

Agreement

between

the Federal Minister of Transportation, Innovation, and Technology  
of the Republic of Austria

and

the Federal Office of Civil Aviation (FOCA) of the Swiss Confederation  
regarding

the implementation of Article 83<sup>bis</sup> of the agreement on international civil aviation

The Federal Minister of Transportation, Innovation, and Technology  
of the Republic of Austria

and

the Federal Office of Civil Aviation (FOCA) of the Swiss Confederation

Considering the Protocol of October 6<sup>th</sup>, 1980, amending the Convention on International Civil Aviation,

desiring, with respect to enhance the safety in civil aviation, to transfer to the State of Operator of aircraft all or part of the State of Registry's functions and duties of in accordance with Articles 12, 30, 31, and 32(a) of the Convention on International Civil Aviation, as provided by Article 83<sup>bis</sup> of the Convention on International Aviation, attached by the Protocol of October 6<sup>th</sup>, 1980,

in the belief that, under consideration of ICAO document 9760, part IV, chapter 6, and ICAO document 8335, part 5, it is necessary for the international obligations and responsibilities of the Contracting States be determined in strict compliance with the Convention on International Civil Aviation organization, when an aircraft registered in one Contracting State is operated under a dry lease agreement by the holder of an operating license issued by the other Contracting State, including Air Operator Certificates (AOC), ,

whereas the Swiss Confederation, pursuant to the bilateral air traffic agreement with the European Community (SR 0.748.127.192.68)

as the Republic of Austria apply the numerous harmonized European regulations in the field of aviation law, that ensures a standardized procedure,

have agreed to the following on the basis of Articles 33 and 83<sup>bis</sup> of the Convention on International Civil Aviation:

## Article 1

### Definitions of terms

Within the meaning of this agreement, insofar as no other meaning can be construed from the wording:

1. "Convention on International Civil Aviation" means the Convention on International Civil Aviation that was opened for signing in Chicago on December 7<sup>th</sup>, 1944, including any Annex adopted under Article 90, and any amendment of the Annexes or of the Convention itself under Articles 90 and 94 thereof insofar as these Annexes and amendments have become effective for both Contracting Parties or have been ratified by them;
2. "ICAO" the International Civil Aviation Organization;
3. "EASA" the European Aviation Safety Agency;
4. "Dry lease agreement" an agreement between the lessor and the lessee for the transfer of use of an aircraft for use against payment without payment, whereby the aircraft will be operated under the AOC of the lessee;
5. "Lessor" the registered owner or any natural or legal person who cedes the use of an aircraft to the lessee against payment;
6. "Lessee" the air operator who is ceded use of an aircraft against payment, and in whose Air Operator Certificate (AOC) the aircraft will be listed;
7. "Civil aviation authority" with regard to the Swiss Confederation the Federal Office of Civil Aviation (FOCA), P.O. Box, 3003 Bern; with regard to the Republic of Austria the Austrian Aviation Authority responsible for execution of the agreement Austro Control GmbH, Wagramer Strasse 19, A-1220 Vienna, or in both cases any other person or body who is authorized to perform the tasks incumbent upon these entities;

8. "State of Registry," the state in whose aircraft register the aircraft is recorded;
9. "State of Operator" the state from which the lessee or aircraft operator received their operating license.
10. "Framework agreement" the present contract and any subsequent amendments.
11. "Implementary definitions" each individual agreement in accordance with art. 4 paragraph 1 of the framework agreement.

## Article 2

### Scope of application

(1) This framework agreement shall apply to aircrafts that are registered in the aircraft register of the state of a contracting party and are operated by an operator in the state of the other contracting party for the purposes of commercial air transportation and aerial work under a dry lease agreement. The application of this framework agreement on individual aircrafts will be, pursuant to article 4 of the framework agreement, regulated in specific individual agreements regarding the transfer of supervision (implementary definitions).

(2) This framework agreement may be applied accordingly if no dry-lease agreement exists, because the operator and owner of the aircraft in question are identical, but the aircraft is registered in a state other than that of the operator.

## Article 3

### Transferred responsibilities

(1) The civil aviation authority of the State of Registry, in accordance with the provisions of this agreement, is entitled to transfer the following responsibilities to the civil aviation authority of the State of the Operator, including supervision and monitoring tasks that are included in the respective Annexes to the Convention on International Civil Aviation:

1. Annex 1 – licensing of aviation personnel (personnel licensing) - with the exception of the issuance and validation of licences.
2. Annex 2 - Rules of the Air - enforcement of compliance with applicable rules and regulations relating to the flight and manoeuvre of aircraft.
3. Annex 6 - Operation of Aircraft - all responsibilities which are normally incumbent on the State of Registry, for the oversight and control of operations of aircraft entered on its aircraft register.

4. Annex 8 - Airworthiness of Aircraft – all responsibilities which are normally incumbent upon the State of Registry, and have not been assumed by EASA, for the oversight and control of the aircraft entered on its aircraft register.

(2) The civil aviation authority of the State of the Operator shall inform the civil aviation authority of the State of Registry about any intended sublease of an aircraft for which the responsibilities were transferred in accordance with paragraph 1.

(3) Duties and functions referred to in paragraph 1 may not be transferred to another state.

#### Article 4

##### Procedure for the transfer of responsibilities

(1) Details concerning the transfer of responsibilities referred to in Article 3, including the applicable rules and procedures, are specified in writing between the civil aviation authorities of the contractual parties. Request for transfer of responsibilities by the civil aviation authority of the State of Registry shall require the written acceptance of the civil aviation authority of the State of the Operator. Requests for transfer of oversight may only be made for each single and specifically designated aircraft for the duration of the timeframe imposed by the pertinent dry-lease agreement. In the circumstances of Article 2, par. 2, transfer of responsibilities may only be made for a period of up to two years.

The transfer of surveillance responsibilities concerning the designated aircrafts will be effective upon receipt of the acceptance notice, pursuant to sentence 2.

(2) Paragraph 1 shall apply accordingly in the extension of a dry lease agreement. It also applies to an extension in the circumstances of Article 2 par. 2, and in these cases the period may be extended once by a maximum of two years.

(3) The civil aviation authorities are entitled to revoke the transfer of responsibilities for individual aircrafts at any time. The revocation must be performed in writing. It shall become effective 24 hours upon receipt.

(4) An aircraft for which the responsibility for oversight and control was transferred on the basis of Article 3 paragraph 1, shall be subject to the requirements of applicable laws, regulations and procedures of the State of the Operator.

## Article 5

### Meetings between the civil aviation authorities

(1) Meetings between the civil aviation authorities of the contractual parties will be organized as required to discuss operational or airworthiness matters as result of the inspections of the aircraft. In particular the following topics shall be discussed at these meetings:

1. Air operations;
2. Control of continued airworthiness and maintenance of aircraft;
3. Procedures for the management of the Continuing Airworthiness (Continuing Airworthiness Management Exposition - CAME or Operator Maintenance Control Manual - MCM or Aircraft Maintenance Program - AMP) of the operator, as applicable;
4. any other significant issues arising from inspection.

(2) At the request of the civil aviation authority of the State of Registration, the respective other civil aviation authority shall perform an inspection of the aircraft and its operation, subject to the applicable laws, for which responsibility of oversight and control was transferred on the basis of Article 3 paragraph 1. The civil aviation authority to whom the request was made shall allow the representatives of the civil aviation authority of the State of Registry to be present as far as possible during the inspection of the aircraft and its operation. The civil aviation authorities shall make the necessary arrangements for this. The civil aviation authority to whom the request was made shall inform the civil aviation authority of the State of Registry about the result of the inspection in writing.

## Article 6

### Obligation to carry Documents

The civil aviation authorities of the contractual parties will provide the lessee and lessor, or in the case of Art. 2 par. 2 the aircraft owner, a certified true copy of this framework agreement as well as the exchange of letters referred to in Article 4 paragraph 1 (Agreement). Certified true copies of this framework agreement, the letters exchanged referred to in art. 4 paragraph 1 ( Implementary definitions), and the Air Operator Certificate if necessary, shall be carried on board the aircraft for which responsibility was transferred based on this agreement. If the lessee or in the case of Art. 2 par. 2 the owner of the aircraft has obtained approval from his authority for a system to list the registration marks for aircraft operated and approved under his AOC, then this list and the relevant section of the operating manual must be kept on board.



Article 7  
Registration

(1) The contractual parties shall submit this framework agreement and any future changes, as well as the complementary definitions according to Art. 4 paragraph 1 referred to in Article 83<sup>bis</sup> of the Convention on International Civil Aviation, and in accordance with the Rules of Registration with ICAO of Aeronautical Agreements and Arrangements for registration to ICAO.

(2) Each civil aviation authority shall keep a list containing the aircraft for which the responsibility for oversight and control has been transferred on the basis of this agreement, specifying the aircraft identification, type as well as the duration of transfer of surveillance. A copy of the list as appendix 1 to this agreement is presented to ICAO for registration. The lists shall be updated as soon as a change occurs and shall be notified to ICAO.

Article 8  
Fees

Each authority will charge fees and expenses according to their applicable national provisions.

Article 9

Entry into Force and Duration of validity

- (1) This agreement shall enter into force on the first day of the second month after the date of its signature.
- (2) Any changes to this agreement shall be made in writing.
- (3) The framework agreement shall be concluded for an indefinite period of time. It may be terminated at any time in writing by the contracting parties. It will cease to be in effect after 60 days have lapsed following receipt of written notice of termination.

Done in two originals in the German language.

For the  
Federal Minister of  
Transportation, Innovation, and Technology  
The Republic of Austria:  
Mag. Elisabeth Landrichter  
Director of the Air Group

07/04/2016

For the  
Federal Office of Civil Aviation  
The Swiss Confederation:  
DI Martin Schmid  
Deputy Director  
Head of Directorate for businesses and  
services

07/19/2016