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AIR SERVICES AGREEMENT

BETWEEN

THE GOVERNMENT OF THE STATE OF KUWAIT

AND

THE GOVERNMENT OF THE REPUBLIC OF KENYA



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**Air Services Agreement (ASA)
Table of Contents**

Preamble

Article 1 – Definitions

Article 2 – Applicability of the Chicago Convention.....

Article 3 – Granting of Rights and Privileges.....

Article 4 – Designation and Authorization

Article 5 – Revocation, Limitation and Imposition of Conditions.....

Article 6 – Airport Facility User Charges.....

Article 7 – Exemptions from Custom Duties and other Charges.....

Article 8 – Financial Provisions

Article 9 – Technical and Commercial Representation.....

Article 10– Entry and Clearance Regulations

Article 11–Capacity Provisions

Article 12–Time Table Submission (Slots).....

Article 13–Information and Statistics.....

Article 14–Establishment of Tariffs

Article 15 – Aviation Safety.....

Article 16–Aviation Security.....

Article 17–Consultations and Modifications

Article 18– Settlement of Disputes.....

Article 19–Termination

Article 20– Conformity with Multilateral Convention.....

Article 21– Registration

Article 22–Titles

Article 23–Entry into Force.....

Article 24– Annex - Route Schedule

**AIR SERVICES AGREEMENT
BETWEEN
THE GOVERNMENT OF THE STATE OF KUWAIT
AND
THE GOVERNMENT OF THE REPUBLIC OF KENYA**

The Government of the State of Kuwait and the Government of the Republic of Kenya hereinafter called the Contracting Parties,

Desiring to foster the development of Air Services between the State of Kuwait and the Republic of Kenya and to promote in the greatest possible measure international co-operation in this field,

Desiring to apply to these services the principles and provisions of the Convention on International Civil Aviation and of the International Air Services Transit Agreement opened for signature at Chicago on the seventh day of December 1944,

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 civil aviation.

Have agreed as follows:

**Article 1
DEFINITIONS**

For the purpose of this Agreement, unless the text otherwise requires: -

- a) **"The 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 and any amendment of the Annexes or Convention under Articles 90 and 94 thereof so far as these Annexes and amendments have been adopted by both Contracting Parties;
- b) **"Agreement"** means this Agreement, the Annex attached thereto, and any modifications to the Agreement or to the Annex;

- c) **"Aeronautical Authorities"** means in the case of the State of Kuwait, the Directorate General of Civil Aviation, in the case of the Republic of Kenya, the Cabinet Secretary in charge of Civil Aviation, or in both cases any other person or agency authorized to perform the functions exercised at present by the said authorities;
- d) **"Designated Airline"** means any airline that one Contracting Party has designated in writing to the other Contracting Party in accordance with Article 4 of this Agreement as being an airline which is to operate the agreed air services on the routes specified in accordance with Article 3 of this Agreement;
- e) **"Air Service" "International Air Service" "Stop For Non Traffic Purposes" and "Airline"** shall for the purpose of this Agreement, have the meaning laid down in Articles 3 and 96 of the Convention;
- f) **"Territory"** in relation to a State means the land areas and territorial waters adjacent thereto and the airspace above them under sovereignty of that State has the meaning assigned to it in Article (2) of the Convention;
- g) **"Tariff"** means the prices to be paid for the carriage of passengers, baggage and cargo and the conditions under which those prices apply, including prices and conditions for agency and other auxiliary services, but excluding remuneration and conditions for the carriage of mail;
- h) **"Route Schedule"** means the Route Schedule annexed to this Agreement or as amended in accordance with the provisions of Article 17 of this Agreement. The Route Schedule forms an integral part of this Agreement and all references to the Agreement shall include reference to the Route Schedule except where provided in this Agreement.
- i) **"User Charge"** means a charge made to airlines for the provision of airport, air navigation or aviation security property, or facilities.

Article 2
APPLICABILITY OF THE CHICAGO CONVENTION

The provisions of this Agreement shall be subject to the provisions of the Chicago Convention insofar as those provisions are applicable to international air services.

Article 3
GRANTING OF RIGHTS AND PRIVILEGES

1. Each Party grants to the other Party the rights specified in this Agreement for the purpose of operating international air services on the routes specified in the Route Schedule.
2. Subject to the provisions of this Agreement, the airline or airlines designated by each Party shall enjoy the following rights:
 - a) The right to fly without landing across the territory of the other Party;
 - b) The right to make stops in the territory of the other Party for non-traffic purposes; and
 - c) The rights otherwise specified in this Agreement.
3. The airlines of each Party, other than those designated under Article (4) of this Agreement, shall also enjoy the rights specified in paragraphs (2) a) and b) of this Article.
4. Nothing in paragraph 2 shall be deemed to confer on the designated airline or airlines of one Party the privilege of taking on board, in the territory of the other Party, passengers, cargo and mail for remuneration and destined for another point in the territory of the other Party.

Article 4
DESIGNATION AND AUTHORIZATION

1. Each Party shall have the right to designate in writing to the other Party one or more airlines to operate the agreed services [in



accordance with this Agreement] and to withdraw or alter such designation.

2. On receipt of such a designation, and of application from the designated airline, in the form and manner prescribed for operating authorization [and technical permission], each Party shall grant the appropriate operating authorization with minimum procedural delay to exercise the rights specified in Article (3) of this agreement, provided that:
 - a) Substantial ownership and effective control are vested in the Party designating the airline, nationals of that Party.
 - b) The Party designating the airline is in compliance with the provisions set forth in Article (15) and Article (16); and
 - c) The designated airline is qualified to meet other conditions prescribed under the laws and regulations normally applied to the operation of international air transport services by the Party receiving the designation.
3. On receipt of the operating authorization of paragraph (2), a designated airline may at any time begin to operate the agreed services for which it is so designated, provided that the airline complies with the applicable provisions of this Agreement.

Article 5
REVOCATION, LIMITATION AND IMPOSITION OF
CONDITIONS

1. The aeronautical authorities of each Party shall have the right to withhold the authorizations referred to in paragraph (1) of Article 4 of this Agreement with respect to an airline designated by the other Party, and to revoke, suspend or impose conditions on such authorizations, temporarily or permanently when:
 - a) Substantial ownership and effective control are not vested in the Party designating the airline, nationals of that Party.



- b) In the event of failure of the Party designating the airline to comply with the provisions set forth in Article (15) and Article (16); and
 - c) In the event of failure that such designated airline is qualified to meet other conditions prescribed under the laws and regulations normally applied to the operation of international air transport services by the Party receiving the designation.
2. Unless immediate action is essential to prevent infringement of the laws and regulations referred to above or unless safety or security requires action in accordance with the provisions of Articles (15) or (16), the rights enumerated in paragraph (1) of this Article shall be exercised only after consultations between the aeronautical authorities in conformity with Article (17) of this Agreement.

Article 6

AIRPORTS AND FACILITY USER CHARGES

1. Neither Party shall 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 international services.
2. Each Party shall encourage consultations on user charges between its competent charging authority and airlines using the service and facilities provided by those charging authorities [or service provider], where practicable through those airlines' representative organizations. 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 shall further encourage its competent charging authority [or service provider] and such users to exchange appropriate information concerning user charges.

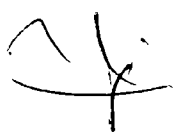
Article 7

EXEMPTIONS FROM CUSTOM DUTIES AND OTHER CHARGES

1. Aircraft operated in international air services by the designated airline or airlines of either Contracting Party shall be relieved from

all customs duties, national excise taxes and similar national custom inspection fees on the items set out below:

- a) The following items introduced by a designated airline by one Contracting Party into the territory of the other Contracting Party:
 - i. Repair, maintenance and servicing equipment and components parts;
 - ii. Passenger handling equipment component parts;
 - iii. Cargo-loading equipment and component parts;
 - iv. Security equipment including component parts for incorporation into security equipment;
 - v. Instructional material and training aids;
 - vi. Airline and operators' documents; and
- b) The following items introduced by a designated airline of one Contracting Party into the territory of the other Contracting Party and supplied to a designated airline of one Contracting Party in the territory of the other Contracting Party:
 - i. Aircraft stores (including but limited to such items as food, beverages and tobacco) whether introduced into or taken onboard in the territory of the other Contracting Party
 - ii. Fuel, lubricants and consumable technical supplies;
 - iii. Spare parts including engines; and
- c) Computer equipment and components introduced by a designated airline by one Contracting Party into the territory of the other Contracting Party to assist in one or more of the following matters;
 - i. The repair, maintenance or servicing of aircraft
 - ii. The handling of passengers at the airport or onboard the aircraft



- iii. The loading of cargo onto or the unloading of cargo from aircraft
- iv. The carrying of security checks on passengers or cargo

Provided that in each case that they are for use onboard an aircraft or within the limits of an international airport in connection with the establishment or maintenance of an international air service by a designated airline.

2. The relief from custom duty, national custom inspection fees, excise taxes and similar national fees shall not extend to charges based on the cost of services provided to the designated airline or airlines of a Contracting Party in the territory of the other Contracting Party.
3. Equipment and supplies referred to in paragraph (1) of this Article may be required to be kept under the supervision or control of the appropriate authorities.
4. In the event that the designated airline or airlines of one Contracting Party owing to an emergency situation enter into arrangement with another airline or airlines for the loan or use of any of the items specified in paragraph (1) of this Article, the relieves provided in this article shall be available to such airline.

Article 8

FINANCIAL PROVISIONS

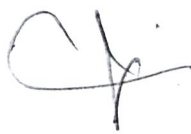
Either Contracting Party undertakes to grant the designated airline or airlines of the other Contracting Party the right of free transfer, at the applicable rate of exchange, of the excess of receipts over expenditure (including any interest earned on deposit awaiting remittance) achieved in its territory in connection with the carriage of passengers, baggage, mail shipments and cargo by the designated airline or airlines of the other Contracting Party. Whenever the payments system between the Contracting Parties is governed by a special agreement, that agreement shall apply.

Article 9
TECHNICAL AND COMMERCIAL REPRESENTATION

1. The designated airline or airlines of one Contracting Party shall have the right to maintain its own representation in the territory of the other Contracting Party.
2. The designated airline or airlines of one Contracting Party may, in accordance with the laws and regulations of the other Party relating to entry, residence and employment, bring in and maintain in the territory of the other Contracting Party managerial sales, technical, operational and other specialist staff required for the provision of air services.
3. Subject to the exclusion in paragraph (4) herein, the designated airline or airlines of each Contracting Party shall have the right to use the services and personnel of any other organization, company or airline operating in the territory of the other Contracting Party.
4. In case of nomination of a general agent or general sales agent, this agent shall be appointed in accordance with the relevant applicable laws and regulations of each Contracting Party.
5. In accordance with the national laws and regulations applicable at each Contracting Party, each designated airline shall have the right to engage in the sale of air transportation in the territory of the other Contracting Party directly or through its agents and any person shall be able to purchase such transportation.

Article 10
ENTRY AND CLEARANCE REGULATIONS

1. The laws, rules and regulations in force at one Contracting Party relating to entry into or departure from its territory of passengers, crew, cargo and mail of aircraft (such as regulation relating to entry, clearance, immigration, passports, customs and quarantine) shall be applicable to the passengers, crew, cargo and mail of the



aircraft of an airline designated by the other Contracting Party while in the territory of the first Contracting Party.

2. The laws and regulations of a Contracting Party relating to the admission to, stay in, or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of both Contracting Parties without distinction as to nationality, and shall be complied with by such aircraft upon entering or departing from or while within the territory of that Contracting Party.

Article 11 **CAPACITY PROVISIONS**

1. Each designated airline shall have a fair and equal opportunity to compete in providing the international air transportation governed by the agreement;
2. To take action to eliminate all forms of discrimination or unfair competitive practices adversely affecting the competitive position of a designated airline of the other Party;
3. The air transport facilities available to the travelling public should bear a close relationship to the requirements of the public for such transport;
4. The designated airline or airlines of each Party shall have a fair and equal opportunity to [compete] [operate] on any agreed route between the territories of the two Parties;
5. Each Party shall take into consideration the interests of the airlines of the other Party so as not to affect unduly their opportunity to offer the services covered by this Agreement;
6. Services provided by a designated airline under the Agreement shall retain as their primary objective the provision of capacity adequate to the traffic demands between the countries of which such airline is a national and the country of ultimate destination of the traffic. The right to embark or disembark on such services international traffic destined for and coming from third countries at a point or points on the routes specified in this Agreement shall be exercised in accordance with the general principles of orderly

development of international air transport to which both Parties subscribe and shall be subject to the general principle that capacity should be related to:

- a) The traffic requirements between the country of origin and the countries of ultimate destination of the traffic;
- b) The requirements of through airline operations; and
- c) The traffic requirements of the area through which the airline passes, after taking account of local and regional services.
- d) Consultations between the Parties shall be arranged whenever a Party requests that the capacity provided under the Agreement be reviewed to ensure the application of the principles in the Agreement governing the conduct of the services.

Each Contracting Party shall allow each designated airline to determine the frequency and capacity of the international air transport it offers, according to commercial and market-based considerations. Consistent with this right, neither Contracting Party shall unilaterally restrict the operations of the designated airlines of the other, except according to the terms of this Agreement or as may be required for customs, technical, operational or environmental reasons, under uniform conditions consistent with Article (15) of the Convention.

Article 12
TIME – TABLE SUBMISSION
(SLOTS)

1. The designated airlines shall submit to the relevant authorities of the Contracting Parties not later than sixty (60) days prior to the initiation of the agreed services on the specified routes in accordance with Article (3) of this Agreement, the type of service, aircraft and the Time Slots likewise apply to later changes.
2. The relevant authorities receiving such Time Slots shall normally approve the Time Slots or suggest modifications thereto. In any case the designated airlines shall not commence their services before the Time Slots are approved by the relevant authorities concerned. This provision shall likewise apply to later changes.

Article 13
INFORMATION AND STATISTICS

The Aeronautical Authorities of either Contracting Party shall furnish to the Aeronautical Authorities of the other Contracting Party at their request such periodic or other statistical data as may be reasonably required for the purpose of reviewing the capacity provided by the designated airline or airlines of the first Contracting Party on the specified routes in accordance with Article (3) of this Agreement. Such data shall include all information required to determine the amount of traffic carried.

Article 14
ESTABLISHMENT OF TARIFFS

1. Each Contracting Party shall allow tariffs for air services to be established by each designated airline based on commercial considerations in the market place, 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 to or filing with its aeronautical authorities of tariffs to be charged to or from its territory by airlines of the other Contracting Party. Such notification or filing by the airlines of both Contracting Parties may be required to be made no later than the initial offering of a price.
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 commencement or continuation of a tariff proposed to be charged or charged by a designated airline of the other Contracting Party in connection with the international air services provided for under this Agreement. Intervention, as described in paragraph (4) below, by the Contracting Parties shall be limited to;
 - a) Prevention of unreasonably discriminatory prices or practices;
 - b) Protection of consumers from prices that is unreasonably high or restrictive due to the abuse of a dominant position or due to concerted practice among airlines.
 - c) Protection of airlines from prices that are artificially low due to direct or indirect subsidy or support;

- d) Protection of airlines from prices that is artificially low, where evidence exists as to an intent to eliminate competition.
4. Without prejudice to the provisions of paragraph (3) of this Article, the aeronautical authorities of either Contracting Party may expressly disapprove tariff submitted by the designated airlines of the other Contracting Party, where such aeronautical authorities find that a tariff proposed to be charged by such airlines falls within the categories set forth in paragraph 3.a), 3.b), 3.c) or 3.d). In such event, the concerned aeronautical authority
- a) Shall send notification of its dissatisfaction to the aeronautical authorities of the other Contracting Party, and to the airline involved, as soon as possible, and in no event later than thirty (30) days after the date of notification or filing of the tariff in question; and
 - b) May request consultations in accordance with the procedures established under paragraph 5 of this Article. Unless both aeronautical authorities have agreed to disapprove the tariff in question in writing, the tariff shall be treated as having been approved.
5. The aeronautical authorities of each Contracting Party may request consultations with the aeronautical authorities of the other Contracting Party on any tariff charged by an airline of the other Contracting Party for international air services to or from the territory of the first Contracting Party, including tariffs for which a notice of dissatisfaction has been given. These consultations shall be held no later than fifteen (15) days after receipt of the request. The aeronautical authorities of both 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. If such mutual agreement is not reached, the tariff shall go into effect or continue in effect.

Article 15
AVIATION 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 be grounds for the application of Article (4) of this Agreement.
3. Notwithstanding the obligations mentioned in Article (33) 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 by the authorised representatives of the other Contracting Party, on board and around the aircraft to check both the validity of the aircraft documents and those of its crew and the apparent condition of the aircraft and its equipment (in this Article called "Ramp Inspection"), provided this does not lead to unreasonable delay.
4. If any 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 licenses 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) of this Article above is denied by the representative of that airline, the other Contracting Party shall be free to infer that serious concerns of the type referred to in paragraph (4) of this Article above arise and draw the conclusions referred in that paragraph.
6. Each Contracting Party reserves the right to suspend or vary the operating authorization of an airline 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) of this Article above shall be discontinued once the basis for the taking of that action ceases to exist.
8. Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one Contracting Party, and still in force, shall be recognized as valid by the other Contracting Party for the purpose of operating services provided for in this Agreement, provided that the requirements under which such certificates or licenses were issued or rendered valid are equal to or above the minimum standards which are or may be established pursuant to the Convention. Each Contracting Party reserves the right, however to refuse to recognize, for the purpose of flights above its own territory, certificates of competency and licenses granted to its own operators or rendered valid for them by the other Contracting Party or by any other State.
9. If the privileges or condition of the licenses or certificates referred to in paragraph (8) of this Article above, issued by the Aeronautical Authorities of one Contracting Party to any person or designated airline or airlines or in respect of an aircraft operating the agreed services on the specified routes would permit a difference from the standards established under the Convention, and which difference has been filed with the International Civil Aviation Organization, the Aeronautical Authorities of the other Contracting Party may request consultations in accordance with Article (17) of this Agreement with the Aeronautical Authorities of

that Contracting Party with a view to satisfying themselves that the practice in question is acceptable to them. Failure to reach a satisfactory agreement will constitute grounds for the application of Article (5) of this Agreement.

Article 16
AVIATION SECURITY

1. The Contracting Parties reaffirm, consistent with their rights and obligations under international law, that their obligations 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 the 14th of September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on the 16th of December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on the 23rd of September 1971, its Supplementary Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on the 24th of February 1988, the Convention on the Marking of Plastic Explosives for the Purposes of Detection signed at Montreal on the 1st of March 1991, and any other convention on aviation security to which the Contracting Parties shall become party.
2. The Contracting Parties shall 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 security of civil aviation.
3. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security standards and, so far as they are applied by them, the Recommended Practices established by the International Civil Aviation Organization and designated as Annexes to the Convention; and shall require that operators of aircraft of their registry, operators 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. In this paragraph the reference to aviation security Standards includes any difference notified by the Contracting Party concerned.

4. Each Contracting Party shall ensure that effective measures are taken within its territory to protect aircraft, to screen passengers and their carry-on items, and to carry out appropriate checks on crew, cargo (including hold baggage) and aircraft stores prior to and during boarding or loading and that those measures are adjusted to meet the increase in the threat. Each Contracting Party agrees that its designated airline or airlines may be required to observe the aviation security provisions referred to in paragraph (3) required by the other Contracting Party for entrance into, departure from, or while within, the territory of that other Contracting Party. Each Contracting Party shall also act favorably upon 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 occurs, the Contracting Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate as rapidly as possible commensurate with minimum risk to life such incident or threat.
6. Each Contracting Party shall take such measures, as it may find practicable, to ensure that an aircraft subject to an act of unlawful seizure or other acts of unlawful interference which has landed in its territory is detained on the ground unless its departure is necessitated by the overriding duty to protect human life. Wherever practicable, such measures shall be taken on the basis of mutual consultations.

Article 17

CONSULTATIONS AND MODIFICATIONS

1. Exchange of views shall take place as needed between the Aeronautical Authorities of the Contracting Parties in order to achieve closer cooperation and agreement in all matters pertaining to the application of this Agreement.



2. Each Contracting Party may at any time request consultations with the other Contracting Party for the purpose of amending this Agreement or the Schedule. Such consultations shall begin within a period of Thirty (30) days from the date of receipt of such request. Any amendment to this Agreement agreed to as a result of such consultations shall be approved by each Contracting Party in accordance with its constitutional procedures and shall enter into force on the date of exchange of diplomatic notes indicating such approval.
3. If the amendment relates only to the Schedule, the consultations shall be between the Aeronautical Authorities of both Contracting Parties. When these authorities agree on a new or revised Schedule, the agreed amendments shall come into force as soon as they have been confirmed by an exchange of diplomatic notes.

Article 18
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 endeavor to settle it by negotiations between themselves.
2. If the Contracting Parties fail to reach within sixty (60) days a settlement by negotiations they shall refer the dispute for decision to a person or body or at the request of one of the Contracting Parties to an arbitration tribunal. The arbitration tribunal shall be composed as follows:
 - a) Each Contracting Party shall nominate an arbitrator; if one Contracting Party fails to nominate its arbitrator within sixty (60) days, such arbitrator shall be nominated by the President of the Council of the International Civil Aviation Organization at the request of the other Contracting Party.
 - b) The third arbitrator, who shall be a national of a third state and who shall preside over the arbitration tribunal, shall be nominated either,
 - i. By agreement between the Contracting Parties; or
 - ii. If within sixty (60) days the Contracting Parties do not so agree, by appointment of the President of the



Council of the International Civil Aviation Organization by the request of either Contracting Party.

3. The arbitral tribunal shall reach its decisions by a majority of votes. Such decisions shall be binding on both Contracting Parties. Each Contracting Party shall bear the cost of its own member as well as of its representation in the arbitral proceedings; the cost of the chairman and any other costs shall be borne in equal parts by the Contracting Parties. In all other respects, the arbitral tribunal shall have its own procedure.
4. The arbitral tribunal shall attempt to give a written decision within sixty (60) days after completion of the hearing or, if no hearing is held, sixty (60) days after the date both replies are submitted.

Article 19 **TERMINATION**

Either Contracting Party may at any time notify the other Contracting Party in writing through diplomatic channels of his decision to terminate this Agreement. A copy of the notice shall be sent simultaneously to the Secretary General of the International Civil Aviation Organization. If such notice is given, this Agreement shall terminate twelve (12) months after the date of receipt by the other Contracting Party of the notice to terminate, unless by agreement between the Contracting Parties the notice under reference is withdrawn before the expiry of that period. If the other Contracting Party fails to acknowledge receipt, notice shall be deemed to have been received fourteen (14) days after the date of the receipt by the Secretary General of the International Civil Aviation Organization of his copy.

Article 20 **CONFORMITY WITH MULTILATERAL CONVENTIONS**

In the event of a general multilateral air transport convention accepted by the Contracting Parties entering into force, the provisions of such convention shall prevail. Any discussions with a view to determining the extent to which this Agreement is terminated, superseded, amended or supplemented by the provisions of the



multilateral convention, shall take place in accordance with paragraph (2) of Article (17) of this Agreement.

Article 21
REGISTRATION

This Agreement shall be registered with the International Civil Aviation Organization.

Article 22
TITLES

Titles are inserted in this Agreement at the head of each Article for the purpose of reference and convenience and in no way to define, limit or describe the scope or intent of this Agreement.

Article 23
ENTRY INTO FORCE

This Agreement shall enter into force after the fulfillment of the internal legal requirements by each Contracting Party, which shall notify each other of the fulfillment of such requirements through exchange of the diplomatic notes.

The Agreement shall come into force on the first day of the next month from the date of the receipt of the last notification.

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

Done at ----- this ---- day of -----, in two originals, each in the Arabic and English languages, all texts being equally authentic. However, in case of divergence of interpretation of this Agreement or its Annex the English text shall prevail.

**For The Government
of The State of Kuwait**

**For The Government
of the Republic of Kenya**



ANNEX
ROUTE SCHEDULE

Section 1

Routes to be operated by the Designated Airline or Airlines of the State of Kuwait

FROM	INTERMEDIATE POINTS	TO	BEYOND POINTS
Any Point in Kuwait	Any Point	Any Point in Kenya	Any Point

Section 2

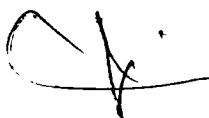
Routes to be operated by the Designated Airline or Airlines of the Republic of Kenya

FROM	INTERMEDIATE POINTS	TO	BEYOND POINTS
Any Point in Kenya	Any Point	Any Point in Kuwait	Any Point

NOTES:-

Each designated airline of either Contracting Party may, on any or all flights and at its option:

1. Operate flights in either or both directions;
2. Combine different flight numbers within one aircraft operation;
3. Omit stops at any point or points; and



**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE GOVERNMENT OF THE STATE OF KUWAIT
AND
THE GOVERNMENT OF THE REPUBLIC OF KENYA**

1. Representatives of the Government of the State of Kuwait and the Government of the Republic of Kenya, have met in Mumbai on the 21st of October 2011, to discuss and to initial an Air Services Agreement (herein and after referred to as the 'ASA') between the Government of the State of Kuwait and the Government of the Republic of Kenya. List of Delegations attached as Appendix 1.

2. The discussions were held in a cordial and friendly atmosphere, and both governments expressed their desire to further promote their aeronautical relations in a spirit of cooperation and complete understanding for their mutual benefits.

3. Both Governments agreed on the following:

3.1. ASA Agreement:

The two delegations agreed to an ASA text between the State of Kuwait and The Republic of Kenya initialled today by the heads of the two delegations. The text of ASA is attached as Appendix (2). The aeronautical authorities of both Contracting Parties will endeavour within their authority to apply the initialled Agreement provisionally until it comes into force subject to Article (23) of the Agreement.

3.2. Designation of Airlines:

i. The Government of the State of Kuwait has designated Kuwait Airways Corporation, Jazeera Airways Company, Kuwait National Airways and "Load Air" International Cargo Airlines Company to operate the agreed air services on the specified routes, and the Government of the Republic of Kenya has acknowledged and accepted these designations.

ii. The Government of the Republic of Kenya has designated Kenya Airways and others to be named, and the Government of the State of Kuwait has acknowledged and accepted these designations.

3.3. Frequency and Traffic Rights:

The designated airlines of each Contracting Party shall be entitled to operate unlimited number of frequencies in each direction with full third and fourth freedom traffic rights with any type of aircraft for passenger/ combi/ dedicated cargo flights.

3.4. Fifth Freedom Traffic Rights:

The designated airlines of each Contracting Party shall be entitled to operate (2) frequencies per week in each direction with full fifth freedom traffic rights with any type of aircraft for passenger/ combi/ dedicated cargo flights.


3.5. Code-share Arrangement:

In operating or holding out the agreed services on the specified routes, any designated airline of one Contracting Party may enter into co-operative marketing arrangements like code-sharing, with:

- an airline(s) of the same Contracting Party,
- an airline(s) of the other Contracting Party;
- an airline(s) of a third country, provided that such third country authorizes or allows 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:

- hold the appropriate authority;
- meet the requirements normally applied to such arrangements; and
- must, in respect of any ticket sold by it, make it clear to the purchaser at the point of sale which airline or airlines the purchaser is entering into a contractual relationship.



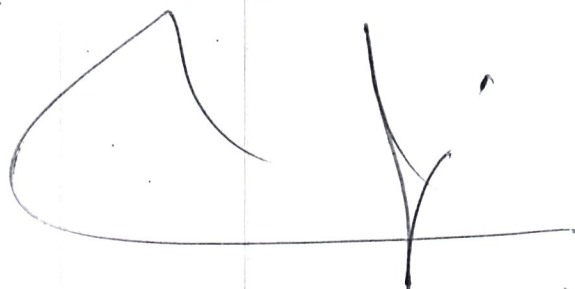
All code-share arrangements shall have the prior approval of the appropriate aeronautical authorities before implementation.

4. Entry Into Force:

Both Governments decided that this Memorandum of Understanding will enter into effect on the date of signature. This Memorandum of Understanding shall supersede corresponding provisions in the previous Memorandum of Understanding signed between both aeronautical authorities on 4 of April 2000.

Done on the 21st of October 2011 in Mumbai, India

**Head of the delegation
of the Government of the
State of Kuwait**



Nader M. Al-Buloushi
Director of Air Transport
Department

**Head of the delegation
of the Government of the Republic
of Kenya**



Nicholas Bodo
Ag. Director Air Transport

Foreign Affairs

APPENDIX 1

The Kenyan Delegation

1. **Mr. Nicholas Bodo**
Head of Delegation
Ag. Director, Air Transport
Ministry of Transport

2. **Colonel (Rtd) Hillary Kioko, OGW, MBS**
Director General
Kenya Civil Aviation Authority

3. **Ms. Dorcas Achapa, MBS**
Deputy Solicitor General
State Law Office

4. **Mr. Robert Kungu**
Senior State Counsel
State Law Office

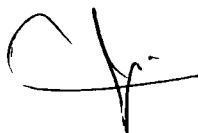
5. **Ms. Joy Nyaga**
Ag. Corporation Secretary
Kenya Airports Authority

6. **Ms. Edith K. Ngungu**
Third Secretary
Ministry of Foreign Affairs

7. **Mr. James Ndung'u**
Air Transport Officer
Kenya Civil Aviation Authority

8. **Mr. Anthony Mwangi**
Manager Govt. & Industry Affairs
Kenya Airways

9. **Ms. Phyllis Wakiaga**
Coordinator Govt. & Industry Affairs
Kenya Airways



APPENDIX 1

Delegation of the State of Kuwait

Mr. Nader Al-Buloushi Director of Air Transport Department DGCA	Head
Mr. Abdullah Al-Rajhi Superintendent of Air Transport for International Relations DGCA	Member
Mrs. Shoug Alkoot Air Transport Researcher DGCA	Member
Ms. Dalal Bouresli Air Transport Researcher DGCA	Member
Mr. Ibdah Al-Dousari Counselor	Member

