

663



BILATERAL AIR SERVICES AGREEMENT

BETWEEN

GOVERNMENT OF THE REPUBLIC OF SIERRA LEONE

AND

GOVERNMENT OF THE REPUBLIC OF KENYA

**AGREEMENT
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SIERRA LEONE
AND
THE GOVERNMENT OF THE REPUBLIC OF KENYA
FOR AIR SERVICES BETWEEN AND BEYOND
THEIR RESPECTIVE TERRITORIES**

Index to the Articles

PREAMBLE
ARTICLE 1 - DEFINITIONS
ARTICLE 2 - GRANT OF RIGHTS
ARTICLE 3 - DESIGNATION AND AUTHORIZATION
ARTICLE 4 - REVOCATION AND LIMITATION OF OPERATING
AUTHORIZATION
ARTICLE 5 - PRINCIPLES GOVERNING OPERATION OF AGREED
SERVICES
ARTICLE 6 - CUSTOMS DUTIES AND OTHER CHARGES
ARTICLE 7 - APPLICATION OF NATIONAL LAWS AND REGULATIONS
ARTICLE 8 - CODE SHARING
ARTICLE 9 - CERTIFICATES OF AIRWORTHINESS AND COMPETENCY
ARTICLE 10 - SAFETY
ARTICLE 11 - USER CHARGES
ARTICLE 12 - AVIATION SECURITY
ARTICLE 13 - COMMERCIAL ACTIVITIES
ARTICLE 14 - TRANSFER OF FUNDS
ARTICLE 15 - APPROVAL OF TIMETABLES
ARTICLE 16 - TARIFFS
ARTICLE 17 - EXCHANGE OF INFORMATION
ARTICLE 18 - CONSULTATION
ARTICLE 19 - SETTLEMENT OF DISPUTES
ARTICLE 20 - AMENDMENT OF AGREEMENT
ARTICLE 21 - REGISTRATION
ARTICLE 22 - TERMINATION
ARTICLE 23 - ENTRY INTO FORCE

PREAMBLE

The Government of the Republic of Sierra Leone and the Government of the Republic of Kenya (Hereinafter referred to as the "Contracting Parties");

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

Being Parties to the Ministerial Decision relating to the implementation of the Yamoussoukro Declaration concerning the Liberalization of Access to Air Transport Markets in Africa on 14th November 1999 as endorsed by the Organisation of African Union Heads of States in July 2000;

Desiring to conclude an Agreement in conformity with and supplementary to the said Convention, for the purpose of establishing and operating Air Services between and beyond their respective territories;

Desiring to conclude an agreement for the purpose of developing air services between their respective territories and beyond;

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

Desiring to facilitate the expansion of international air transport opportunities;

HAVE AGREED AS FOLLOWS:

ARTICLE 1 - DEFINITIONS

1. For the purpose of this Agreement, unless the context otherwise requires, the term:
 - a) "Abuja Treaty" means the Treaty Establishing the African Economic Community adopted at Abuja, Nigeria on the 3rd day of June 1991 and which entered into force on 12 May 1994;
 - b) "Aeronautical Authority" means in the case of the Government of the Republic of Sierra Leone, the Civil Aviation Authority of the Republic of Sierra Leone; and in the case of the Government of the Republic of Kenya, the Cabinet Secretary in charge of civil aviation; or in either case any person or body authorized to perform any function to which this Agreement relates;
 - c) "Agreed Services" means scheduled International Air Services between and beyond the respective territories of the Republic of Sierra Leone and the Republic of Kenya for the transport of passengers, baggage and Cargo, separately or in any combination;
 - d) "Agreement" means this Agreement, its Annex drawn up in application thereof, and any amendment to the Agreement or to the Annex;
 - e) "Air Service", "Airline", "International Air Service" and "stop for non-traffic purposes" have the meanings respectively assigned to them in Articles 2 and 96 of the Convention;
 - f) "Annex" shall include the route schedule annexed to the Agreement and any clauses or notes appearing in such Annex and any modification made thereto in accordance with the provisions of Article 20 of this Agreement;
 - g) "Cargo" includes mail;
 - h) "Convention" means the Convention on International Civil Aviation, opened for signature at Chicago on the seventh day of December 1944, and includes: (i) any amendment thereto which has entered into force under Article 94(a) of the Convention and has been ratified by both Contracting Parties; and (ii) any annex or amendment adopted thereto under Article 90 of that Convention, insofar as such annex or amendment is at any given time effective for both Contracting Parties;

"Countries bound by the Yamoussoukro Decision" means-

- (i) African States signatory to the Abuja Treaty; and
- (ii) any other African country which, though not a party to the said Treaty, has declared in writing its intention to be bound by the Yamoussoukro Decision.

- i) "Designated Airlines" means an airline or airlines that have been designated and authorized in accordance with Article 3 of this Agreement;
- j) "Tariffs" means the prices to be charged for the carriage of passengers, baggage and cargo and the conditions under which those prices apply, but excluding remuneration and conditions for carriage of mail;
- k) "Territory" in relation to a State has the meaning assigned to it in Article 2 of the Convention;
- l) "User Charges" means charges made to airlines by the competent authorities or permitted by them to be made for the provision of airport facilities, property and/or of air navigation facilities, including related services and facilities for aircraft, their crews, passengers, baggage and cargo;
- m) "Yamoussoukro Decision" means the Decision Relating to the Implementation of the Yamoussoukro Declaration concerning the Liberalization of access to Air Transport of 14 November, 1999 as endorsed by the African Union Heads of States on 11 July, 2000 including the appendices and amendments.

- 2. The Annex to this Agreement is considered an integral part thereof.
- 3. In implementing this Agreement, the Contracting Parties shall act in conformity with the provisions of the Convention insofar as those provisions are applicable to International Air Services.

ARTICLE 2 - GRANT OF RIGHTS

- 1. Each Contracting Party grants to the other Contracting Party the

following rights for the conduct of scheduled and non-scheduled international air services by airlines of the other Contracting Party:

- (a) the right to fly across its territory without landing;
 - (b) the right to make stops in its territory for non-traffic purposes.
 - (c) To make stops in the said territory at the points specified for that route in the schedules to this Agreement for the purpose of putting down and taking up international traffic in passengers, cargo and mail, coming from or destined for the territory of the other Contracting Party.
2. Each Party shall enjoy in addition to the rights specified in paragraph 1 of this Article, 5th freedom traffic rights in respect of other African States in accordance with the Yamoussoukro Decision.
 3. Nothing in this Agreement shall be deemed to confer on any Designated Airlines of either Contracting Party the privilege of taking on, in the Territory of the other Contracting Party, passengers, baggage and Cargo carried for remuneration or hire and destined for another point within the Territory of that other Contracting Party.
 4. If because of armed conflict, political disturbances or developments or special and unusual circumstances a Designated Airline of one Contracting Party is unable to operate a service on its normal routing, the other Contracting Party shall use its best efforts to facilitate the continued operation of such service through appropriate temporary rearrangement of routes as is mutually decided by the Contracting Parties.
 5. The Designated Airlines shall have the right to use all airways, airports and other facilities provided by the Contracting Parties on a non-discriminatory basis.

ARTICLE 3 - DESIGNATION AND AUTHORIZATION

1. The Aeronautical Authority of each Contracting Party shall have the right to designate one or more airlines for the purpose of operating the Agreed Services and to withdraw or alter the designation of any such airline or to substitute another airline for one previously designated. Such designation may specify the scope of the authorization granted to each airline in relation to the operation of the Agreed Services. Designations and any changes thereto shall be made in writing by the Aeronautical Authority of the Contracting Party having designated the airline to the Aeronautical Authority of the other Contracting Party.
2. On receipt of a notice of designation, substitution or alteration thereto, and on application from the Designated Airline in the form and manner prescribed, the other Contracting Party shall, subject to the provisions of paragraphs (3) and (4) of this Article, without delay grant to the airline(s) designated the appropriate operating authorizations.
3. The Aeronautical Authority of one Contracting Party may require an airline designated by the other Contracting 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 International Air Services by such authority in conformity with the provisions of the Convention and the eligibility criteria as defined in the Yamoussoukro Decision.
4. Each Contracting Party shall have the right to refuse to grant the operating authorizations referred to in paragraph (2) of this Article, or to impose such conditions as it may deem necessary on the exercise by a Designated Airline of the rights specified in paragraph 2 of Article 2 of this Agreement, in any case where, subject to any special agreement between the Contracting Parties, it is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or its nationals.
5. When an airline has been so designated and authorized, it may begin at any time to operate the Agreed Services in whole or in part, provided that it complies with the applicable provisions of the Agreement and that a

timetable is established in accordance with Article 15 of this Agreement in respect of such services.

ARTICLE 4 – REVOCATION AND LIMITATION OF OPERATING AUTHORIZATION

1. The Aeronautical Authority of each Contracting Party shall, with respect to an airline designated by the other Contracting Party, have the right to revoke an operating authorization or to suspend the exercise of the rights specified in Article 2 of this Agreement, or to impose conditions, temporarily or permanently, as it may deem necessary on the exercise of those rights in any of the following cases:
 - a) in the case of failure by that airline to comply with the laws and regulations normally and reasonably applied by the Aeronautical Authority of the Contracting Party granting those rights in conformity with the Convention; or
 - b) in case the airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement; or
 - c) in any case where, subject to any special agreement between the Contracting Parties, it is not satisfied that the substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or its nationals; or
 - d) in accordance with paragraph (6) of Article 10 of this Agreement;
 - e) in the case of failure by the other Contracting Party to take appropriate action to improve safety in accordance with paragraph (2) of Article 10 of this Agreement; or
 - f) in any case where the other Contracting Party fails to comply with any decision or stipulation arising from the application of Article 19 of this Agreement;
2. Unless immediate revocation, suspension, or imposition of the conditions mentioned in paragraph (1) of this Article is essential to prevent further infringements of laws or regulations, such right shall be exercised only after consultation with the Aeronautical Authority of the other Contracting Party, as provided for in Article 18.

3. In the event of action by one Contracting Party under this Article, the rights of the other Contracting Party under Article 19 shall not be prejudiced.
4. Either Contracting Party that exercises the rights under paragraph (1) of this Article shall notify in writing the other Contracting Party immediately of the reasons for the refusal, suspension or limitation of the operating authorisation or technical permission of an airline designated by it.
5. In exercising their rights under paragraph (1) of this Article, the Contracting Parties shall not discriminate between airlines on the grounds of nationality.

ARTICLE 5 – PRINCIPLES GOVERNING OPERATION OF AGREED SERVICES

1. There shall be fair and equal opportunity for the designated airline(s) of each Contracting Party to operate on any route specified in accordance with Article 3 of this Agreement.
2. In the operation of international air services on the routes specified in accordance with Article 3 of this Agreement, the designated airline(s) of one Contracting Party shall take account of the interests of the designated airline(s) of the other Contracting Party so as not to affect unduly the air services which the latter airline(s) operate(s) on the same routes or parts of them.
3. The international air services on the routes specified in accordance with Article 3 of this Agreement shall have as their primary objective the provision of capacity adequate to the foreseeable traffic demands in passengers, cargo and mail to and from the territory of the Contracting Party designating the airline(s). The right of each of the designated airlines to carry traffic between points in the territory of the other Contracting Party and points in the territory of third countries on the specified routes in

accordance with Article 3 of this Agreement shall be exercised in the interests of an orderly development of international air transport in such a way that capacity is related to:

- (a) The traffic demand from and to the territory of the Contracting Party designating the airline(s);
- (b) the traffic demand existing in the areas through which the air services pass, taking account of local and regional services;
- (c) The requirements of an economical operation of through services.

ARTICLE 6 - CUSTOMS DUTIES AND OTHER CHARGES

1. Each Contracting Party exempts the Designated Airlines of the other Contracting Party from import restrictions, custom duties, direct or indirect taxes, inspection fees and all other national and/or local duties and charges on aircraft as well as their regular equipment, fuel, lubricants, maintenance equipment, aircraft tools, consumable technical supplies, spare parts including engines, aircraft stores including but not limited to such items as food, beverages, liquor, tobacco, catering equipments and other products for sale to or use by passengers during flight and other items intended for or used solely in connection with the operation or servicing of aircraft used by such Designated Airline operating the Agreed Services, as well as printed ticket stock, airway bills, staff uniforms, computers and ticket printers used by the Designated Airline for reservations and ticketing, any printed material which bears the insignia of the Designated Airline printed thereon and usual publicity and promotional materials distributed free of charge by such Designated Airline.
2. The exemptions granted by this Article shall apply to the items referred to in paragraph (1) of this Article which are:
 - a) introduced into the Territory of one Contracting Party by or on behalf of a Designated Airline of the other Contracting Party;
 - b) retained on board the aircraft of a Designated Airline of one Contracting Party upon arriving in and until leaving the Territory of

the other Contracting Party and/or consumed during flight over that Territory;

- c) taken on board the aircraft of a Designated Airline of one Contracting Party in the Territory of the other Contracting Party and intended for use in operating the Agreed Services; whether or not such items are used or consumed wholly or partly within the Territory of the Contracting Party granting the exemption, provided such items are not alienated in the Territory of the said Contracting Party.
3. The regular airborne equipment, as well as the materials, supplies and stores normally retained on board the aircraft used by the Designated Airline of either Contracting Party may be unloaded in the Territory of the other Contracting Party only with the approval of the customs authorities of that other Contracting Party. In such case, such equipment and items shall enjoy the exemptions provided for by paragraph (1) of this Article provided that they may be required to be placed under the supervision of the said authorities up to such time as they are re-exported or otherwise disposed of in accordance with customs regulations.
 4. The exemptions provided for by this Article shall also be available in situations where the Designated Airlines of either Contracting Party have entered into arrangements with another airline(s), for the loan or transfer in the Territory of the other Contracting Party, of the regular equipment and the other items referred to in paragraph (1) of this Article, provided that that other airline enjoys the same exemption(s) from that other Contracting Party.
 5. The relief from customs duties, national 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.

ARTICLE 7 – APPLICATION OF NATIONAL LAWS AND REGULATIONS

1. The laws, regulations and procedures of one Contracting Party relating to the admission to, sojourn 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 aircraft operated by the airline(s) of the other Contracting Party without distinction as to nationality as they are applied to its own, and shall be complied with by such aircraft upon entry into, departure from and while within the Territory of that Contracting Party.
2. The laws, regulations and procedures of one Contracting Party as to the admission to, sojourn in, or departure from its Territory of passengers, baggage, crew and cargo, transported on board the aircraft, such as regulations relating to entry, clearance, aviation security, immigration, passports, customs, currency, health, quarantine and sanitary measures or in the case of mail, postal laws and regulations shall be complied with by or on behalf of such passengers, baggage, crew and Cargo upon entry into and departure from and while within the Territory of the first Contracting Party.
3. Neither Contracting Party may grant any preference to its own or any other airline(s) over the Designated Airline(s) of the other Contracting Party in the application of the laws and regulations provided for in this Article.
4. Passengers, baggage and Cargo in direct transit across the Territory of either Contracting Party and not leaving areas of the airport reserved for such purpose shall, except in respect of security measures against violence, air piracy, narcotics control be subject to no more than a simplified control. Such baggage and Cargo shall be exempt from customs duties, excise taxes and other similar national and/or local fees and charges.

ARTICLE 8 - CODE SHARING

1. The Designated Airline(s) of both Contracting Parties may, either as a marketing carrier or as an operating carrier, freely enter into cooperative marketing arrangements including but not limited to blocked space and/or code share arrangements (including third country code share arrangements), with any other airline or airlines.
2. Before providing code sharing services, the code sharing partners shall agree as to which party shall be responsible in respect of the liability and on consumer related matters, security, safety and facilitation. The agreement setting out these terms shall be filed with both Aeronautical Authorities before implementation of the code share arrangements.
3. Such arrangements shall be accepted by the Aeronautical Authorities concerned, provided that all airlines in these arrangements have the underlying traffic rights and/or authorizations.
4. In the event of a code share arrangement, the marketing airline should, in respect of every ticket sold, ensure that it is made clear to the purchaser at the point of sale which airline will actually operate each sector of the service and with which airline or airlines the purchaser is entering into a contractual relationship.
5. The Designated Airline(s) of each Contracting Party may also offer code share services between any point(s) in the territory of the other Contracting Party, provided that such services are operated by an airline or airlines of the other Contracting Party.

ARTICLE 9 – CERTIFICATES OF AIRWORTHINESS AND COMPETENCY

1. 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 the Agreed Services provided always that such certificates or licenses were issued, or rendered valid, pursuant to and in conformity with the minimum standards established under the Convention.

2. Each Contracting Party, reserves the right, however, to refuse to recognize, for flights above its own Territory, certificates of competency and licenses granted to its own nationals by the other Contracting Party.
3. If the privileges or conditions of the licenses or certificates issued or rendered valid by one Contracting Party permit a difference from the standards established under the Convention, whether or not such difference has been filed with the International Civil Aviation Organization, the Aeronautical Authority of the other Contracting Party may, without prejudice to the rights of the first Contracting Party under Article 10(2), request consultations with the Aeronautical Authority of the other Contracting Party in accordance with Article 18, with a view to satisfying themselves that the practice in question is acceptable to them. Failure to reach satisfactory agreement shall constitute grounds for the application of Article 4(1) of this Agreement.

ARTICLE 10 – 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 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 15 days or such longer period as may be

agreed, shall be grounds for the application of Article 4(1) of this Agreement.

3. It is agreed that any aircraft operated by an airline 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 authorized representatives of the other Contracting Party, on board and around the aircraft to check both the validity of the aircraft documents and those of its crew and the apparent condition of the aircraft and its equipment (in this Article called "ramp inspection"), provided this does not lead to unreasonable delay.
4. If any such ramp inspection or series of ramp inspections gives rise to:
 - a) Serious concerns that an aircraft or the operation of an aircraft does not comply with the minimum standards established at that time pursuant to the Convention; or
 - b) Serious concerns that there is a lack of effective maintenance and administration of safety standards established at that time pursuant to the Convention;the Contracting Party carrying out the inspection shall, for the purposes of Article 33 of the Convention, be free to conclude that the requirements under which the certificate or 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 an airline of one Contracting Party in accordance with paragraph (3) of this Article is denied by a 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 arise and draw the conclusions referred to in that paragraph.
6. Each Contracting Party reserves the right to suspend or vary the operating authorization of an airline or airlines of the other Contracting Party immediately in the event the first Contracting Party concludes, whether as a result of a ramp inspection, a series of ramp inspections, a

denial of access for ramp inspection, consultation or otherwise, that immediate action is essential to the safety of an airline operation.

7. Any action by one Contracting Party in accordance with paragraphs (2) or (6) of this Article shall be discontinued once the basis for taking that action ceases to exist.

ARTICLE 11 – USER CHARGES

1. Each Contracting Party shall use its best efforts to ensure that the User Charges imposed or permitted to be imposed by its competent charging bodies on the Designated Airlines of the other Contracting Party for the use of airports and other aviation facilities are just and reasonable. These charges shall be based on sound economic principles and shall not be higher than those paid by other airlines for such services.
2. Neither Contracting Party shall give preference, with respect to User Charges, to its own or to any other airline(s) engaged in similar International Air Services and shall not impose or permit to be imposed, on the Designated Airline(s) of the other Contracting Party User Charges higher than those imposed on its own Designated Airline(s) operating similar International Air Services using similar aircraft and associated facilities and services.
3. Each Contracting Party shall encourage consultations between its competent charging bodies and the Designated Airlines using the services and facilities. Reasonable notice shall be given whenever possible to such users of any proposal for changes in User Charges together with relevant supporting information and data, to enable them to express their views before the charges are revised.

ARTICLE 12 – AVIATION SECURITY

1. Consistent with their rights and obligations under international law, the Contracting Parties reaffirm that their obligation to each other to protect the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement.

2. Without limiting the generality of their rights and obligations under international law, the Contracting Parties shall in particular act in conformity with the provisions of the *Convention on Offences and Certain Other Acts Committed on Board Aircraft*, signed at Tokyo on 14 September 1963, the *Convention for the Suppression of Unlawful Seizure of Aircraft*, signed at the Hague on 16 December 1970, the *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation*, signed at Montreal on 23 September, 1971 and the *Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation done at Montreal on 23 September 1971*, signed at Montreal on 24 February 1988, and any other agreement governing civil aviation security binding upon both Contracting Parties.
3. 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 relevant threat to the security of civil aviation.
4. The Contracting Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as annexes to the Convention to the extent that such security provisions are applicable to the Contracting Parties.
5. In addition, the Contracting Parties shall require that operators of aircraft of their registry or 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 as are applicable to the Contracting Parties.
6. Each Contracting Party agrees that its operators of aircraft may be required to observe the aviation security provisions referred to in paragraph 4 above applied by the other Contracting Party for entry into, departure from, or while within the Territory of that other Contracting Party.

7. Each Contracting Party shall ensure that measures are effectively applied within its Territory to protect the aircraft and to security screen their passengers, crew and carry-on items and to carry out appropriate security checks on baggage, Cargo and aircraft stores prior to boarding or loading. Each Contracting Party also agrees to give positive consideration to any request from the other Contracting Party for reasonable special security measures to meet a particular threat.
8. 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 and air navigation facilities occurs, the Contracting Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate such incident or threat as rapidly as possible commensurate with minimum risk to life from such incident or threat.
9. Each Contracting Party shall take such measures as it may find practicable to ensure that an aircraft of the other Contracting Party subjected to an act of unlawful seizure or other acts of unlawful interference which is on the ground in its Territory is detained thereon unless its departure is necessitated by the overriding duty to protect the lives of its passengers and crew.
10. When a Contracting Party has reasonable grounds to believe that the other Contracting Party has departed from the provisions of this Article, the Aeronautical Authority of the first Contracting Party may request immediate consultations with the Aeronautical Authority of the other Contracting Party. Failure to reach a satisfactory agreement within fifteen (15) days from the date of such request shall constitute grounds for the application of paragraph (1) of Article 4 of this Agreement. When required by an emergency, a Contracting Party may take interim action under paragraph (1) of Article 4 prior to the expiry of fifteen (15) days. Any action taken in accordance with this paragraph shall be discontinued upon compliance by the other Contracting Party with the security provisions of this Article.

ARTICLE 13 - COMMERCIAL ACTIVITIES

1. The Designated Airlines of each Contracting Party shall have the right to establish in the Territory of the other Contracting Party offices for the purpose of promotion of air transportation and sale of transport documents as well as for other ancillary products and facilities required for the provision of air transportation.
2. In consideration of Paragraph 10 of this Article, the Designated Airlines of each Contracting Party shall be entitled, to bring into and maintain in the Territory of the other Contracting Party those of their own managerial, commercial, operational, sales, technical and other personnel and representatives as it may require in connection with the provision of air transportation.
3. Such representatives and staff requirements mentioned in paragraph 2 of this Article may, at the option of the Designated Airline, be satisfied by its own personnel of any nationality or by using the services of any other airline, organization or company operating in the Territory of the other Contracting Party and authorized to perform such services in the Territory of such other Contracting Party.
4. The Designated Airlines of each Contracting Party shall, either directly and at their discretion, through agents, have the right to engage in the sale of air transportation and its ancillary products and facilities in the Territory of the other Contracting Party. For this purpose, the Designated Airlines shall have the right to use its own transportation documents. The Designated Airline of each Contracting Party shall have the right to sell, and any person shall be free to purchase, such transportation and its ancillary products and facilities in local currency or in any other freely convertible currency.
5. The Designated Airlines of one Contracting Party shall have the right to pay for local expenses in the Territory of the other Contracting Party in local currency or provided that this is in accordance with local currency regulations, in any freely convertible currencies.
6. Each Contracting Party shall apply the Code of Conduct formulated by

the International Civil Aviation Organization for the regulation and operation of Computer Reservation Systems within its Territory, consistent with other applicable regulations and obligations concerning Computer Reservation Systems.

7. The Designated Airlines shall have the right to perform its own ground handling with respect to passenger check-in operations in the Territory of the other Contracting Party. This right does not include airside ground handling services and will only be subject to constraints resulting from requirements of airport safety, security and airport infrastructure. Where safety and security considerations preclude the exercise of the right mentioned in this paragraph, such ground handling services shall be made available without preference or discrimination to any airline engaged in similar international air services.
8. On the basis of reciprocity and in addition to the right granted by paragraph (7) of this Article, each Designated Airline of one Contracting Party shall have the right to select in the Territory of the other Contracting Party, any agent from competing handling agents authorized by the competent authorities of that other Contracting Party, for the provision, in whole or in part, of handling services.
9. The Designated Airlines of one Contracting Party may also be permitted to provide ground handling services envisaged by paragraph (7) of this Article, in whole or in part, for other airlines serving the same airport in the Territory of the other Contracting Party.
10. All the above activities shall be carried out in accordance with the applicable laws and regulations in force in the Territory of the other Contracting Party.

ARTICLE 14 – TRANSFER OF FUNDS

1. Each Contracting Party grants to the Designated Airlines of the other Contracting Party the right to transfer freely the excess of receipts over expenditure earned by such airlines in its Territory in connection with the sale of air transportation, sale of other ancillary products and services as well as commercial interest earned on such revenues (including interest

earned on deposits awaiting transfer). Such transfers shall be effected in any convertible currency, in accordance with the foreign exchange regulations of the Contracting Party in the Territory of which the revenue accrued. Such transfer shall be effected on the basis of official exchange rates or where there is no official exchange rate, such transfers shall be effected on the basis of the prevailing foreign exchange market rates for current payments.

2. If a Contracting Party imposes restrictions on the transfer of excess of receipts over expenditure by the Designated Airlines of the other Contracting Party, the latter shall have a right to impose reciprocal restrictions on the Designated Airlines of the first Contracting Party.
3. In the event that there exists, a special agreement between the Contracting Parties for the avoidance of double taxation, or in the case where there is a special agreement ruling the transfer of funds between the two Contracting Parties, such agreement shall prevail.

ARTICLE 15 - APPROVAL OF TIMETABLES

1. The Designated Airlines of each Contracting Party shall submit for approval to the Aeronautical Authority of the other Contracting Party prior to the inauguration of its services, the timetable of intended services, specifying the frequency, the type of aircraft, and period of validity. This requirement shall likewise apply to any modification thereof.
2. If a Designated Airline wishes to operate ad-hoc flights supplementary to those covered in the approved timetables, it shall obtain prior permission of the Aeronautical Authority of the Contracting Party concerned, who shall give positive and favorable consideration to such request.

ARTICLE 16 – TARIFFS

1. Each Contracting Party shall allow Tariffs to be established by each Designated Airline based upon its commercial considerations in the market place. Neither Contracting Party shall require the Designated Airlines to consult other airlines about the tariffs they charge or propose to charge.
2. Each Contracting Party may require prior filing with its Aeronautical Authorities, of prices to be charged to or from its Territory by Designated Airlines of both Contracting Parties. Such filing by or on behalf of the Designated Airlines may be required by no more than 30 days before the proposed date of effectiveness. In individual cases, filing may be permitted on shorter notice than normally required. If a Contracting Party permits an airline to file a price on short notice, the price shall become effective on the proposed date for traffic originating in the territory of that Contracting Party.
3. Except as otherwise provided in this Article, neither Contracting Party shall take unilateral action to prevent the inauguration or continuation of a price proposed to be charged or charged by a Designated Airline of either Contracting Party for international air transportation.
4. Intervention by the Contracting Parties shall be limited to:-
 - (a) Prevention of Tariffs whose application constitutes anti-competitive behavior which has or is likely to or intended to have the effect of crippling a competitor or excluding a competitor from a route;
 - (b) protection of consumers from prices that are unreasonably high or restrictive due to the abuse of a dominant position; and
 - (c) Protection of Designated Airlines from prices that are artificially low.
5. If a Contracting Party believes that a price proposed to be charged by a Designated Airline of the other Contracting Party for international air transportation is inconsistent with considerations set forth in paragraph (4) of this Article, it shall request consultations and

notify the other Contracting Party of the reasons for its dissatisfaction as soon as possible. These consultations shall be held not later than 30 days after receipt of the request, and the Contracting Parties shall cooperate in securing information necessary for reasoned resolution of the issue. If the Contracting Parties reach agreement with respect to a price for which a notice of dissatisfaction has been given, each Contracting Party shall use its best efforts to put that agreement into effect. Without such mutual agreement to the contrary, the previously existing price shall continue in effect.

ARTICLE 17 - EXCHANGE OF INFORMATION

1. The Aeronautical Authorities of both Contracting Parties shall exchange information, as promptly as possible, concerning the current authorizations extended to their respective Designated Airlines to render service to, through, and from the Territory of the other Contracting Party. This will include copies of current certificates and authorizations for services on proposed routes, together with amendments or exemption orders.
2. The Aeronautical Authorities of either Contracting Party shall supply to the Aeronautical Authorities of the other Contracting Party, at their request, such periodic or other statements of statistics of traffic uplifted from and discharged in the territory of that other Contracting Party as may be reasonably required.

ARTICLE 18 - CONSULTATION

1. In a spirit of close cooperation, the Aeronautical Authorities of the Contracting Parties shall consult each other from time to time with a view to ensuring the implementation of and satisfactory compliance with, the provisions of this Agreement. Either Contracting Party may at any time request consultations on the implementation, interpretation, application or amendment of this Agreement.
2. Subject to Articles 4, 10 and 12, such consultations, which may be through discussion or correspondence, shall begin within a period of sixty (60) days of the date of receipt of such a request, unless otherwise agreed by both Contracting Parties.

ARTICLE 19 - 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 negotiation.
2. If the Contracting Parties fail to reach a settlement by negotiation, they may agree to refer the dispute for decision to some person or body for mediation.
3. If the Contracting Parties do not agree to mediation, or if a settlement is not reached by negotiation, the dispute shall, at the request of either Contracting Party, be submitted for decision to a tribunal of three (3) arbitrators which shall be constituted in the following manner:
 - a) Within 60 days of receipt of a request for arbitration, each Contracting Party shall appoint one arbitrator. A national of a third State, who shall act as the President of the tribunal, shall be nominated as the third arbitrator by the two appointed arbitrators within 60 days of the appointment of the second;
 - b) If within the time limits specified above any appointment has not been made, either Contracting Party may request the President of the Council of the International Civil Aviation Organization to make the necessary appointment within 30

days. If the President is of the same nationality as one of the Contracting Parties, the most senior Vice President who is not disqualified on that same ground shall make the appointment. In such case the arbitrator or arbitrators appointed by the said President or the Vice President as the case may be, shall not be nationals or permanent residents of the States parties to this Agreement.

4. Except as hereinafter provided in this Article or as otherwise agreed by the Contracting Parties, the tribunal shall determine the limits of its jurisdiction in accordance with this Agreement and shall establish its own procedure. A conference to determine the precise issues to be arbitrated shall be held not later than 30 days after the tribunal is fully constituted.
5. Except as otherwise agreed by the Contracting Parties or prescribed by the tribunal, the statement of claim shall be submitted within 30 days after the tribunal is fully constituted and the statement of defense shall be submitted 40 days thereafter. Any reply by the claimant shall be submitted within 20 days of the submission of the statement of defense. Any reply by the respondent shall be submitted within 15 days thereafter. The tribunal shall hold a hearing at the request of either Contracting Party, or at its discretion, within 30 days after the last pleading is due.
6. The tribunal shall attempt to give a written decision within 30 days after completion of the hearing or, if no hearing is held, 30 days after both replies are submitted. The decision shall be taken by a majority vote.
7. The Contracting Parties may submit requests for clarification of the decision within 15 days after it receives the decision of the tribunal, and such clarification shall be issued within 15 days of such request.
8. The Contracting Parties shall comply with any stipulation, provisional ruling or final decision of the tribunal.
9. Each Contracting Party shall bear the costs of its arbitrator and an equal share of the other costs of the tribunal, including any expenses incurred by the President or Vice President of the Council of the International Civil

Aviation Organization in implementing the procedures in paragraph 3(b) of this Article.

10. If, and as long as, either Contracting Party fails to comply with a decision contemplated in paragraph (8) of this Article, the other Contracting Party may limit, suspend or revoke any rights or privileges which it has granted under this Agreement to the Contracting Party in default.

ARTICLE 20 - AMENDMENT OF AGREEMENT

1. Subject to the provisions of paragraph (2) of this Article, if either Contracting Party considers it desirable to amend any provision of this Agreement, such amendment shall be agreed upon in accordance with the provisions of Article 18 and shall be effected by an Exchange of Diplomatic Notes. Amendments agreed upon shall come into effect on a date to be determined by the Contracting Parties, which date shall be dependent upon the completion of the relevant internal ratification process of each Contracting Party.
2. Any amendments to the Annex to this Agreement may be agreed directly between the Aeronautical Authorities of the Contracting Parties. Such amendments shall enter into force from the date they have been agreed upon.
3. This Agreement shall, subject to the necessary changes, be deemed to have been amended by those provisions of any international convention or multilateral agreement which becomes binding on both Contracting Parties.

ARTICLE 21 - REGISTRATION

This Agreement and any amendments thereto, other than amendments to the Annex, shall be submitted by the Contracting Parties to the International Civil Aviation Organization for registration.

ARTICLE 22 - TERMINATION

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

ARTICLE 23 – ENTRY INTO FORCE

This Agreement shall be provisionally made effective from the date of initialing and shall enter into force on the day the last written notification is received by diplomatic note confirming that the Contracting Parties have fulfilled all respective internal procedures required for the entry into force of this Agreement.

Pending formal entry into force of this Agreement, the Air Services Agreement between the Governments of the Republic of Sierra Leone and the Republic of Kenya, signed in 2007, with all supplements, annexes and amendments thereto is terminated in regards to the relations between the Republic of Sierra Leone and the Republic of Kenya.

IN WITNESS WHEREOF the undersigned being duly authorized thereto by their respective Governments, have signed this Agreement in duplicate in English Languages, all texts being equally authentic and each Party retains one original in each language for implementation. In the event of any divergence of interpretation, the English text shall prevail.

Done at on thisday of of the year

FOR THE GOVERNMENT OF THE
REPUBLIC OF SIERRA LEONE

FOR THE GOVERNMENT OF THE
REPUBLIC OF KENYA

ANNEX
ROUTE SCHEDULE

Section 1:

Routes to be operated by the Designated Airline(s) of the the Republic of Kenya

FROM	INTERMEDIATE POINTS	TO	BEYOND POINTS
Any Points in the Kenya	Any Points within Africa	Any Points in The Republic of Sierra Leone	Any Points within Africa

Section 2:

Routes to be operated by the Designated Airline(s) of The Republic of Sierra Leone

FROM	INTERMEDIATE POINTS	TO	BEYOND POINTS
Any Points in The Republic of Sierra Leone	Any Points within Africa	Any Points in the Republic of Kenya	Any Points within Africa

Operation of the Agreed Services

1. The Designated Airline(s) of both Contracting Parties may, on any or all flights and at its option, operate in either or both directions; serve intermediate and beyond points on the routes in any combination and in any order; omit calling at any or all intermediate or beyond point(s); terminate its services in the territory of the other Contracting Party and/or in any point beyond that territory; serve points within the territory of each Contracting Party in any combination; transfer traffic from any aircraft