

AIR SERVICES AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF ICELAND

AND

THE GOVERNMENT OF THE REPUBLIC OF INDIA

[Place], [Date] 2005

The Government of the Republic of Iceland and the Government of the Republic of India (hereinafter referred to as the "Parties");

Being Parties to the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944;

Desiring to promote their mutual relations in the field of civil aviation and to conclude an agreement for the purpose of establishing air services between and beyond their respective territories;

Desiring to promote an international aviation system based on competition among airlines in the marketplace with minimum government interference and regulation;

Desiring to facilitate the expansion of international air service opportunities;

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

Have agreed as follows:

Article 1 *Definitions*

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

1. "Aeronautical authorities" means, in the case of Iceland, the Ministry of Communications and any person or agency authorized to perform the functions exercised by the said authority, and in the case of India, the Directorate General of Civil Aviation, or its successor;
2. "Agreement" means this Agreement, its Annexes, and any amendments thereto;
3. "Convention" means the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944, and includes: any amendment that has entered into force under Article 94(a) of the Convention and has been ratified by both Parties, and any Annex or any amendment thereto adopted under Article 90 of the Convention, insofar as such Annexes or amendments are at any given time effective for both Parties;
4. "Designated airline" means an airline designated and authorized in accordance with Article 3 of this Agreement;
6. "Full cost" means the cost of providing service plus a reasonable charge for administrative overhead;
7. "International air service" means an air service that passes through the airspace over the territory of more than one State;
8. "Price" means any fare, rate or charge for the carriage of passengers (and their baggage) and/or cargo (excluding mail) in air service charged by airlines, including their agents, and the conditions governing the availability of such fare, rate or charge;
9. "Stop for non-traffic purposes", "airline", "air service" and "territory" have the meaning specified in Articles 2 and 96 of the Convention; and

10. "User charges" means a charge imposed on airlines for the provision of airport, air navigation or aviation security facilities or services including related services and facilities.

Article 2

Grant of Rights

1. Each Party grants to the other Party the rights specified in this Agreement for the purpose of establishing scheduled international air services on the routes specified in the appropriate Section of the Annex to this Agreement. Such services and routes are hereinafter called "the agreed services" and "the specified routes" respectively.
2. Subject to the provisions of this Agreement, the airline(s) designated by each Party shall enjoy the following rights:
 - a. to fly without landing across the territory of the other Party;
 - b. to make stops in the territory of the other Party for non-traffic purposes; and
 - c. while operating an agreed service on the specified route, the airline(s) designated by each Party shall also enjoy the right to embark and disembark, in the territory of the other Party at the point(s) specified for that route in the Schedule to this Agreement, international traffic in passengers and cargo including mail, separately or in combination.
3. The airline(s) of each Party, other than those designated under Article 4 of this Agreement, shall also enjoy the rights specified in sub-paragraphs (a) and (b) of paragraph (2) of this Article.
4. Nothing in paragraph (2) of this Article shall be deemed to confer on the designated airline(s) of one Party the privilege of taking on board, in the territory of the other Party, passengers and cargo including mail destined for another point in the territory of that other Party.

Article 3

Designation and Authorization

1. Each Party shall have the right to designate an airline or airlines for the purpose of operating the agreed services on each of the routes specified in the Annex and to withdraw or alter such designations. Such designations shall be made in writing and transmitted to the other Party through diplomatic channels and shall identify whether the airline is authorized to conduct the type of air services specified in the Annex.
2. Upon receipt of such a designation and of applications from the designated airline, in the form and manner prescribed for operating authorizations and technical permissions, the other Party shall grant the appropriate authorizations and permissions with minimum procedural delay, provided:
 - a. substantial ownership and effective control of that airline are vested in the Party designating the airline, nationals of that Party or both;
 - b. the designated airline is qualified to meet the conditions prescribed under the laws and regulations normally applied to the operation of international air services by the Party considering the application or applications; and
 - c. the Party designating the airline is maintaining and administering the standards set forth in Article 6 (Safety) and Article 7 (Aviation Security).

Article 4
Revocation of Authorization

1. Either Party may revoke, suspend or limit the operating authorization or technical permissions of an airline designated by the other Party where:
 - a. substantial ownership and effective control of that airline are not vested in the other Party, the Party's nationals, or both;
 - b. that airline has failed to comply with the laws and regulations referred to in Article 5 (Applications of Laws) of this Agreement; or
 - c. the other Party is not maintaining and administering the standards as set forth in Article 6 (Safety).
2. Unless immediate action is essential to prevent further non-compliance with subparagraphs 1b or 1c of this Article, the rights established by this Article shall be exercised only after consultation with the other Party.”
3. This Article does not limit the rights of either Party to withhold, revoke, limit or impose conditions on the operating authorization or technical permission of an airline or airlines of the other Party in accordance with the provisions of Article 7(Aviation Security).”

Article 5
Application of Laws

1. While entering, within, or leaving the territory of one Party, its laws and regulations relating to the operation and navigation of aircraft shall be complied with by the other Party's airlines.
2. While entering, within, or leaving the territory of one Party, its laws and regulations relating to the admission to or departure from its territory of passengers, crew or cargo on aircraft (including regulations relating to entry, clearance, aviation security, immigration, passports, customs and quarantine or, in the case of mail, postal regulations) shall be complied with by, or on behalf of, such passengers, crew or cargo of the other Party's airlines.

Article 6
Safety

1. Either Party may request consultations concerning the safety standards maintained in respect of an airline designated by the other Party relating to aeronautical facilities, aircrews, aircraft, and operation of the designated airlines.
2. If, following such consultations, one Party finds that safety standards in the areas referred to in paragraph 1 that meet the standards established at that time in accordance with the Convention are not effectively maintained and administered in respect of airlines designated by the other Party, the other Party shall be notified of such findings and the steps considered necessary to conform with these minimum standards, and the other Party shall take appropriate corrective action.
3. Each Party reserves the right to withhold, suspend, or limit the operating authorization or technical permission of an airline or airlines designated by the other

Party in the event the other Party does not take appropriate corrective action within a reasonable time.

4. Any action by one Party in accordance with paragraph 3 shall be discontinued once the basis for that action ceases to exist.

Article 7 *Aviation Security*

1. In accordance with their rights and obligations under international law, the 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 Parties shall in particular act in conformity with the provisions of the Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Tokyo on September 14, 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on December 16, 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on September 23, 1971 and its protocol done at Montreal February 24, 1988 and the Convention on the Marking of Plastic Explosives for the Purpose of Detection done at Montreal on March 1, 1991 and any other convention on aviation security to which both Parties become members.

2. Upon request the Parties shall provide each other with all necessary assistance to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, of their passengers and crew, of airports and air navigation facilities, and address any other threat to the security of civil air navigation.

3. The Parties shall, in their mutual relations, act in conformity with all aviation security standards and appropriate recommended practices established by the International Civil Aviation Organization and designated as Annexes to the Convention; 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 and the operators of airports in their territory act in conformity with such aviation security provisions.

4. Each Party agrees to observe the security provisions required by the other Party for entry into the territory of that other Party and to take adequate measures to protect aircraft and to inspect passengers, crew, and their baggage and carry-on items, as well as cargo and aircraft stores, prior to and during boarding or loading. Each Party shall also give positive consideration to any request from the other Party for special security measures to meet a particular threat.

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

6. When a Party has reasonable grounds to believe that the other Party has departed from the aviation security provisions of this Article, the aeronautical authorities of that Party may request immediate consultations with the aeronautical authorities of the other Party. Failure to reach a satisfactory agreement within 15 days from the date of such request shall constitute grounds to withhold, revoke, limit, or impose conditions on the operating authorization and technical permissions of an airline or

airlines of that Party. When required by an emergency, a Party may take interim action prior to the expiry of 15 days.

Article 8

Commercial Opportunities

1. The airlines of each Party shall have the right to establish offices in the territory of the other Party for the promotion and sale of air services.
2. The designated airlines of each Party shall be entitled, in accordance with the laws and regulations of the other Party relating to entry, residence and employment, to bring in and maintain in the territory of the other Party managerial, sales, technical, operational and other specialist staff required for the provision of air services.
3. Any airline of each Party may engage in the sale of air services in the territory of the other Party directly and, at the airline's discretion, through its agents, except as may be specifically provided by the charter regulations of the country in which the charter originates that relate to the protection of passenger funds, passenger cancellation and refund rights. Each airline shall have the right to sell such transportation, and any person shall be free to purchase such transportation, in the currency of that territory or in freely convertible currencies.
4. Each airline shall have the right to convert and remit to its country, on demand, local revenues in excess of sums locally disbursed. Conversion and remittance shall be permitted promptly without restrictions or taxation in respect thereof at the rate of exchange applicable to current transactions and remittance on the date the carrier makes the initial application for remittance.
5. The airlines of each Party shall be permitted to pay for local expenses, including purchases of fuel, in the territory of the other Party in local currency. At their discretion, the airlines of each Party may pay for such expenses in the territory of the other Party in freely convertible currencies according to local currency regulation.
6. Notwithstanding anything contained in this Article, the exercise of rights under this Article shall be in accordance with the applicable domestic rules and regulations, and the Parties stipulate that the rules and regulations shall be administered in a non-discriminatory fashion and consistent with the purposes of the Agreement.

Article 9

Code-sharing Arrangements

1. When operating or holding out the agreed combination and all-cargo services on the specified route(s), any designated airline of either Party may enter into cooperative marketing arrangements, whether as the operating or marketing airline, with
 - a. an airline or airlines of the same Party;
 - b. an airline or airlines of the other Party; or
 - c. an airline or airlines of a third country
2. When a designated airline of a Party performs air services under cooperative marketing arrangements as the operating airline, the total capacity operated by that airline will be counted against the capacity entitlements of that Party designating the airline.

3. When a designated airline of a Party performs air services under cooperative marketing arrangements as the marketing airline with the airline of its own country or the airline of the other Party, the total capacity offered by the former airline will not be counted against the capacity entitlements of that Party designating that airline.
4. When a designated airline of a Party performs air services under cooperative marketing arrangements as the marketing airline with an airline from a third country, the total capacity offered will be counted against the capacity entitlements of both the marketing airline and operating airline.
5. All airlines operating or holding out the above services must hold the appropriate authority including route rights, traffic rights and capacity entitlement and meet the requirements normally applied to such arrangements.
6. The designated airlines of both Parties will, when holding services out for sale, in terms of code-share, blocked-space or other joint venture arrangements, make it clear to the purchaser at the point of sale which airline will be the operating airline on each sector of the service and with which airline(s) the purchaser is entering into a contractual relationship.

Article 10

Customs Duties and Charges

1. Each Party shall on the basis of reciprocity exempt a designated airline of the other Party to the fullest extent possible under its national law from customs duties, excise taxes, inspection fees and other national duties and charges on aircraft, fuel, lubricating oils, consumable technical supplies, spare parts including engines, regular aircraft equipment, aircraft stores (including but not limited to such items of food, beverages and liquor, tobacco and other products destined for sale or to be used solely in connection with the operation or servicing of aircraft) and other items, such as printed ticket stock, air waybills, any printed material which bears the insignia of the company printed thereon and usual publicity material distributed free of charge by that designated airline intended for use or used solely in connection with the operation or servicing of aircraft of the designated airline of such other Party operating the agreed services.
2. The exemptions granted by this article shall apply to the items referred to in paragraph 1:
 - a. introduced into the territory of the Party by or on behalf of the designated airline of the other Party;
 - b. retained on board aircraft of the designated airline of one Party upon arrival in or leaving the territory of the other Party; or
 - c. taken on board aircraft of the designated airline of one Party in the territory of the other Party and intended for use in operating the agreed services;whether or not such items are used or consumed wholly within the territory of the Party granting the exemption, provided the ownership of such items is not transferred in the territory of the said Party.
3. The regular airborne equipment, as well as the materials and supplies normally retained on board the aircraft of the designated airline of either Party, may be unloaded in the territory of the other Party only with the approval of the customs authorities of that territory. In such case, they may be placed under supervision of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with customs regulations.

Article 11
User Charges

1. User charges that may be imposed by the competent charging authorities or bodies of each Party on the airlines of the other Party shall be just, reasonable, not unjustly discriminatory, and equitably apportioned among categories of users. In any event, any such user charges shall be assessed on the airlines of the other Party on terms not less favourable than the most favourable terms available to any other airline at the time the charges are assessed.
2. User charges imposed on the airlines of the other Party may reflect, but shall not exceed, the full cost to the competent charging authorities or bodies of providing the appropriate airport, airport environmental, air navigation and aviation security facilities and services at the airport or within the airport system. Such full cost may include a reasonable return on assets, after depreciation. Facilities and services for which charges are made shall be provided on an efficient and economic basis.
3. Each Party shall encourage consultations between the competent charging authorities or bodies in its territory and the airlines using the services and facilities, and shall encourage the competent charging authorities or bodies and the airlines to exchange such information as may be necessary to permit an accurate review of the reasonableness of the charges in accordance with the principles of paragraphs 1 and 2. Each Party shall encourage the competent charging authorities to provide users with reasonable notice of any proposal for changes in user charges to enable users to express their views before changes are made.
4. Neither party shall be held, in dispute resolution procedures pursuant to Article 16, to be in breach of a provision of this Article, unless (i) it fails to undertake a review of the charge or practice that is the subject of complaint by the other Party within a reasonable amount of time; or (ii) following such a review it fails to take all steps within its power to remedy any charge or practice that is inconsistent with this Article.

Article 12
Provision of Statistics

1. The aeronautical authorities of each Party shall provide or cause its designated airline(s) to provide to the aeronautical authorities of the other Party statistics relating to the traffic carried during each month on the agreed services to and from the territory of that other Party, showing the points of embarkation and disembarkation of such traffic. Such statistics shall be furnished as soon as possible after the end of each month, but not later than 30 days following the month to which they relate.
2. The aeronautical authorities of each Party shall, on request, provide or cause its designated airline(s) to provide to the aeronautical authorities of the other Party statistics relating to true origin and destination of traffic carried to and from the territory of that other Party for a period, not exceeding one IATA traffic season, as specified in the request.

Article 13

Pricing

1. Each Party shall allow prices for air services to be decided by each designated airline based on commercial considerations in the marketplace. Intervention by the Parties shall be limited to:
 - a. prevention of unreasonably discriminatory prices or practices;
 - b. protection of consumers from prices that are unreasonably high or restrictive due to the abuse of a dominant position; and
 - c. protection of airlines from prices that are artificially low due to direct or indirect governmental subsidy or support.
2. Prices for international air services between the territories of the Parties shall not be required to be filed. Notwithstanding the foregoing, the designated airlines of the Parties shall continue to provide immediate access, on request, to information on historical, existing, and proposed prices to the aeronautical authorities of the Parties in a manner and format acceptable to those aeronautical authorities.

Article 14

Intermodal Services

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

Article 15

Consultations and Settlement of Disputes

1. Either Party may, at any time, request consultations relating to this Agreement. Such consultations shall begin at the earliest possible date, but not later than 60 days from the date the other Party receives the request unless otherwise agreed.
2. Any dispute arising under this Agreement that is not resolved by a first round of formal consultations may be referred by agreement of the Parties for decision to some person or body. If the Parties do not so agree, the dispute shall, at the request of either Party, be submitted to arbitration in accordance with the procedures set forth below.
3. Arbitration shall be by a tribunal of three arbitrators to be constituted as follows:
 - a. Within 30 days after the receipt of a request for arbitration, each Party shall name one arbitrator. Within 60 days after these two arbitrators have been

- named, they shall by agreement appoint a third arbitrator, who shall act as President of the arbitral tribunal;
- b. If either Party fails to name an arbitrator, or if the third arbitrator is not appointed in accordance with subparagraph (a) of this paragraph, either Party may request the President of the Council of the International Civil Aviation Organization to appoint the necessary arbitrator or arbitrators within 30 days. If the President of the Council is of the same nationality as one of the Parties, the most senior Vice President who is not disqualified on that ground shall make the appointment. In the event that either the President or the most senior, qualified Vice President appoints the third arbitrator under this Paragraph, that third arbitrator shall not be a national of either of the Parties.
4. Except as otherwise agreed, the arbitral tribunal shall determine the limits of its jurisdiction in accordance with this Agreement and shall establish its own procedural rules. The tribunal, once formed, may recommend interim relief measures pending its final determination. At the direction of the tribunal or at the request of either of the Parties, a conference to determine the precise issues to be arbitrated and the specific procedures to be followed shall be held not later than 15 days after the tribunal is fully constituted.
5. Except as otherwise agreed or as directed by the tribunal, each Party shall submit a memorandum within 45 days of the time the tribunal is fully constituted. Replies shall be due 60 days later. The tribunal shall hold a hearing at the request of either Party or on its own initiative within 15 days after replies are due.
6. The tribunal shall attempt to render a written decision within 30 days after completion of the hearing or, if no hearing is held, after the date both replies are submitted. The decision of the majority of the tribunal shall prevail.
7. The Parties may submit requests for clarification of the decision within 15 days after it is rendered and any clarification given shall be issued within 15 days of such request.
8. Each Party shall, to the degree consistent with its national law, give full effect to any decision or award of the arbitral tribunal.
9. The expenses of the arbitral tribunal, including the fees and expenses of the arbitrators, shall be shared equally by the Parties. Any expenses incurred by the President of the Council of the International Civil Aviation Organization in connection with the procedures of paragraph 2b of this Article shall be considered to be part of the expenses of the arbitral tribunal.

Article 16 *Modification*

1. If either Party considers it desirable to modify any provision of this Agreement, including Annex thereto, it may request consultations between the aeronautical authorities of both Parties in relation to the proposed modification. Such consultations shall commence within a period of sixty days (60) from the date of receipt of the request. Any modifications so agreed shall enter into force when they have been confirmed by an exchange of diplomatic notes by both Parties.
2. A modification to the Annex may be made by direct agreement between the aeronautical authorities of both Parties and shall enter into force when it has been confirmed by exchange of diplomatic notes.

ANNEX
International Air Services

Routes

The designated airlines of each Party shall be entitled to perform international air services between points on the following routes:

A. Routes for the airlines designated by the Government of the Republic of Iceland:

<u>Points in Iceland</u>	<u>Intermediate Points</u>	<u>Points in India</u>	<u>Beyond Points</u>
Any	Any 2 points	Any 2 points	Any 2 points

B. Routes for the airlines designated by the Government of the Republic of India:

<u>Points in India</u>	<u>Intermediate Points</u>	<u>Points in Iceland</u>	<u>Beyond Points</u>
Any	Any 2 points	Any 2 points	Any 2 points

Notes:

1. The designated airlines of each Party may at their option omit points on any of the above routes provided that, with the exception of all-cargo services, the services commence or terminate in the territory in which the airline concerned has its principal place of business.
2. The intermediate points, beyond points and points of call in India and Iceland on the above routes, and the traffic rights which may be exercised at such points by the designated airlines, shall be jointly determined between the aeronautical authorities from time to time.