remuneration necessary for its arbitrator, the fee for the third arbitrator and the expenses necessary for this one as well as those due to the activity of the arbitration shall be equally shared by the Contracting Parties.



## **ARTICLE 21**

### **REGISTRATION**

The Agreement, including any amendments thereto, shall be registered by the Kingdom of Spain with the International Civil Aviation Organization.

## **ARTICLE 22**

### **MULTILATERAL CONVENTIONS**

In the event of the conclusion by both Contracting Parties of a Multilateral Convention or Agreement concerning matters regulated by this Agreement after the latter has come into force, the said Contracting Parties shall hold consultations in order to determine the advisability of revising the Agreement to conform to the provisions of such Multilateral Convention or Agreement.

## **ARTICLE 23**

### **TERMINATION**

Either Contracting Party may at any time give notice to the other Contracting Party of its decision to terminate this Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organization. In such a case, the Agreement shall terminate twelve (12) months after the date of receipt of the notice by the other Contracting Party, unless the notice of termination is withdrawn by mutual agreement before the expiry of this period. In the absence of acknowledgement of receipt by the other Contracting Party, the notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organization.



**ARTICLE 24**

**ENTRY INTO FORCE**

This Agreement shall enter into force one month after the date of the later note in an exchange of diplomatic notes between the Contracting Parties confirming that their respective constitutional requirements have been fulfilled.

In witness whereof, the undersigned, being duly authorized thereto by their respective Governments, have signed the present Agreement.

Done in duplicate at .....this .....day of .....in the Spanish and English languages, both texts being equally authentic.

.....  
For the  
Republic of Mauritius

.....  
For the  
Kingdom of Spain



**Annex 1**

**LIST OF OTHER STATES REFERRED TO IN ARTICLES  
3 AND 4 OF THIS AGREEMENT**

- a) **The Republic of Iceland** (under the Agreement on the European Economic Area);
- b) **The Principality of Liechtenstein** (under the Agreement on the European Economic Area);
- c) **The Kingdom of Norway** (under the Agreement on the European Economic Area);
- d) **The Swiss Confederation** (under the Agreement between the European Community and the Swiss Confederation on Air Transport)



**Annex 2**  
**Section 1**  
**ROUTE SCHEDULE**

The designated airline(s) of each Contracting Party shall be entitled to perform international air transportation between points on the following routes:

Route for the designated airline(s) of the Republic of Mauritius:

<u>Points in Mauritius</u>	<u>Intermediate Points</u>	<u>Points in Spain</u>	<u>Beyond Points</u>
Any one or more	Any one or more	Any one or more	Any one or more

Route for the designated airline(s) of the Kingdom of Spain:

<u>Points in Spain</u>	<u>Intermediate Points</u>	<u>Points in Mauritius</u>	<u>Beyond Points</u>
Any one or more	Any one or more	Any one or more	Any one or more

**Notes:**

1. The points in the territory of Mauritius and the points in the territory of Spain on the above routes and the intermediate points and points beyond established on both routes to be operated without fifth freedom traffic rights, shall be freely selected by the designated airlines of each Contracting Party and will be notified to the Aeronautical Authorities of both Contracting Parties thirty (30) days before the start of the services.



2. The designated airline(s) of each Contracting Party may perform their services in either or both directions, and may at their option change the order or omit one or more points on any of the above routes, in whole or part of its services, provided that the services commence or terminate at a point in the territory of the Contracting Party designating the airline.

3. The intermediate and beyond points on the above routes to be operated with fifth freedom traffic rights by the designated airlines, shall be agreed upon between the Aeronautical Authorities of the two Contracting Parties.

4. The designated airline(s) of each Contracting Party may serve points in the territory of the other Contracting Party in any combination, as part of a through international journey and without traffic rights (cabotage).

## **Section 2**

### **CHANGE OF GAUGE**

On any sector or sectors of the routes in Section 1 of this Annex, an airline of one Contracting Party shall be entitled to perform international air transportation, including under code sharing arrangements as per Annex 3, with an airline of the same or of the other Contracting Party or with that of a third Party, without any limitation as to change at any point or points on the route, in the type, size or number of aircraft operated, provided that the service is scheduled as a direct connection flight.



### Annex 3

#### CODE SHARING AND COOPERATIVE ARRANGEMENTS

1. In operating or holding out the agreed services on the specified routes, the designated airlines of each Contracting Party may enter into cooperative marketing arrangements such as blocked space or code-sharing, with:

- (a) an airline or airlines of the same Contracting Party;
- (b) an airline or airlines of the other Contracting Party; and
- (c) an airline or airlines of a third country, provided that such third country shall authorize or allow comparable arrangements between the airlines of the other Contracting Party and other airlines on services to, from and via such third country;

Provided that all airlines in such arrangements:

- (i) hold the appropriate authority;
- (ii) meet the requirements normally applied to such arrangements; and
- (iii) must, in respect of any ticket sold by it, make it clear to the purchaser at the point of sale which airlines will actually operate each sector of the service and with which airline or airlines the purchaser is entering into a contractual relationship.

2. Where a designated airline operates services under code-share arrangements, as the operating airline, the operated capacity shall be counted against the capacity entitlements of the Contracting Party designating the said airline. Capacity offered by a designated airline acting as the marketing airline on the services operated by other airlines shall not be

counted against the capacity entitlements of the Contracting Party designating the said marketing airline.

3. No fifth freedom traffic rights shall be exercised by the marketing airlines on the services provided under code-share arrangements. Nothing in this paragraph shall preclude the exercise of stop over rights by the designated airlines of either Contracting Party.

4. Code-share services shall meet the regulatory requirements normally applied to such operations by the Contracting Parties, such as protection of and information to passengers, security, liability and any other requirements generally applied to other airlines operating international traffic.

5. The designated airlines of either Contracting Party shall submit the programs and schedules of the services concerned for consideration and, where appropriate, approval by the Aeronautical Authorities of the other Contracting Party, at least thirty (30) days before the date proposed for the start of the operations.

