

(English Translation)

**AIR SERVICES ARRANGEMENT BETWEEN  
THE HONG KONG SPECIAL ADMINISTRATIVE REGION AND  
THE MACAO SPECIAL ADMINISTRATIVE REGION**

The Government of the Hong Kong Special Administrative Region (“Hong Kong”) and the Government of the Macao Special Administrative Region (“Macao”) (collectively, the “Parties”, and each a “Party”), having been duly authorized by the Central People's Government, have jointly decided that the following arrangement will govern the establishment of air services between Hong Kong and Macao:

**Section 1**  
**Definitions**

For the purpose of this Arrangement, unless the context otherwise requires:

- (a) the term “aeronautical authorities” means in the case of Hong Kong, the Director-General of Civil Aviation, and in the case of Macao, the Civil Aviation Authority, or, in both cases, any person or body authorised to perform any functions at present exercisable by the above-mentioned authorities or similar functions;
- (b) the term “area”, in relation to Hong Kong, means the land and waters more particularly delineated in the map of the administrative division of the Hong Kong Special Administrative Region as promulgated in Order No. 221 of the State Council, and in relation to Macao, means the land and waters more particularly delineated in the map of the administrative division of the Macao Special Administrative Region as promulgated in Order No. 275 of the State Council;
- (c) the term “designated airline” means an airline which has been designated and authorised in accordance with Section 4 (Airline(s) Designation and Authorisation) of this Arrangement;
- (d) the term “this Arrangement” includes the Annex hereto and any amendments to it or to this Arrangement.

**Section 2**  
**Nature of Air Transport**

Air transport between Hong Kong and Macao is by nature specially managed domestic

air transport and will be managed with reference to the international air transport regime. Documents of international carriage will be used and in respect of liability provisions, reference may be made to the relevant international conventions.

### **Section 3** **Grant of Rights**

- (1) Each Party will grant to the other Party the following rights in respect of its air services:
  - (a) the right to fly across its area without landing;
  - (b) the right to make stops in its area for non-traffic purposes.
- (2) Each Party will grant to the other Party the rights specified in this Arrangement for the purpose of operating scheduled air services (including but not limited to helicopter services) on the route(s) specified in the appropriate Part of the Annex to this Arrangement. Such services and routes are hereinafter called the “agreed services” and the “specified routes” respectively. While operating an agreed service on a specified route the designated airlines of each Party will enjoy the right to make stops in the area of the other Party at points jointly determined for that route for the purpose of taking on board and discharging passengers and cargo, including mail, separately or in combination, in a scheduled air service.
- (3) Nothing in paragraph (2) of this Section will be deemed to confer on the designated airlines of one Party the right to operate services for the carriage of passengers or cargo, including mail, for hire or reward within the area of the other Party.
- (4) Subject to approval of the aeronautical authorities of both Parties, designated airline(s) of either Party may use leased aircraft to operate agreed services on the specified routes. Applications for approval of the lease arrangements must be filed by the designated airline(s) in accordance with the procedures specified by the aeronautical authorities.

### **Section 4** **Airline(s) Designation and Authorisation**

- (1) The aeronautical authorities of each Party will have the right to designate one or

more airline(s) to the aeronautical authorities of the other Party in writing for the operation of the agreed services on the specified routes and to withdraw or alter such designation(s).

- (2) On receipt of a designation made by one Party, the other Party will, subject to paragraphs (3) and (4) below, grant the operating authorisation to the designated airline(s) without unreasonable delay.
- (3) One Party will have the right to refuse to grant the operating authorisations referred to in paragraph (2), or to impose such conditions as it may deem necessary on the exercise by a designated airline of the other Party of the rights specified in Section 3(2) of this Arrangement, in any case where it is not satisfied that that airline is incorporated and has its principal place of business in the area of the other Party.
- (4) The aeronautical authorities of one Party may require an airline designated by the other Party to satisfy them that it is qualified to fulfill the conditions prescribed under the laws and regulations normally and reasonably applied to the operation of air services by the first Party.
- (5) When an airline has been so designated and authorised it may begin to operate the agreed services, provided that the airline complies with the applicable provisions of this Arrangement.

### **Section 5**

#### **Revocation or Suspension of Operating Authorisation**

- (1) Each Party will have the right to revoke, suspend, limit or impose conditions on the operating authorisation of an airline designated by the other Party where:
  - (a) such airline fails to comply with its laws or regulations; or
  - (b) that airline is not incorporated and has its principal place of business in the area of the Party designating the airline; or
  - (c) that airline otherwise fails to operate in accordance with the conditions prescribed under this Arrangement.
- (2) Unless immediate revocation or suspension of the operating authorisation mentioned in paragraph (1) above or imposition of the conditions therein is

essential to prevent further infringement of the laws and regulations, such right will be exercised only after consultation with the other Party.

**Section 6**  
**Principles Governing Operation of Agreed Services**

- (1) There should be fair and equal opportunity for the designated airlines of the Parties to operate the agreed services on the specified routes.
- (2) In operating the agreed services the designated airlines of each Party should take into account the interests of the designated airlines of the other Party so as not to affect unduly the services which the latter provide on the whole or part of the same routes.
- (3) The agreed services provided by the designated airlines of the Parties should have regard to the requirements of the public for transportation on the specified routes and for the carriage of passengers and cargo, including mail, originating in or destined for the area of the Party which has designated the airline.

**Section 7**  
**Recognition of Certificates and Licences**

The aeronautical authorities of one Party will recognise as valid the certificates of airworthiness, certificates of competency and licences issued or validated by the aeronautical authorities of the other Party and still in force for the operation of the scheduled air services on the specified routes, provided the standards of such certificates and licences are equivalent to or above the minimum standards established from time to time in accordance with the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944.

**Section 8**  
**Application of Laws and Regulations**

- (1) The laws and regulations of one Party relating to admission to or departure from its area of aircraft engaged in scheduled services or to the operation and navigation of such aircraft whilst within its area will be applicable to the designated airline(s) of the other Party.
- (2) The laws and regulations of one Party relating to entry and exit or sojourn in its area in respect of passengers, crew, baggage, cargo and mail will be applicable

to passengers, crew, baggage, cargo and mail carried by the aircraft of the designated airline(s) of the other Party while they are within the area of the first Party.

**Section 9**  
**Customs Duties**

- (1) Aircraft operated in the air services by the designated airline(s) of one Party, their regular equipment, consumable technical supplies, spare parts (including engines), fuel, oils (including hydraulic liquid and lubricating oils) and aircraft stores (including but not limited to such items as food, beverages and tobacco) which are on board such aircraft will be exempted by the other Party on the basis of reciprocity from all customs duties, excise taxes, inspection fees and other similar charges not based on the cost of services provided on arrival, provided that such equipment and stores remain on board the aircraft.
- (2) The following will also be exempted, on the basis of reciprocity, from all customs duties, excise taxes, inspection fees and other similar charges with the exception of charges corresponding to the services performed on arrival:
  - (a) Regular equipment, spare parts (including engines), fuel, oils (including hydraulic liquid and lubricating oils), aircraft stores (including but not limited to items such as food, beverages and tobacco), printed ticket stock, air waybills, any printed material which bears insignia of a designated airline of one Party and usual publicity material distributed without charge by that designated airline, introduced into the area of the other Party by or on behalf of the designated airlines of the first Party for the aircraft engaged in the operation of the agreed services;
  - (b) Spare parts (including engines) introduced into the area of the other Party by or on behalf of the designated airlines of one Party for the maintenance or repair of aircraft used to operate the agreed services by those designated airlines.
  - (c) Materials referred to in paragraphs (2)(a) and 2(b) above may be unloaded in the area of the other Party only after the consent by the customs authorities of the other Party. These equipment and materials may be placed under the supervision of the customs authorities until they are re-exported or otherwise disposed of in accordance with customs laws and regulations. Until such time, these equipment and materials

will enjoy, on the basis of reciprocity, the exemptions provided by paragraph (1) of this Section.

- (d) The exemptions provided for in this Section will be available in situations where a designated airline of one Party has entered into arrangement with another airline or airlines for the loan or transfer in the area of the other Party of the equipment and materials specified in paragraphs (2)(a) and (2)(b) above.

### **Section 10** **Avoidance of Double Taxation**

- (1) For the purposes of this Section, unless the context otherwise requires: -
  - (a) the term “an airline of a Party” means an airline incorporated and having its principal place of business in the area of that Party;
  - (b) the term “income or profits” means revenues and gross receipts derived from the operation of aircraft in air services for the transport of persons, livestock, goods, mail or merchandise including:
    - (i) the charter or rental of aircraft;
    - (ii) the sale of tickets or similar documents and the provision of services connected with such transport either for the airline itself or for any other airline;
    - (iii) interest on funds directly connected with the operation of aircraft in air services;
  - (c) the term “competent authority” means, in the case of Hong Kong, the Commissioner of Inland Revenue or his authorised representative or any person or body authorized to perform any functions at present exercisable by the Commissioner, or similar functions and, in the case of Macao, the Director of Finance Bureau (*Direcção dos Serviços de Finanças*) or his authorised representative.
- (2) Income or profits derived from the operation of aircraft in air services by an airline of a Party, including any income or profits attributable to its participation in a pool, a joint business or international operating agency, will be exempt

from income tax, profits tax and all other taxes imposed in the area of the other Party.

- (3) On the basis of reciprocity, capital and assets of an airline of a Party relating to the operation of aircraft in air services will be exempt from all taxes on capital and assets imposed in the area of the other Party.
- (4) Gains from the alienation of aircraft operated in air services and movable property pertaining to the operation of such aircraft which are received by an airline of a Party will be exempt from any tax on gains imposed in the area of the other Party.
- (5) The competent authorities of the Parties will endeavour to resolve by consultation any difficulties or doubts arising as to the interpretation or application of this Section.
- (6) Notwithstanding Section 21 (Commencement) each Party will notify the other the completion of the procedures required by its law for the bringing into effect of this Section. This Section will come into effect on the date of the last written notification and thereupon have effect:
  - (a) in Hong Kong, for any year of assessment beginning on or after 1 April in the calendar year next following that in which this Arrangement or this Section comes into effect, whichever is the later;
  - (b) in Macao, for any tax year beginning on or after 1 January in the calendar year next following that in which this Arrangement or this Section comes into effect, whichever is the later.
- (7) Where this Arrangement is terminated under Section 20 (Duration), this Section will cease to have effect:
  - (a) in Hong Kong, for any year of assessment beginning on or after 1 April in the calendar year next following that in which this Arrangement is terminated;
  - (b) in Macao, for any tax year beginning on or after 1 January in the calendar year next following that in which this Arrangement is terminated.

- (8) This Section will not have effect so long as an arrangement for the avoidance of double taxation with respect to taxes on income, profits, capital and gains providing for similar exemptions to those in this Section has effect between the Parties.

**Section 11**  
**Tariffs**

- (1) The term “tariff” means one or more of the following:
- (a) the fare charged by an airline for the carriage of passengers and their baggage on scheduled air services and the charges and conditions for services ancillary to such carriage;
  - (b) the rate charged by an airline for the carriage of cargo (excluding mail) on scheduled air services;
  - (c) the conditions governing the availability or applicability of any such fare or rate including any benefit attaching to it; and
  - (d) the rate of commission paid by an airline to an agent in respect of tickets sold or air waybills completed by that agent for carriage on scheduled air services.
- (2) The tariffs to be charged by the designated airlines of one Party for carriage to and from the area of the other Party should be those approved by the aeronautical authorities of both Parties and should be established at reasonable levels, due regard being had to all relevant factors, including the cost of operating the agreed services, the interests of users, reasonable profit and the tariffs of other airlines operating over the whole or part of the same route.
- (3) The tariffs referred to in paragraph (2) of this Section may be agreed by the designated airlines of the Parties seeking approval of the tariffs, which may consult other airlines operating over the whole or part of the same route, before proposing such tariffs. However, a designated airline will not be precluded from proposing, nor the aeronautical authorities of the Parties from approving, any tariff, if that airline will have failed to obtain the agreement of the other designated airlines to such tariff, or because no other designated airline is operating on the same route. References in this and the preceding paragraph to “the same route” are to the route operated, not the specified route.

- (4) Any proposed tariff for carriage to and from the area of the other Party should be filed with the aeronautical authorities of the Parties by the designated airline or airlines seeking its approval in such form as the aeronautical authorities may separately require to disclose the particulars referred to in paragraph (1) of this Section. It should be filed not less than 60 days (or such shorter period as the aeronautical authorities of the Parties may agree) before the proposed effective date. The proposed tariff will be treated as having been filed with the aeronautical authorities of a Party on the date on which it is received by those aeronautical authorities.
- (5) Any proposed tariff may be approved by the aeronautical authorities of a Party at any time and, provided it has been filed in accordance with paragraph (4) of this Section, will be deemed to have been approved by the aeronautical authorities of that Party unless, within 30 days (or such shorter period as the aeronautical authorities of the Parties may agree) after the date of filing, the aeronautical authorities of one Party have served on the aeronautical authorities of the other Party written notice of disapproval of the proposed tariff.
- (6) If a notice of disapproval is given in accordance with the provisions of paragraph (5) of this Section, the aeronautical authorities of the Parties may jointly determine the tariff. For this purpose, one Party may, within 30 days of the service of the notice of disapproval, request consultations between the aeronautical authorities of the Parties pursuant to Section 18 (Consultation and Dispute Resolution). Such consultation will be held within 60 days from the date the other Party receives such request in writing.
- (7) Subject to paragraph (8) of this Section, a tariff established in accordance with the provisions of this Section will remain valid until a replacement tariff has been established.
- (8) Except with the consent of the aeronautical authorities of both Parties, and for such period as they may decide, the validity of a tariff will not be prolonged by virtue of paragraph (7) of this Section:
  - (a) where a tariff has a terminal date, for more than 12 months after that date;
  - (b) where a tariff has no terminal date, for more than 12 months after the date on which a replacement tariff is filed with the aeronautical

authorities of the Parties by a designated airline of a Party.

**Section 12**  
**Frequency and Schedule**

- (1) Complete information on the scheduled air services to be operated by a designated airline of one Party (including the timetable, frequency, type of aircraft, configuration and capacity to be made available to the public) must be filed with the aeronautical authorities of the other Party at least 30 days before the service starts.
- (2) Any subsequent changes to the scheduled air services must also be filed with the aeronautical authorities of the other Party.

**Section 13**  
**Provision of Statistics**

The aeronautical authorities of one Party will, on request of the aeronautical authorities of the other Party, provide statistics as may be reasonably required for the purpose of reviewing the capacity of scheduled air services provided by the designated airlines or all the information on the amount of traffic carried on the scheduled services by those airlines.

**Section 14**  
**User Charges**

- (1) The term “user charge” means a charge made to airlines by the competent authorities or permitted by them to be made for the provision of airport (including heliport) property or facilities or of air navigation facilities, including related services and facilities, for aircraft, their crews, passengers and cargo.
- (2) A Party will not impose or permit to be imposed on the designated airlines of the other Party user charges higher than those imposed on its own airlines operating similar air services.
- (3) Each Party will encourage consultation on user charges between its competent charging authorities and airlines using the services and facilities provided by those charging authorities, where practicable through those airlines’ representative organisations. Reasonable notice of any proposals for changes

in user charges should be given to such users to enable them to express their views before changes are made. Each Party will further encourage its competent charging authorities and such users to exchange appropriate information concerning user charges.

**Section 15**  
**Conversion and Remittance of Revenue**

- (1) The designated airlines of one Party will have the right to convert and remit to the area of that Party from the area of the other Party on demand local revenues in excess of sums locally disbursed.
- (2) The conversion and remittance of such revenues will be permitted without restriction at the rate of exchange applicable to current transactions which is in effect at the time such revenues are presented for conversion and remittance, and will not be subject to any charges except those normally made by banks for carrying out such conversion and remittance.

**Section 16**  
**Representative Offices and Sales**

The designated airline(s) of each Party may, in accordance with the laws and regulations of the other Party, such as those relating to entry, residence and employment, establish representative offices in the area of the other Party to engage in the sale of air transportation in the area of the other Party either on its own or through agents to the public in local or any freely convertible other currency, and bring into and maintain in the area of the other Party those of their own managerial, technical, operational and other specialist staff who are required for the provision of air transportation.

**Section 17**  
**Aviation Security**

- (1) The Parties will provide, upon request, all necessary assistance to each other to prevent acts of unlawful seizure of civil 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 safety of civil aviation.
- (2) The Parties will ensure that adequate measures are effectively applied within its area to protect the aircraft and to inspect passengers, crew, baggage, cargo and

aircraft stores prior to and during boarding or loading. Each Party will also give sympathetic consideration to any request from the other Party for reasonable security measures to meet a particular threat.

- (3) 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 occurs, the Parties will assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat thereof.

### **Section 18**

#### **Consultation and Dispute Resolution**

- (1) The aeronautical authorities of the Parties will ensure the correct implementation of the various provisions of this Arrangement and will in a spirit of understanding and cooperation consult with each other whenever circumstances so necessitate. Such consultations should begin within 60 days from the date the other Party receives such request in writing, unless otherwise decided by the Parties.
- (2) Any dispute between the Parties relating to the interpretation or application of this Arrangement will be resolved through consultation between the Parties.

### **Section 19**

#### **Amendment**

Any amendments to this Arrangement decided upon by the Parties will be made in writing. The amendments, having been agreed by the Central People's Government, will come into effect on the date when both Parties to this Arrangement have notified each other in writing of their readiness to bring the amendments into effect.

### **Section 20**

#### **Duration**

This Arrangement will remain in effect permanently unless the Parties decide otherwise through consultation.

**Section 21**  
**Commencement**

This Arrangement will come into effect on the date of signature by both Parties.

Done, in duplicate at Hong Kong on 13 October 2003 in the Chinese language. The English translation of this Arrangement is attached for reference.

For the Government of  
the Hong Kong Special  
Administrative Region

For the Government of  
the Macao Special Administrative  
Region

.....  
Stephen IP  
Secretary for Economic Development  
and Labour

.....  
AO Man Long  
Secretary for Transports and Public  
Works

**ANNEX**  
**ROUTE SCHEDULE**

**Part 1**

Route to be operated by the designated airline or airlines of Hong Kong:

Hong Kong (airport and heliports) – Macao (airport and heliports) v.v.

Notes:

1. The agreed services of the designated airline or airlines of Hong Kong must begin at Hong Kong.
2. No intermediate points or beyond points may be served.
3. The heliport(s) (including the landing site(s) in the airport) in Macao that may be served by the designated airline or airlines of Hong Kong will be jointly determined by the aeronautical authorities of both sides.
4. The heliport(s) (including the landing site(s) in the airport) in Hong Kong that may be served by the designated airline or airlines of Hong Kong may be determined by the aeronautical authorities of Hong Kong from time to time and notified to the aeronautical authorities of Macao.
5. The heliport(s) (including the landing site(s) in the airport) determined under notes 3 and 4 above may be omitted, or combined in any order, on any flight.

**Part 2**

Route to be operated by the designated airline or airlines of Macao:

Macao (airport and heliports) – Hong Kong (airport and heliports) v.v.

Notes:

1. The agreed services of the designated airline or airlines of Macao must begin at Macao.
2. No intermediate points or beyond points may be served.
3. The heliport(s) (including the landing site(s) in the airport) in Hong Kong that

may be served by the designated airline or airlines of Macao will be jointly determined by the aeronautical authorities of both sides.

4. The heliport(s) (including the landing site(s) in the airport) in Macao that may be served by the designated airline or airlines of Macao may be determined by the aeronautical authorities of Macao from time to time and notified to the aeronautical authorities of Hong Kong.
5. The heliport(s) (including the landing site(s) in the airport) determined under notes 3 and 4 above may be omitted, or combined in any order, on any flight.