

NOTIFICATION OF THE MINISTRY OF TRANSPORT

RE: CRITERIA AND CONDITIONS FOR GRANTING LICENSING TO AIR OPERATION BUSINESS

B.E. 2559 (2016)

By virtue of Clause 3 (4), Clause 4, Clause 7, Clause 9 and Clause 17 of the Announcement of the National Executive Council No. 58 given on January 26, B.E. 2515 which prescribes that no person shall operate air services in the commercial operation under the public utility except otherwise is permitted by the Minister of Transport and in granting the permission, the Minister may prescribe any conditions as deemed necessary for public safety and wellbeing including amending or adding any conditions as deemed appropriate by the Minister; the Minister of Transport hereby issues the Notification prescribing the criteria and conditions in relation to granting licensing to air operation business as follows:

Clause 1. This Notification is called the “Notification of the Ministry of Transport Re: Criteria and Conditions for Granting Licensing to Air Operation Business B.E. 2559 (2016)”.

Clause 2. This Notification shall come into force upon the expiration of thirty days from the date of its publication in the Government Gazette.

Clause 3. The followings shall be repealed:

(1) Notification of the Department of Civil Aviation Re: Qualifications and Criteria in Considering Application to Operate Air Operation Business given on July 2, B.E. 2551;

(2) Notification of the Department of Civil Aviation Re: Age of Fixed-Wing Aircraft Used in the Air Operation Business given on February 18, B.E. 2557;

(3) Notification of the Department of Civil Aviation Re: Age of Fixed-Wing Aircraft Used in the Air Operation Business (No. 2) given on May 30, B.E. 2557.

All rules, notifications or orders of the Ministry of Transport or Department of Civil Aviation which are already prescribed in the Notification or inconsistent or contradictory to this Notification shall be replaced by this Notification.

Clause 4. In this Notification:

“Scheduled air services” means provision of air transports for passengers, goods and postal products for usual commercial remuneration and is open for the general public under the air schedule as certainly prescribed or with such a regular frequency resulting in recognition;

“Non-scheduled air services” means provision of air transports for passengers, goods and postal products for usual commercial remuneration which is not regular or scheduled air transports;

“Other commercial air services” means provision of other commercial air services in addition to regularly scheduled and non-scheduled air services;

“License applicant” means a person applying for a license to air operation business”

“Licensee” means a person granted with a license to air operation business;

“Official” means official in the Economic Regulation Department of the Civil Aviation Authority of Thailand;

“Committee” means the Committee on Consideration of Business Operation of Air Services;

“Minister” means Minister of Transport;

“Director General” means Director General of Civil Aviation Authority of Thailand;

“Authority” means the Civil Aviation Authority of Thailand.

CHAPTER I

COMMITTEE ON CONSIDERATION OF BUSINESS OPERATION OF AIR SERVICES

Clause 5. There shall be the Committee on Consideration of Business Operation of Air Services consisting of the Director General as the Chairperson, Deputy Director General as entrusted by the Director General as the deputy chairperson, no more than three qualified persons as appointed from the experts in air transportation economics, aviation industry and other fields related to civil aviation as the members, the manager of the Economic Regulation Department shall be the secretary and the Director General may appoint an official to be a secretary assistant as necessary.

Clause 6. The expert members shall be in position for a term of three years as from the date of appointment. The qualified members who vacate office upon the expiration of term may be reappointed but shall not be in office for more than two consecutive terms.

In addition to vacating office upon the expiration of term, the expert members shall vacate office upon:

- (1) death;
- (2) resignation;

(3) being dismissed by the Director General due to gross negligence or misconduct or having conflict of interest with the air services business operation.

In the case of vacating the office prior to the expiration of term, an appointment of qualified member shall be made and the appointee shall be in office for the unexpired term of office of the qualified members already appointed.

In the case where the qualified member vacates office prior to the expiration of office and no person has been appointed to replace such position, the remaining members shall continue to perform their duties but the numbers of remaining members shall be sufficient to institute a quorum.

Clause 7. In the case where the Chairperson does not attend the meeting, the deputy Chairperson shall perform his or her duties instead.

Clause 8. At any meeting of the committee, there shall be more than one half of the total members to institute the quorum.

Clause 9. A decision of the meeting shall be made by a majority of votes.

In casting a vote, each member has one vote. In the case of equality of votes, presiding member shall have an additional vote as the casting vote.

Clause 10. The Committee shall have the powers to appoint a sub-committee to undertake operation or consider any fact inquiry within the scope of powers and duties of the Committee.

At a meeting of a sub-committee, the provisions of Clause 8 and Clause 9 shall apply *mutatis mutandis*.

Clause 11. The Committee has the powers and duties as follows:

(1) to provide recommendations and consultation in air operation business for the execution under this Notification;

(2) to issue a Notification upon the approval of the Minister to prescribe the followings:

(a) the numbers of personnel and knowledge, expertise, experience of personnel which is appropriate and sufficient to the business operation as applied for under Clause 14 (8);

(b) other qualifications as deemed necessary and appropriate of a person applying for license under Clause 14 (11);

- (c) domination in other manners under Clause 17 (9);
 - (d) commission of an offence of high treason under Clause 18 (7) and (8);
 - (e) other prohibited characteristics as deemed necessary under Clause 18 (9);
 - (f) other documentary evidence as deemed necessary under Clause 22 (16) and Clause 29 (5);
 - (g) the maximum age or criteria for consideration of maximum age of an aircraft which is currently being used as the criteria for consideration of license renewal under Clause 30;
 - (h) criteria and conditions for reporting of material changes in the content under Clause 43 (5);
- (3) to approve a change of business plan and order a licensee to proceed correctly under the business plan in accordance with Clause 44;
- (4) to consider:
- (a) application for licensing under the criteria as prescribed under Clause 25 and undertake under Clause 26;
 - (b) whether the conduct is in the manner of transfer of right, embedded option or nominee shareholding under Clause 37;
 - (c) withholding of the business operation or termination of business operation prior to the submission to the Minister for approval under Clause 45, Clause 65 and Clause 80;
- (5) other powers and duties as entrusted by the Minister or Director General;

CHAPTER II AIR OPERATION BUSINESS

PART I GENERAL PROVISIONS

Clause 12. License to operate air operation business shall be divided into 3 types as follows:

- (1) license to operate scheduled air services;
- (2) license to operate non-scheduled air services;
- (3) license to operate other commercial air services.

Clause 13. Any person who wishes to apply for different types of licenses at the same time may be able to do so by clearly specifying the types of licenses wished to apply for to operate the business and illustrating the airline business plan which is in accordance with the business operation under the different types as applied for, including the information in relation to capital, aircraft used for the business operation, fleet planning, personnel and other information illustrating that such person is well prepared to operate the business under different types at the same time.

In submitting an application and consideration of the issuance of license, the provisions of Clause 22, Clause 23, Clause 24, Clause 25, Clause 26 and Clause 27 shall apply *mutatis mutandis*.

*In granting licensing, if the application is submitted for licenses in Clause 12 (1) and (2) at the same time, the Minister shall specify the types of air service business licensed in the same license and such license shall have validation period according to the maximum period of the permitted business operation or for time period as deemed appropriate by the Minister. If the application is also submitted for license in Clause 12 (3) in the same application, the Minister shall not specify the type of that operation in Clause 12 (3) in the same license but shall separate such type of the license in Clause 12 (3) specifically.

The licensee to operate different types of business in the same license shall begin the actual flight operation under the maximum rights granted within the period of one year as from the date of being granted with the license. In the case where the licensee fails to begin to operate the business under the maximum rights granted within such time period, the license shall be deemed invalid for the whole license.

PART II SCHEDULED AIR SERVICES

Clause 14. A license applicant shall have the qualifications and shall not have any prohibited characteristics as follows:

*Amended by Clause 3 of Notification of the Ministry of Transport Re: Criteria and Conditions for Granting Licensing to Air Operation Business (No.2) B.E. 2561 (2018)

- (1) being a juristic person in the form of company limited or public company limited registered under Thai law and having its headquarters in the Kingdom;
- (2) having the purpose for the business operation of air services;
- (3) having shares held by Thai nationality following the criteria as prescribed in Clause 15;
- (4) having the actual management power under the control of Thai person in accordance with the criteria in Clause 16;
- (5) members of the Board, manager or person having the power to manage shall not have prohibited characteristics under the criteria prescribed in Clause 18;
- (6) having the paid-up registered capital and sufficient capital to operate the business under the criteria as prescribed in Clause 19;
- (7) having an aircraft under the type, category, model, number appropriate for the business operation as applied for and having the ownership or being the person having the right to possession. In this regard, the aircraft acquired shall be in accordance with the criteria as prescribed in Clause 20;
- (8) having the personnel that has appropriate and sufficient knowledge, expertise and experience to operate the business as applied for as prescribed by a Notification of the Committee upon the approval of the Minister;
- (9) having the insurance for damages which may occur to body, life including the assets of passengers and third parties under the criteria as prescribe in Clause 21;
- (10) not being under the process of having his or her license to operate air services, regardless of its type, revoked for no less than three years;
- (11) having other qualifications as prescribed in a Notification of the Committee upon the approval of the Minister.

Clause 15. A person applying for the license shall not possess shares issued to a bearer and more than fifty one percent of the total shares shall be of the following persons, for each type alone or different types altogether:

- (1) natural person being of Thai nationality;
- (2) Ministry, sub-ministry, department or state agency;
- (3) company limited or public company limited in which a ministry, sub-ministry, department or state agency has no less than fifty one percent of the total shares;
- (4) company limited or public company limited in which Thai natural persons hold no less than fifty one percent of the total shares. In this regard, shares issued to bearers are counted as shares of persons not having Thai nationality;

(5) limited partnership whereby all partners without limited liability are of Thai nationality and no less than fifty one percent of capital of such partnership shall be held by natural persons of Thai nationality;

(6) registered ordinary partnership in which all the partners are of Thai nationality;

(7) other juristic persons as prescribed by the Director General.

The juristic persons under paragraph one (3), (4), (5), (6) or (7) shall be registered under the Thai law and having its headquarter located in the Kingdom and in the case where such juristic person has a juristic person as shareholder or partner, the juristic person which is the shareholder or partner shall have the shareholders of Thai national under the criteria as prescribed under this Clause.

Clause 16. The actual business management power of a license applicant shall be under the control of person of Thai nationality as follows:

(1) having no less than two-third of the members of the Board who have Thai nationality;

(2) having the manager or person having the power to manage who has Thai nationality;

(3) having a member of the Board who has the managerial power of the juristic person and is of Thai nationality;

(4) having management under no domination of person not having Thai nationality under the manners and conditions as prescribed in Clause 17.

Clause 17. The management is deemed to be under domination of person not having Thai nationality in the case where any management or undertaking which benefit or facilitate the benefit to person not having Thai nationality under one of the following manners:

(1) business domination through a person who does not have Thai nationality, representative or shareholding nominee, regardless of whether it is done directly or indirectly, to avoid the criteria under this Notification;

(2) business domination through shareholding of persons not having Thai nationality or through person having Thai nationality who is an agent, representative or nominee who does not have Thai nationality by which such shares having voting right in the proportion exceeding the real shareholding held or having one half of the total shares being of non-Thai nationality or voting right over the shares held by shareholders of Thai national;

(3) business domination through persons not having Thai nationality but having control or influence, directly or indirectly, in prescribing the policy, operation, or appointment of members of the Board or high-level executives.

High-level executive means Chairperson of the Board, managing director, manager, director, Chief Financial Officer or other persons having the controlling power or influence in the business management of the licensee;

(4) business domination through a legal relationship with the source of capital and loan from the person who is not of Thai national or subsidiary corporation, for instance, loan guarantee, soft loan compared to the market price, business risk guarantee or loan provision in the discriminatory manner;

(5) business domination through contracts relating to intellectual property, franchise, or contract to provide exclusive rights to a person not having Thai nationality or subsidiary corporation and such contract results in the transfer of expenses and remuneration to a person not having Thai nationality;

(6) business domination through procurement contract or executive contract with a person who is not of Thai national or subsidiary corporation or employee, or staff of a person who is not of Thai national or the subsidiary corporation and such contract results in the transfer of expenses and remuneration to a person who is not of Thai nationality;

(7) business domination through merger with a person who is not of Thai national or subsidiary corporation by allocation of capital division in the business operation in the manner of transferring the expenses and remuneration to other person who is not of Thai nationality;

(8) business domination through the transaction of transfer pricing or bid rigging with a person who is not of Thai national or subsidiary corporation;

(9) business domination in other manners as prescribed in a Notification of Committee upon the approval of the Minister.

Clause 18. Members of the Board, manager or person having the authority to manage of the licensee shall not have the following prohibited characteristics:

(1) being of unsound mind or of mental infirmity or being an incompetent person or quasi-incompetent person;

(2) being bankrupt;

(3) being sentenced to imprisonment by a final judgment except for an offence committed through negligence or a petty offence;

(4) being a member of the Board, manager or person having the managerial power of a juristic person whose license to operate air services has been revoked for less than three years;

(5) being punished under the disciplinary procedure to be removed from office in a governmental agency, state agency or state enterprise due to fraud;

(6) being removed from office under the provision of the Constitution of the Kingdom of Thailand;

(7) having his or her license to operate the business or professional license revoked due to an offence committed which affects the public trust as prescribed in a Notification of the Committee upon the approval of the Minister;

(8) having been a member of the Board, manager or person having the managerial power of to a juristic person whose license to operate any other business has been revoked as the offence affects the public trust as prescribed by a Notification of the Committee upon the approval of the Minister;

(9) other prohibited characteristics as deemed necessary and as prescribed by the Committee upon the approval of the Minister

Clause 19. A license applicant shall:

(1) have the paid-up registered capital as follows:

(a) in the case of fixed - wing aircraft, no less than two hundred million Baht;

(b) in the case of small fixed - wing aircraft, the maximum take-off weight does not exceed five thousand and seven hundred kilograms, no less than thirty five million Baht;

(2) illustrate that he or she has the sufficient amount of capital in regard to business operation under the following criteria:

(a) sufficient to the start-up cost;

(b) sufficient to the fixed and operational costs incurred from the business operation under the business plan under the reasonable presumption 90 days operating cost as from the date of starting the business operation without considering any other income from the business operation.

The details of capital shall be in accordance with the financial requirement form under Annex A and the evidence for auditing the financial readiness of the license applicant under the details as prescribed in Annex B shall be attached.

Clause 20. An aircraft to be acquired by a license applicant for the use of business operation shall be under the following criteria:

Type of aircraft	Numbers of engines	Size and weight	Age of aircraft	Numbers of aircrafts
Fixed-wing aircraft	No limitation	In accordance with the appropriateness and manner of the business operation applied for	- for carrying passengers and cargo, it must not be over 16 years as from the date of manufacture - for all cargo, it must not be over 22 years* as from the date of manufacture	No less than 2 aircrafts

Clause 21. A license applicant shall maintain insurance policy covering damages which may occur to life, body, property of the passengers and third parties by which the details and conditions in the insurance policy must be approved by the Director General and the minimum insurance coverage for passengers, baggage and cargo shall be in accordance with the law on international carriage by air. In this regard, the minimum insurance coverage for passengers, baggage, cargo and third parties shall be in accordance with Annex C.

When the relevant law has been amended to adjust to the minimum insurance coverage for passengers, baggage, cargo and third parties, the Director General shall prescribe in a notification specifying in Annex C as amended.

Clause 22. A person wishing to apply for a license shall submit an application form in accordance with the form as prescribed by the Director General at the Authority including the documentary evidence illustrating the qualifications and characteristics as prescribed in Clause 14 as follows:

(1) copy of the certificate or evidence of being a juristic person which illustrate the details relating to name, purposes, location of the office and present authorized signatory with the affirmation of the person having the authority to provide the affirmation under the law and it shall not exceed six months as from the date of issuance of such certificate or evidence;

(2) copy of list of shareholders' names which are certified by the Registrar;

* Amended by Clause 3 of Notification of the Ministry of Transport Re: Criteria and Conditions for Granting Licensing to Air Operation Business (No.3) B.E. 2561 (2018)

(3) business structure of the organization by specifying names, qualifications and relevant experience including position of at least Chief Executive Officer (CEO), vice Chief Executive Officer (CEO), director of the Flight Operation Division and Director of Maintenance;

(4) a copy of identification card or a copy of passport of a person holding the position of executive or high-level executive.

High-level executive means Chairperson, managing director, manager, director, Chief Financial Officer or Chief Officer of other departments which, according to the structure of organization of the license applicant is deemed high level executive.

(5) principal place of business operation or main base;

(6) financial requirement form including financial documentary evidence illustrating financial status, for instance, financial report submitted to shareholders, other evidence illustrating sources and disbursement of fund or investment in other business operation or financial status guarantee of a financial institute as prescribed in Clause 19 whereby the details are as prescribed in Annex A and Annex B;

(7) the manner of operation applied for, for instance, carrying passengers, cargo flight, postal flight, daytime or night operation, visibility operation or aircraft instrument or dangerous goods flight operation (if any);

(8) airline business plan with the details as prescribed in Annex D;

(9) information relating to aircraft used in the business operation under Clause 20 with the following details:

(a) category, type, model, and age of aircraft;

(b) nationality and registration mark (if any);

(c) aeronautical communication equipment and services aids;

(d) aircraft acquisition plan including documents relating to purchase and sale, dry lease and agreement or letter of intent in purchase or lease of aircraft which is valid for over three months as from the date of submission of correct and complete documents;

(10) preparation on maintenance of aircraft and relevant equipments;

(11) information relating to personnel on board an aircraft, licenses and flight experience of each personnel;

(12) prescription of the amount and qualification for performing duties on board, flight crew member and ground staff, training programme (including the method of training profile record of such person);

(13) route, frequency and type of flight expected to provide operation;

(14) documentary evidence for insurance under Clause 21;

(15) contingency plan in the case of flight cancelation, delay or in the case where an aircraft cannot be operated regardless of the reason and passenger protection measure in such event in a manner as prescribed by the Director General;

(16) other documentary evidence deemed necessary as prescribed by the Committee in a notification upon the approval of the Minister.

Clause 23. Upon the receipt of application and documentary evidence under Clause 22, an official shall conduct a preliminary inspection as follows:

(1) accuracy and completeness of the qualifications of a person applying for licensing and accuracy and completeness of the submitted documentary evidence;

(2) details relating to paid-up registered capital, financial readiness in having sufficient fund for business operation and sources of funding the business operation;

(3) organizational structure, managerial and personnel structure;

(4) other information which illustrates that the applicant is competent to be an operator in air operation services.

Clause 24. In the case where an official is of the view that the license applicant has the correct qualification and submitted the complete documentary evidence and is in accordance with the criteria for preliminary inspection under Clause 23, the official shall submit the application to the Committee for consideration.

In the case where the official is of the opinion that the license applicant has incorrect qualifications and does not have the documentary evidence in accordance with the criteria as prescribed in the preliminary inspection under Clause 23 or the submitted documentary evidence is not correct or complete, the official shall notify the applicant of such facts including reasons promptly and without delay so that the applicant shall correct or amend such evidence and submit it to the official for preliminary inspection again within the time as prescribed by the official but shall not exceed ninety days as from the date of being notified. In the case where the applicant fails to correct or amend within the prescribed time period. The applicant may extend such period for no more than two times and for no more than thirty days each time. Upon the expiration of such extension, the application shall be dismissed.

Clause 25. In considering an application, the Committee shall consider, examine and assess the suitability of the license applicant as follows:

(1) correctness, completeness in the qualifications of the applicant and completeness of the submitted documentary evidence;

(2) suitability in operating air services by considering:

(a) ability in management of the high-level executives of the applicant by examining whether such persons have knowledge and expertise suitable for operating the air services and the management team, overall, shall have the background and experience in business and aviation sufficient to engage in the operation under the type as submitted for licensing;

(b) operation plan and financial plan by considering whether the applicant has reasonable understanding in relating to start-up costs, for instance, such applicant has the existing capital or fund-raising plan necessary for start-up business which is specified and can be inspected. The applicant must show the certified document from a third party (i.e. financial institute or lender) that the applicant will obtain necessary capital for business operation;

(c) record of violation of law, rule, notification relating to safety or consumer fraud which damaged or may cause damage to the public or other factors which illustrate that the applicant or high-level executive of the applicant has no record of violation of law or rule issued by the Ministry of Transport, Authority or of the public sector and has never caused damages or affected the public;

(3) substantial ownership and effective control is under the person having Thai nationality;

(4) suitable and potential business and aviation safety action plan by which the route wished to operate air services must be the suitable route for the public demand and airport to be used for flights must have the capacity for the flights of such applicant;

(5) having the personnel which has suitable and sufficient knowledge for the business operation;

(6) having readiness in complying with current and future laws, rules, notifications of the government including the readiness in complying with conditions attached to the license.

In the case where the Committee is of the opinion that it is necessary to request for additional information, the Committee may order the applicant to submit additional information. In the case where the applicant fails to submit the additional information within the prescribed time period and fails to facilitate the Director General or official which results in the Director General or official being unable to consider the application, the Committee shall order to dismiss such application. The Committee shall notify the application. Such decision of the Committee shall be final.

Clause 26. Upon considering under Clause 25, the Committee shall assess the suitability in the business operation including the preparation on financial matter, organization,

personnel, operational feasibility, user and public demand, the amount of existing providers. In the case where the Committee is of the opinion that:

(1) it is appropriate to issue a license to the applicant, the Committee shall propose the opinion to the Director General and the Director General shall propose to the Minister to grant the license to the applicant;

(2) it is not appropriate to issue a license to the applicant, the Committee shall present the opinion to the Director General to issue an order to dismiss such application and notify the applicant. In this regard, the order to dismiss by the Director General shall be final and the Director General shall report the Minister.

Clause 27. Upon receiving the application including the opinion of the Director General under Clause 26 (1), the Minister shall consider granting a license to the applicant when it appears that:

(1) the applicant has the complete qualifications and has no prohibited characteristics;

(2) the applicant is suitable for operating air services under Clause 25 (2);

(3) the applicant has substantial ownership and effective control under the person having Thai nationality;

(4) the applicant has the suitable business and safety plan in aviation and the route wished to operate shall be the route suitable for the public demand and the airport for which the applicant requested for operation must have the capacity for the flights of the applicant;

(5) the applicant is well prepared to comply with current and future laws, rules, notifications of the Ministry of Transport, the Authority or of the government and is prepared to comply with the conditions as attached to the license;

(6) the business operation proposed for license must be in accordance with public demand;

(7) the licensing for business operation shall not cause any economic damage.

In issuing a license, the Minister may prescribe the right of service, for instance, right to operating flight domestically and/or internationally as applied by the applicant or as suitable and readiness of the applicant on a case by case basis. In this regard, permission to operate scheduled air services shall be deemed to have granted to operate non-scheduled air services automatically.

In issuing a license, the Minister may prescribe the conditions attached to a license as appropriate. In this regard, the Minister may amend or add such conditions by prescribing the time for enforcing the changing or additional conditions as deemed appropriate.

The Minister shall prescribe a condition attached to a license by specifying that a licensee must proceed to submit the application for the Air Operator Certificate to the Authority within sixty days as from the date of being granted with the license and shall undertake to complete the procedures and process to issue the Air Operator Certificate until the certificate is granted and begin the actual flight operation within one year as from the date of being granted with the license. In the case where the operation cannot begin within such prescribed time period, it shall be deemed that such license is automatically ineffective and such time of the beginning of air service cannot be extended regardless of the reason.

The license to operate scheduled air services shall be in accordance with the form as prescribed by the Director General.

Clause 28. License to operate scheduled air services shall be valid for five years as from the issuance date except in the case of termination of the business operation and in such case the license is deemed to expire on the date the Minister grants the permission to terminate the business operation.

Clause 29. A licensee who wishes to renew the license shall submit an application in accordance with the form as prescribe by the Director General at the Authority prior to the expiration date of the license for no less than one hundred and twenty days but shall not exceed one hundred and eighty days including the documentary evidence as follows:

- (1) current copy of certificate or evidence of being a juristic person illustrating the details relating to name, purpose, location of the office and authorized signatory;
- (2) financial requirement form including documentary evidence illustrating financial status, for instance, financial report submitted to shareholders, other evidence illustrating sources and disbursement of fund or investment in other business operation or financial status guarantee of a financial institute as prescribed in Clause 19 whereby the details are as prescribed in Annex A and Annex B;
- (3) information relating to aircraft used in the air operation business with the details relating to age of each aircraft and additional aircraft acquisition plan (if any);
- (4) copy of latest insurance policy under Clause 21;
- (5) current airline business plan with the details as prescribed in Annex D;
- (6) necessary documentary evidence as prescribed by the Committee in a notification upon the approval of the Minister.

In the case where evidence and document submitted in the initial license which is amended or corrected, an applicant applying for renewal of license shall submit the amended and corrected evidence and document.

Upon submitting an application for renewal of license within the period as prescribed under paragraph one, the applicant may operate the air operation business until the Minister orders that the renewal of the license not be permitted. In this regard, in the case where an applicant fails to submit an application for renewal of license within the period as prescribed, he or she shall submit an application for new license.

Clause 30. In considering the application to renew the license, an official and the Committee shall apply Clause 23, Clause 24, Clause 25 and Clause 26 *mutatis mutandis* and shall consider the past profile of business operation including the age of operational aircraft. Once the Committee completes its consideration, it shall submit its opinion to the Minister for the consideration of the renewal of license to the applicant.

Upon examining the qualifications, documentary evidence and history or past report of the air operation business including the maximum age of used aircraft and it appears that the applicant maintains the standard in the air operation business in providing services and safety in aviation without any record of violating the conditions attached to the license or failure to comply with protection of passenger rights criteria which affected a large number of passengers, the Minister shall renew the license and the provisions of Clause 27 shall apply *mutatis mutandis*.

In prescribing the time period for the validity of license applied for renewal, the provisions of Clause 28 shall apply *mutatis mutandis* and if it appears that:

(1) the applicant for renewal of license violated the terms and conditions attached to the license or failed to comply with the terms and conditions on protection of passengers' rights which affected a large number of passengers or has bad financial status or in the past was not able to operate the business well or any other appropriate reason by considering the past business operation, the Minister may renew the license for no less than five years as from the date of issuance in an individual case or;

(2) the applicant for renewal of license had provided services under the former license three times consecutively and five year each time (has obtained the license and provided services continuously for fifteen years and more) and no record of non-compliance of terms and conditions attached to the license or no record of non-compliance with the conditions on protection of passengers' rights which affect a large number of passengers, the Minister may renew the license for ten years as from the date of issuance.

The maximum age or criteria for considering the maximum age of a current aircraft set as the criteria for consideration of renewal of license shall be in accordance with the notification as prescribed by the Committee and approved by the Minister.

Clause 31. A licensee shall display a license in a place where it is easily to be seen at an operating place as prescribed in a license.

In the case where a license is lost, destroyed, or damaged in substance, the licensee shall submit an application for substitute at the Authority including the police report.

Issuance of license substitute under paragraph one shall be in accordance with the original license by stating or stamping the word “substitute” with the red ink at the front of such license and specifying the date, month, year of issuance of substitute including signing the person issuing the license substitute.

Clause 32. Upon obtaining a license, a licensee shall submit an application for allocation of route in accordance with the rights of air service provision granted by the Director General within sixty days as from the date of obtaining the license.

Consideration for allocation of route shall be in accordance with the criteria for allocating the route as prescribed by the Director General in a notification upon the approval of the Minister.

No licensee shall wholly or partly cease flight operation under the flight privilege for more than fifteen days except otherwise is permitted by the Director General.

Clause 33. Prior to the beginning of air operation business, a licensee shall submit condition of carriage to the Director General for approval and shall proceed under the condition of carriage as approved by the Director General. In the case of such change of conditions, it shall be approved by the Director General.

Granting of approval under the provisions under paragraph one shall be made providing that the conditions of carriage do not affect public interest and shall prescribe airfare, freights and other expenses relating to transportation, for instance, carriage price, seat selection fee, fee for changing name in the passenger ticket and other fees including the liability relating to the transportation under the law on international carriage by air.

Clause 34. Prior to the beginning of air operation business, a licensee shall submit bank guarantee containing the statement as specified by the Director General to the Director General for guaranteeing the damages which may occur from the air operation business to the public and to be obliged under the laws, rules, regulations prescribed by the Ministry of Transport and Authority under the following conditions:

(1) the value of bank guarantee shall not be lower than five percent of the registered capital under Clause 19. If there are other circumstances, the Director General have the

power to increase the value subsequently and in the case where the Director General orders to increase the credit in the bank guarantee, the licensee shall submit the additional bank guarantee within fifteen days as from the date of being notified by the Authority;

(2) having the time of bank guarantee until the expiration date as obtained in the license.

In the case where any licensee has been in operation for no less than five years continuously, the licensee can apply for exemption or termination of bank guarantee by submitting an application form to the Director General including the financial statement under the criteria as prescribed by the Ministry of Commerce or Stock Exchange of Thailand and documentary evidence or statement which states that there is no record or complaint relating to non-compliance of protection of passenger rights criteria which affect a large number of passengers.

The Director General may grant an exemption or termination of bank guarantee upon inspecting the information and documentary evidence and it appears that a licensee has always maintained the standard of air operation business in providing services and safety in aviation and has no record of non-compliance with the criteria in protecting passengers' rights which affect a large number of passengers.

In the case where subsequently the fact appears that the licensee who has been granted with the exemption of bank guarantee under paragraph three is under the circumstance where or the fact appears that it caused or may cause damages from the air operation business or violated the laws, rules, regulations, notifications prescribed by the Ministry of Transport and the Authority and such violation caused or may seriously cause damages to the public, the Director General shall have the power to order a new bank guarantee submitted by complying with paragraph one.

Clause 35. No licensee shall sell passengers tickets, in any form, by procedure or through channel, unless otherwise has obtained the license from the Authority.

Clause 36. A licensee shall begin actual flight operation under the rights of scheduled air service as permitted within one year as from the date of being granted with the license.

Clause 37. A licensee shall not transfer the right under license whether it is wholly or partly to another person and shall not undertake, by any means, to provide consent which

results in hidden right of operating flights in the name of the licensee or nominee shareholding to avoid the law.

The Committee shall have the power to consider types of manners which is deemed to be the transfer of rights or hidden rights or nominee shareholding to avoid the law.

Clause 38. A licensee shall:

- (1) provide services on the route as permitted;
- (2) provide continuous services following the schedule as announced;
- (3) prescribe the airfares and freights under the rate which is in accordance with the criteria as prescribed in the law on air navigation and other related laws;
- (4) announce the rate of airfares and freights under (3) and other expenses relating to carriage including the conditions of carriage in public at an office of the licensee, ticket office and website of the licensee.

Clause 39. Provision of services under an agreement between licensees to conduct air operation business of scheduled air services or with a business operator of non-scheduled air services or with foreign commercial business operator in the subject relating the carriage by air, for instance, code sharing, shall be approved by the Director General. In this regard, the Director General shall grant approval to such service if it is deemed to benefit the public.

Clause 40. A licensee wishing to add or discharge domestic or international routes shall submit an application form including the documentary evidence as prescribed by the Director General to the Authority. In this regard, consideration to add or discharge the routes shall be in accordance with the criteria for allocation of route as prescribed by the Director General in a Notification upon the approval of the Minister.

Clause 41. A licensee shall comply with the criteria and conditions relating to the measures for protecting the rights of passenger who use the domestic and international flights in accordance with the criteria as prescribed by the Minister in a notification or criteria as prescribed in the law on international carriage by air.

Clause 42. Merging of business of more than two licensees shall be in accordance with the law on merger and shall be approved by the Minister. The criteria under Clause 27 shall apply with the approval under this Clause *mutatis mutandis*.

In regard to the merger of business under paragraph one, a juristic person resulted from the merger of business under paragraph one shall have the rights and duties transferred from the license of the original licensee.

Clause 43. In addition to Clause 31 to Clause 42, the licensee shall have the duties as follows:

(1) maintaining the qualifications of being a licensee in operating scheduled air services as prescribed in this Notification throughout the licensing period;

(2) complying with the terms and conditions as attached to the license including the rules, regulations, notifications, orders of the Minister, the Committee, the Director General and of other related governmental agencies;

(3) undertaking to obtain the Air Operator Certificate and complying with the Operation Specifications, rules, regulations, notifications and related orders of the Minister, the Committee, the Director General and other governmental agencies throughout the licensing period;

(4) undertaking the air operation business in accordance with the submitted business plan except otherwise has applied for a change of plan and granted with the approval by the Committee under Clause 44;

(5) reporting the substantial changes which affect the business operation to the Committee under the criteria and conditions as prescribed by the Committee upon the approval of the Minister;

(6) submitting the business performance report and statement of cash flow every three month until the period of one year as from the date of the beginning of actual flight operations in accordance with the criteria and conditions as prescribed by the Committee;

(7) submitting the income statement and annual balance sheet in every May of the following year including other financial information in accordance with the criteria and conditions as prescribed by the Committee;

(8) submitting for renewal of the insurance thirty days before its expiration date. In this regard, such insurance shall continue from the former insurance;

(9) other duties as prescribed by the Committee in a notification upon the approval of the Minister.

Clause 44. A licensee shall undertake the air operation business in accordance with the submitted business plan except in the case of *force majeure* resulting in such air operation business not being able to comply with such plan, the licensee may amend the business plan but must receive approval from the Committee.

If it appears that any licensee fails to comply with the submitted business plan, or fails to comply with the amended plan approved by the Committee, the Committee shall have the power to order such licensee to proceed correctly in accordance with the business plan.

In regard to any amendment of the business plan which is not of significance content as prescribed by the Committee, the licensee shall notify the Director General in advance and report to the Director General when the amendment takes effect.

Clause 45. A licensee may request for suspension or termination of the air operation business upon a reasonable, appropriate and necessary cause but must be approved by the Minister.

The Committee shall consider the application for suspension or termination of air operation business under paragraph one having considered that such suspension or termination will not affect the public interest. In this regard, the suspension of air operation business shall not be allowed for more than one year and the Minister reserves the right to consider the allocation of routes of the licensee to other licensees.

Clause 46. In the case where there is a reasonable ground to believe that air operation business of any licensee may cause damages to the public interest, the Director General shall have the power to order the licensee to undertake one or several of the followings:

- (1) to correct a business plan;
- (2) to correct the airfares, freights or other fees;
- (3) to correct the conditions of carriage;
- (4) to improve an aircraft or facilities;
- (5) to correct the maximum coverage in the insurance policy to cover damages

which may occur;

- (6) to undertake other matters as deemed appropriate and necessary.

Clause 47. A license shall be invalid when:

- (1) a licensee has been ordered by the Court to be bankrupt;
- (2) a licensee does not begin to undertake the actual flight operation under the right of scheduled air services licensed within one year as from the date of licensing under Clause 36.

Clause 48. The Director General shall have the power to withdraw any permitted route if it appears that the licensee:

- (1) does not undertake the actual flight operations on such route within six months as from the date of permission;

(2) to irregularly undertake air services under such route under the flight schedule as announced or fails to undertake continuous services.

Clause 49. A licensee who wishes to operate air service in the route suspended under Clause 48 may apply for permission upon the time period of one season has lapsed.

Clause 50. When it appears to the Director General that a licensee has conducted the followings, the Director General shall have the power to order the licensee to correct their conduct or undertake any act within the prescribed time period:

- (1) violating or failing to comply with the terms and conditions attached to the license;
- (2) failing to operate flight on the permitted route within six months as from the date of permission;
- (3) irregularly operating flights under the permitted route failing to comply with the flight schedule as announced;
- (4) violating or failing to operate in accordance with the rules, regulations, notifications relating to air operation business as prescribed by the Minister, the Committee, the Director General or of governmental agencies;
- (5) violating or failing to comply with the law on air navigation;
- (6) failing to comply with the submitted business plan without prior approval of the Director General;
- (7) failing to comply with the safety.

Clause 51. In the case where the fact appears that any licensee:

- (1) has been ordered to suspend the Air Operator Certificate;
- (2) has violated or failed to comply with the terms and conditions attached to the license in the Clause which does not gravely affect safety and the public;
- (3) has failed to amend or undertake action within the time period as prescribed by the Director General in Clause 50.

The Minister shall have the power to suspend the license for the time period as deemed appropriate.

The suspended licensee may return to provide service when the Air Operator Certificate is re-enforced or has completely amended or complied with the terms and conditions attached with the license and the Minister has ordered to re-operate the business.

Clause 52. In the case where the fact appears that any licensee:

(1) lacking the qualifications as prescribed in this Notification especially the registered capital, shares, and members of the Board or when the substantial ownership or effective control does not belong to a person having Thai nationality;

(2) having the Air Operator Certificate suspended more than twice in the period of two years;

(3) having the Air Operator Certificate revoked;

(4) being unable to operate the business well or being unable to continuously operate the business;

(5) ceasing the flight operation under the right of flight route permitted wholly or partly for more than fifteen days without permission from the Director General;

(6) violating or failing to comply with the measure for aviation safety under the law on air navigation including the rules, regulations, notifications or orders relating to aviation safety as prescribed by the Director General and such violation causes danger to air navigation;

(7) failing to supervise the air operation business or air operation under the law on air navigation and other related laws.

The Minister shall have the power to revoke the license and the Authority shall announce to the public.

PART III

NON – SCHEDULED AIR SERVICES

Clause 53. For the purpose of this part:

“non-scheduled flight” means ad hoc charter , air ambulance/ medevac, own use charter or corporate charter which is valid with service provided for a period of time under the service contract or agreement and program charter;

“ad hoc charter” means flight for transporting or travelling provided on a trip basis under a contract or agreement made with a group of people or tourism business”.

Clause 54. A license applicant shall have the paid-up registered capital as follows:

- (1) in the case of fixed-wing aircraft, no less than twenty five million Baht;
- (2) in the case of single engine fixed- wing aircraft, no less than ten million Baht;
- (3) in the case of helicopter, no less than thirty million Baht;
- (4) in the case of balloon for carrying passengers, no less than seven million Baht;

(5) in the case of other aircrafts, no less than five million Baht.

In addition to the registered capital under paragraph one, a licensee shall have the qualifications and not have any of the prohibited characteristics under the criteria as prescribed in Clause 14, Clause 15, Clause 16, Clause 17, Clause 18 and Clause 19(2). In this regard, for members of the Board, director, or person having the authority of the licensee who uses a helicopter for services shall pass the profile and circumstance examination from the National Intelligence Agency, Office of the Narcotics Control Board and Immigration Bureau (in the case where such person is not of Thai nationality).

Clause 55. An aircraft to be acquired by a license applicant for the use of air operation business shall be under the following criteria:

Type of aircraft	Numbers of engines	Size and weight	Age of aircraft	Numbers of aircrafts
Fixed- wing aircraft	No limitation	Shall be appropriate for manner of the business operation proposed	<ul style="list-style-type: none"> - for carrying passengers and cargo, it shall not be over 16 years as from the date of manufacture - for all cargo, it shall not be over 22 years* as from the date of manufacture 	<ul style="list-style-type: none"> - 1 aircraft and above for ad hoc charter, all cargo, air ambulance/medevac, own use charter, corporate charter - 2 aircraft and above for program charter
Helicopter	If the flight is operated above the community area, the helicopter shall have two engines and shall be in accordance with the Notification of the Ministry of Transport on Operation of Helicopter in the Metropolitan Bangkok Area.	No limitation on size and weight of an aircraft but shall be appropriate for services proposed.	No more than 5 years as from the date of manufacture.	One aircraft and above
Balloon and other aircrafts	No limitation on size and weight of an aircraft. In this regard, it shall be appropriate to the proposed service by which an applicant shall specify the type, amount, capacity (in the case of balloon) and other relevant equipment including the details for services for consideration.			

* Amended by Clause 4 of Notification of the Ministry of Transport Re: Criteria and Conditions for Granting Licensing to Air Operation Business (No.3) B.E. 2561 (2018)

Clause 56. A license applicant shall maintain the insurance covering damages which may occur to life, body, property of the passengers and third parties by which the details and conditions in the insurance policy must be approved by the Director General and the minimum insurance coverage for passengers, baggage and cargo shall be in accordance with the law on international carriage by air. In this regard, the minimum insurance coverage for passengers, baggage, cargo and third parties shall be in accordance with Annex C.

When the relevant law has been amended to adjust to the minimum insurance coverage for passengers, baggage, cargo and third parties, the Director General shall prescribe in a notification specifying in Annex C as amended.

Clause 57. The provisions of Clause 22, Clause 23, Clause 24, Clause 25, Clause 26 and Clause 27 shall apply to the submission of application and consideration for issuing the license for non-scheduled air service operation, *mutatis mutandis*.

Clause 58. Air Operating License of non-scheduled air service shall be valid for five years as from the date of issuance except in the case of termination of business operation, it shall be deemed that the license is expired on which the termination is permitted by the Minister.

Clause 59. The provisions of Clause 29 and Clause 30 shall apply to the submission of renewal of license and consideration of license renewal for Air Operating License in non-scheduled air service *mutatis mutandis*.

Clause 60. A licensee shall display a license in a place where it is easily to be seen at an operating place as prescribed in a license.

In the case where a license is lost, destroyed, or damaged in substance, the licensee shall submit an application for substitute at the Authority including the police report.

Issuance of license substitute under paragraph one shall be in accordance with the original license by stating or stamping the word “substitute” with the red ink at the front of such license and specifying the date, month, year of issuance of substitute including signing the person issuing the license substitute.

Clause 61. No licensee shall sell or open for reservation of seats regardless of procedure, means or channels until such licensee has obtained the Air Operator Certificate from the Authority.

A licensee shall begin actual flight operation under the right of non-scheduled air service as permitted within one year as from the date of being granted with the license.

Clause 62. The provisions of Clause 34, Clause 37, Clause 42, Clause 43 and Clause 44 shall apply to the non-scheduled air service operation of the licensee *mutatis mutandis*.

Clause 63. No licensee shall sell passengers' tickets directly to the public individually in the same manner as licensees of scheduled air service operation. In this regard, the service shall be in the manner of charter flight of whole or part of an aircraft.

Clause 64. A licensee shall comply with the criteria and conditions relating to the measures for protecting the rights of passengers who use the service of charter flight on the domestic and international route in accordance with the criteria as prescribed in a Notification by the Minister.

Clause 65. A licensee may request for suspension or termination of the air operation business upon a reasonable, appropriate and necessary cause but must be approved by the Minister.

The Committee shall consider the application for suspension or termination of air operation business before submitting to the Minister for permission.

The Minister may permit such suspension or termination of air business operation under paragraph one having considered that the suspension or termination of air operation business does not affect the public interest. In this regard, the suspension of air operation business shall not be permitted for more than one year.

Clause 66. In the case where there is a reasonable ground to believe that air operation business of any licensee may cause damages to the public interest, the Director General shall have the power to order the licensee to undertake one or several of the followings:

- (1) to amend or modify the business plan;
- (2) to amend or modify the conditions of carriage;
- (3) to improve an aircraft or facilities;
- (4) to correct the maximum insurance coverage to cover the damages which may occur;
- (5) to undertake other conducts as deemed appropriate and necessary.

Clause 67. A license shall be invalid when:

- (1) a licensee is ordered by the Court to be bankrupt;
- (2) a licensee does not begin to undertake the actual flight operation under the right of non-scheduled air services licensed within one year as from the date of licensing under Clause 61.

Clause 68. When it appears to the Director General that a licensee has conducted the followings, the Director General shall have the power to order the licensee to correct their conduct or undertake any act within the prescribed time period:

- (1) violating or failing to comply with the terms and conditions as attached to the license;
- (2) in the case of program charter but does not regularly operate flights;
- (3) violating or failing to operate in accordance with the rules, regulations, notifications relating to air operation business as prescribed by the Minister, Committee, Director General or government agencies;
- (4) violating or failing to comply with the law on air navigation;
- (5) failing to comply with the business plan as submitted without prior approval of the Director General;
- (6) failing to comply with safety.

Clause 69. The provisions of Clause 51 and Clause 52 shall apply to the consideration of suspension or revocation of Air Operating License for the non –scheduled air service operation, *mutatis mutandis*.

PART IV OTHER COMMERCIAL AIR SERVICES

Clause 70. For the purpose of this part, other commercial air services means:

- (1) air service which does not require Air Operator Certificate as prescribed in the rule or regulation as follows:

(a) the use of aircraft carrying passengers for sight seeing flight which takes off and lands at the same place:

1) aeroplane of maximum take-off mass not excess of, as prescribed in the flight manual, five thousand and seven hundred kilograms or maximum passenger seating configuration is not more than nine;

2) helicopter of maximum take-off mass not excess of, as prescribed in the flight manual, three thousand one hundred and ninety two kilograms , not exceeding five thousand and seven hundred kilograms or maximum passenger seating configuration is not more than four;

(b) the aircraft being hired for:

1) dropping, spraying, sprinkling, and seeding for agriculture including pest control and trespassing animal for domestic livestock purpose;

2) aerial advertisement, for instance, advertisement towing;

3) aerial photography or survey;

4) fire fighting;

5) power line or pipeline patrol;

6) flight inspection for testing air navigation facilities;

(c) the use of aircraft to release a parachute within the radius of twenty five miles from an aerodrome whereby the aircraft has taken off.

* (2) The use of the following aircraft for other purposes:

(a) unmanned aircraft.

(b) external load aircraft.

(c) other categories of aircraft as prescribed by the Director General.

Clause 71. A license applicant shall have the paid-up registered capital as follows:

(1) in the case of fixed-wing aircraft, no less than twenty five million Baht;

(2) in the case of fixed-wing aircraft with single engine, no less than ten million Baht;

(3) in the case of helicopter, no less than thirty million Baht;

(4) in the case of balloon for advertisement, no less than four million Baht;

(5) in the case of other aircrafts, no less than three million Baht.

In addition to the registered capital under paragraph one, a license applicant shall have the qualifications and not have any of the prohibited characteristics in accordance with the

* Amended by Clause 3 of Notification of the Ministry of Transport Re: Criteria and Conditions for Granting Licensing to Air Operation Business (No.2) B.E. 2561 (2018)

criteria as prescribed in Clause 14, Clause 15, Clause 16, Clause 17, Clause 18 and Clause 19 (2). Members of the Board, director, or person having the authority of the licensee who uses a helicopter for services shall pass the profile and circumstance examination from the National Intelligence Agency, Office of the Narcotics Control Board and Immigration Bureau (in the case where such person is not of Thai nationality).

Clause 72. An aircraft to be acquired by a license applicant for the use of business operation shall be under the following criteria:

Type of aircraft	Numbers of engines	Size and weight	Age of aircraft	Numbers of aircraft
Fixed- wing aircraft	No limitation	- carrying passengers for sightseeing flight which takes off and lands at the same place under Clause 70(1)(a) shall have maximum take-off mass not excess of, as prescribed in the flight manual, 5,700 kilograms or maximum passenger seating configuration is not more than9 ; charter flight and parachute under Clause 70 (1)(b) (c) and the use of aircraft for other purposes under Clause 70 (2) does not limit the size and weight of the aircraft. In this regard, it shall be appropriate for manner of the business operation proposed.	Not exceeding 16 years as from the date of manufacture	At least 1 aircraft
Helicopter	If the flight is operated above the community area the helicopter shall have two	- The aircraft carrying passengers for sightseeing flight under Clause 70 (1) (a) shall have maximum take-off mass not excess of, as prescribed in the	Not exceeding 5 years as from the date of manufacture	At least 1 aircraft

Type of aircraft	Numbers of engines	Size and weight	Age of aircraft	Numbers of aircraft
	engines and shall be in accordance with the notification of the Ministry of Transport on Flight Operation of Helicopter in Bangkok Metropolitan Area.	flight manual, 3,192 kilograms maximum passenger seating configuration is not more than 4; - charter flight and parachute under Clause 70 (1)(b)(c) and the use of aircraft for other purposes under Clause 70(2) has no required size and weight of the aircraft but shall be as deemed appropriate to the proposed air operation business		
Balloon or other categories of aircrafts	No limitation on size and weight of an aircraft. In this regard, it shall be appropriate to the proposed service by which an applicant shall specify the type, amount, capacity (in the case of balloon) and other relevant equipment including the details for services for consideration. In this regard, the use of balloon for flight shall be permitted particularly for flight charter under Clause 70 (1) (b) and the use of aircraft for other purposes under Clause 70 (2) particularly for some certain types of flight operation which can be used by balloon.			

Clause 73. A license applicant shall maintain the insurance covering damages which may occur to life, body, property of the passengers and third parties by which the details and conditions in the insurance policy must be approved by the Director General and the minimum insurance coverage for passengers, baggage and cargo shall be in accordance with the law on international carriage by air. In this regard, the minimum insurance coverage for passengers, baggage, cargo and third parties shall be in accordance with Annex C.

When the relevant law has been amended to adjust to the minimum insurance coverage for passengers, baggage, cargo and third parties, the Director General shall prescribe in a notification specifying in Annex C as amended.

Clause 74. The provisions of Clause 22, Clause 23, Clause 24, Clause 25, Clause 26 and Clause 27 shall apply to the submission of application and consideration for issuing the license for other commercial air services operation *mutatis mutandis*.

Clause 75. Air Operating License of other commercial air services shall be valid for three years as from the date of issuance.

Clause 76. The provisions of Clause 29 and Clause 30 shall apply to the submission of renewal and consideration of renewal of Air Operating License under other commercial air services *mutatis mutandis*.

Clause 77. A licensee shall display a license in a place where it is easily to be seen at an operating place as prescribed in a license.

In the case where a license is lost, destroyed, or damaged in substance, the licensee shall submit an application for substitute at the Authority including the police report.

Issuance of license substitute under paragraph one shall be in accordance with the original license by stating or stamping the word “substitute” with the red ink at the front of such license and specifying the date, month, year of issuance of substitute including signing the person issuing the license substitute.

Clause 78. A licensee shall begin actual flight operation under the rights of other commercial air service as permitted within one year as from the date of being granted with the license.

Clause 79. The provisions of Clause 37, Clause 42, Clause 43 and Clause 44 shall apply to the other commercial air service operation of the licensee *mutatis mutandis*.

Clause 80. A licensee may request for suspension or termination of the air operation business upon a reasonable, appropriate and necessary cause but must be approved by the Minister.

The Committee shall consider the application for suspension or termination of air operation business before submitting to the Minister for permission.

The Minister may permit such suspension or termination of business operation under paragraph one having considered that the suspension or termination of air operation business does not affect the public interest. In this regard, the suspension of air operation business shall not be permitted for more than one year.

Clause 81. In the case where there is a reasonable ground to believe that air operation business of any licensee may cause damages to the public interest, the Director General shall have the power to order the licensee to undertake one or several of the followings:

- (1) to amend or modify the business plan;
- (2) to amend or modify the conditions of carriage;
- (3) to improve an aircraft or facilities;
- (4) to correct the maximum insurance coverage to cover the damages which may occur;
- (5) to undertake other conducts as deemed appropriate and necessary.

Clause 82. A license shall be invalid when:

- (1) a licensee is ordered by the Court to be bankrupt;
- (2) a licensee does not begin to undertake the actual flight operation under the right of other commercial air services permitted within one year as from the date of licensing under Clause 78.

Clause 83. When it appears to the Director General that a licensee has conducted the followings, the Director General shall have the power to order the licensee to correct their conduct or undertake any act within the prescribed time period:

- (1) violating or failing to comply with the terms and conditions as attached to the license;
- (2) violating or failing to comply with the rules, regulations, notifications relating to air operation business as prescribed by the Minister, the Committee, the Director General or governmental agencies;
- (3) violating or failing to comply with the law on air navigation;
- (4) failing to comply with the business plan as submitted without prior approval of the Director General;
- (5) failing to comply with safety.

Clause 84. The provisions of Clause 51 and Clause 52 shall apply to the consideration of suspension or revocation of Air Operating License for the other commercial air service, *mutatis mutandis*.

CHAPTER III
SUPERVISION OF AIR OPERATING BUSINESS OF LICENSEE

Clause 85. For the purpose of supervising the air operation business of licensee and to ensure that the licensee maintain the qualifications of being a licensee throughout the time of license, the Director General shall monitor and inspect as deemed appropriate the change of ownership, business management, financial status and other conduct which may affect the qualifications of the licensee by having the power to call on the information and financial statement as prescribed in Annex B or other up-to-date documents from the licensee for monitoring and inspection.

TRANSITORY PROVISIONS

Clause 86. Air Operating License which was issued prior to the enforcement of this Notification and is still valid on the date this Notification has come into force shall be valid and effective until the expiration of the license and it shall be deemed that such license was issued under this Notification by which the licensee shall comply with the criteria, condition and provisions prescribed under this Notification. In the case where the validity of any license is more than one year, such licensee shall correct the qualifications and not have any prohibited characteristics as prescribed under this Notification within the period of one year as from the date this Notification has comes into force. If these are not complied with under the prescribed time period, such license shall become invalid.

A license revoked prior to the date this Notification has come into force shall be deemed to be the license revoked under this Notification.

Clause 87. All rules, regulations, notifications, criteria, or orders issued under the provisions of Clause 3(4), Clause 4, Clause 7, Clause 9 and Clause 17 of the Announcement of the National Executive Council No. 58 given on January 26, B.E. 2515 shall continue to be enforced so long as it is not contradictory or inconsistent with this Notification.

Clause 88. All applications submitted prior to the enforcement of this Notification and are still pending the consideration shall be deemed to be the applications under this Notification and shall proceed with such applications under this Notification.

Given on the 9th of November B.E. 2559 (2016)

(Arkhom Term pittayapaisith)

Minister of Transport

Annex A

Financial Requirement Form

Name of the applicant (juristic person)	
Address	
Telephone number	
E-mail	
Corresponding name/telephone/e-mail	
Date and time of the application submission	
Name of the officer receiving the application	

<p>The confirmation of the license applicant</p>	<p>I,(name).....,(name)....., and(name)....., directors authorized to sign on behalf of the company.....(name)....., the applicant, certify that</p> <p><input type="checkbox"/> The start-up costs that are specified in this financial requirement form is wholesome, correct, and complete, done with reasonable estimation.</p> <p><input type="checkbox"/> Operating costs is consistent with and is reasonably sufficient for 90 operating days based on reasonable estimation.</p> <p><input type="checkbox"/> All information and evidentiary documents are true, correct, and complete.</p> <p>Sign Sign (.....) (.....)</p> <p>Sign Sign (.....) (.....)</p> <p style="text-align: center;">(directors who are authorized to sign)</p>
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Start-Up Cost Statement

Explain the total expenses and costs realised or expected to realise before the commencement of the business for which the license is applied.

Line	Expenses	Start-Up Costs		
		Realised expenses	Expected expenses	Total expenses
10	Aircraft:			
11	- Acquisition and leasing			
12	- Tooling, reconfiguration and improvement			
13	- Imposition, registration, and certification			
14	- Others (specify)			
20	Training:			
21	- Flight crew			
22	- Flight attendance			

23	- Maintenance staff			
24	- Others (specify)			
30	Facilities:			
31	- Office			
32	- Airports			
33	- Hanger			
34	- Others (specify)			
40	Inventory, Equipment, and Supplies:			
41	- Fuel			
42	- Spare parts			
43	- Catering and operational equipment			
44	- Manuals			
45	- Uniforms			
46	- Others (specify)			
50	Professional fees:			
51	- Legal			
52	- Consulting			
53	- Incorporation			
54	- Others (specify)			
60	Administrative:			
61	- Administrative and operational salaries			
62	- Computer and software systems			
63	- Marketing and promotion			
64	- Office furniture and equipment			
65	- Others (specify)			
99	Total Start-Up Costs	Baht	Baht	Baht

90-Day Operating Statement

Explain on a reasonable basis the operating costs in the first 90 days of the business operation for which the license is applied.

Line	Expense category	Aircraft Type #1	Aircraft Type #2	Total
101	Aircraft Type:			
102	Number of aircraft			
103	Block hours of operation for 90-day reporting period			
200	Salaries and Benefits			
201	- Pilot			
202	- Flight attendances			
203	- Maintenance staff			
204	- Airport and passenger services personnel			
205	- Management, sales, and administration			
206	- Others (specify)			
	Subtotal:			

300	Aircraft:			
301	- Acquisition and lease			
302	- Fuel and oil			
303	- Maintenance			
304	- Insurance			
305	- Others (specify)			
	Subtotal:			
400	Passenger services:			
401	- Catering			
402	- In-flight entertainment			
403	- Others (specify)			
	Subtotal:			
500	Airport and air navigation			
501	- Air navigation fees			
502	- Landing and terminal fees			
503	- Ground handling and loading			
504	- Others (specify)			
	Subtotal:			
600	Sales and Administrative			
601	- Office building			
602	- Administrative and overhead			
603	- information systems			
604	- Sales and Marketing			
605	- Interest charges			
	- Other (specify)			
999	Total 90-Day Operating Costs	baht	baht	baht

Financial Requirement Statement

This report is produced in order to calculate;

1. The financial need
2. The investing cost needed, for which shall be provided from the owner's fund
3. The balance of financial requirement, which does not necessarily have to come from the owner's fund.

Line	Description	Baht
1000	Shareholders' or Partners' Equity/Deficit (only for the	
1001	applicant already operating a business)	
1002	Equity/(Deficit) <i>(from audited balance sheet, deficit reported as a</i>	
1003	<i>negative number)</i>	
	Start-up costs incurred prior to financial statement year-end date	

	Net equity/(deficit) (line 1001+line 1002, <i>deficit reported as a negative number</i>)	
2000	Financial requirement	
2001	Start-up costs (line 99 from Start-up Cost Statement)	
2002	Operating costs (line 999 from 90-Day Operating Statement)	
2003	Total costs (line 2001+line2001)	
2004	Net deficits, if any (from line 1003, <i>deficit reported as a negative</i>)	
2005	Financial requirement (line 2003 + line 2004)	
3000	Capital Funding Requirement	
3001	50% of total costs (line 2003x50%)	
3002	Net deficit, if any (from line 1003, <i>deficit reported as a negative</i>)	
3003	Capital funding requirement (line 3001-line3002; if negative, enter zero)	
4000	Balance of Funding Requirement	
4001	Financial Requirement (from line 2005)	
4002	Capital funding requirement (from line 3003)	
4003	Balance of funding requirement (line 4001 – line 4002)	

Submission Checklist

Order	List of documents submitted	Check
1	<p>Business plan, which should include the following information;</p> <p>(a) A description of the type of air service that will be provided, including whether the schedule and charter type services will be offered;</p> <p>(b) The market and the region within which the applicant intends to operate;</p> <p>(c) The routes that will be operated and the frequency of flights;</p> <p>(d) The type and number of aircraft that will be operated and</p> <p>(e) A summary of any significant agreements or partnerships that will influence how the air service will be provided and the cost to provide the service.</p>	
2	<p>Business plan, which should include the following information;</p> <p>(a) Proposed block hour utilization per aircraft under conditions of optimum demand;</p>	

	(b) The individual start-up costs, as reported within the Start-Up Cost Statement; and (c) The individual operating costs, as reported within the 90-Day Operating Statement.	
3	Aircraft purchase and lease agreements, detailing the cost to purchase or lease the aircraft.	
4	Audited Financial Statement for the most recent fiscal period (only applies to applicants that are already operating a business).	
5	List of start-up costs incurred prior to the year-end date of the most recent audited financial statements (only applies to applicants that are already operating a business).	
6	Most recent monthly unaudited financial statements (only applies to applicants that are already operating a business).	
7	Statement or other summary confirming sources of funds that will be used to meet the financial requirement (i.e., share capital, line of credit, shareholder loan, other liquid assets, etc.)	
8	For any shareholder or partner capital contributions, provide; (a) Proof amounts have been deposited into the applicant's bank account (i.e. bank statement); (b) Corporate minutes confirming that the shares have been issued and paid-up for; and (c) Board of directors' resolution, share certificate, or written statement from each partner seating that the indentified share or partners' capital will not be redeemed or withdrawn for at least one year after the issuance of the license.	
9	Financing agreements (i.e., line of credit, shareholder loan, etc.) disclosing all of the terms and conditions under which the funds have been or will be provided.	

Annex B

List of Documents Accompanying the Financial Fitness Test

1. For applying for a license for the first time and its renewal
 - (1) The latest internal management account and the audited account of the one previous budgetary year (if any);
 - (2) Five-year estimated balance sheet and estimated loss and profit account;
 - (3) Basic accounting principles used to estimate expenses and revenues which are assessed from various factors such as energy, airfare and freight rates, salary and wage, repair expenses, depreciation cost, currency exchange rate fluctuation, airport service cost, air navigation facilities charges, ground handling charges, insurance, and forecast for traffic volume and income, for instance;

- (4) Details of start-up costs which arose or are expected to arise during the time from the application submission to the time of starting to operation together with explanations accompanying each cost item;
 - (5) Details of the existing and projected sources of capital;
 - (6) Details of all shareholders including nationalities, and types or kinds of shares as well as the articles of association and corporate rulebook. If the shareholders are part of a shareholding group in the juristic person, the details of relationships among shareholders in that shareholding group shall be disclosed;
 - (7) Estimated cash flow budget and 5-year operating liquidity plan;
 - (8) Financial details for the purchase or renting of the aircraft. In the rental case, the aircraft leasing contract or letter of intent to lease the aircraft or the memorandum of understanding to lease the aircraft shall be submitted;
 - (9) Other documents and evidence as required by the Committee.
2. In case where the juristic person underwent an organizational restructuring or a change in the method of operation or service, which has a financial impact
- (1) The latest internal management accounts and the audited account of the one previous budgetary year (if any);
 - (2) Details of all said changes such as the type of service, registered capital, and shareholding composition;
 - (3) Estimated balance sheet and estimated profit-loss account of the current budgetary year including the details of restructuring and activity change that has a significant impact to the overall financial burden;
 - (4) Expenses and revenue in the past and estimated expenses and revenue in the future which are assessed from various factors such as energy, transportation cost, salary and wage, repair expenses, depreciation cost, currency exchange rate fluctuation, airport service cost, air travel facilitation cost, land facilitation cost, insurance, and forecast for traffic volume and income, for instance;
 - (5) Estimated cash flow budget and annual operating liquidity plan, including the details of restructuring and activity change, which has an important financial impact;
 - (6) Financial details for the purchase or leasing of the aircraft. In the leasing case, the aircraft leasing contract or letter of intent to lease the aircraft or the memorandum of understanding to leasing shall be submitted;

- (7) Other documents or evidence as required by the Committee.
3. In case of examining financial readiness of the license holder
- (1) Audited account within 6 months including internal management account and latest budgetary account;
 - (2) Estimated balance sheet and estimated profit-loss account of the following year
 - (3) Expenses and revenue in the past and estimated expenses and revenue in the future which are assessed from various factors such as energy, transportation cost, salary and wage, repair expenses, depreciation cost, currency exchange rate fluctuation, airport service cost, air travel facilitation cost, land facilitation cost, insurance, and forecast for traffic volume and income, for instance;
 - (4) Estimated current account and the operating liquidity plan for the following year
 - (5) Other documents and evidence as required by the committee.

Annex C

Minimum insurance coverage

1. Passenger at 113,100 SDRs per person, each time
2. Baggage at 1,131 SDRs per person, each time
3. Cargo at 19 SDRs per kilogram
4. Third party each time/per one aircraft as follows:

Category	Maximum Take-Off Mass as prescribed in the flight manual (MTOM (kg))	Minimum insurance coverage (Million SDR)
1	< 500	0.75
2	< 1,000	1.5
3	< 2,700	3

4	< 6,000	7
5	< 12,000	18
6	< 25,000	80
7	< 50,000	150
8	< 200,000	300
9	< 500,000	500
10	>/= 500,000	700

In case of the combined single limit (CSL) insurance, the minimum insurance coverage for each aircraft shall be calculated from:

1. Passenger at 113,100 SDRs, multiplied by the maximum number of passengers carried on that aircraft, and
2. Baggage at 1,131 SDRs, multiplied by the maximum number of passengers carried on that aircraft, and
3. Cargo at 19 SDRs, multiplied by the weight of goods carried on that aircraft (kilograms), and
4. Third party according to the rate specified in the table above.

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Note: Special Drawing Rights or SDR means the special unit according to the rules on the powers and other procedure regarding the special drawing rights in the International Monetary Fund.

Annex D

Business plan according to Clause 22 (9)

Components of the business plan

1. Executive summary in order to inform executives or officer who examines the business plan inspectors regarding the overall picture of the airline operation project and the return on the investment. The details comprises of the followings:
 - 1.1. Characteristics and concept of the airline business
 - 1.2. Opportunities and strategies
 - 1.3. Target customer and estimated target customer
 - 1.4. Competitive advantage of the airline industry
 - 1.5. Economic worthiness and profitability
 - 1.6. Executive team

The executive summary is 1-2 pages in length in order for the readers to obtain a comprehensive overview of the airline business plan (not the introduction) in the first pages but done the last.

2. Current circumstances in order to demonstrate channels or opportunities or concepts used to undertake the airline business.
3. Business strategy which shall have the following details:
 - 3.1. Assumptions of external factors affecting the aviation business
 - 3.2. Forecasting of opportunities and challenges
 - 3.3. Source of capital and aircrafts
 - Source of capital
 - Source of aircraft (purchase or hire, documents showing the source of initial fleet to be attached)
 - Other resource strategies such as personnel and cash
4. The structure of the airline industry at the time of the license application illustrating the overview of the industry of the airline operation project, vision, mission, and objectives of the airline operation project. The details comprises of the follows:
 - 4.1. Brief history of the business/ business operator
 - 4.2. Address
 - 4.3. Vision, specifying what to do and how the organization is expected to be
 - 4.4. Main mission or duty
5. Marketing plan
 - 5.1. Identify the target market or target customer base
 - 5.2. Business goals relating to marketing and services both at present and in the future
 - 5.3. Determine the market share based on a market research
 - 5.4. Marketing strategies to be employed so that the business operation can reach the set target
 - 5.5. Aircraft acquisition plan which specifies the method(s) of acquisition such as hire, or purchase
 - 5.6. Sale channels and advertisement
6. Market Analysis
 - 6.1. Internal factor analysis
 - 6.1.1. The value chain or supporting activities of the airline such as purchasing process, research and development, and human resource development etc.
 - 6.1.2. Cost of each activity in the value chain
 - 6.1.3. The pricing policy and revenue management system (RMS) of the airline
 - 6.1.4. The strategy of using marketing decision variables
 - 6.1.5. The balancing strategy of actual load factors and breakeven load factors
 - 6.2. External factor analysis
 - 6.2.1. Rules in every areas and in all forms
 - 6.2.2. Factors relating to population, economy, technology, society, politics and governance, social value, culture
 - 6.2.3. Strategic competition with other airlines

6.2.4. Market share

6.3. SWOT Analysis

6.3.1. Analysing the strengths and weaknesses of internal factors and surroundings

6.3.2. Analysing business opportunities and challenges from external factors and surroundings

This should be done in a succinct manner, in the form of bullet point, clear and easy to understand, pointing out to the key points connecting the airline business and the operation proposed in order to determine the key success factors.

7. The organizational and personnel plan is the organizational structural chart specifying positions, duties, and benefits of agencies within the organization in order to show that the organization has prepared capable personnel specialized in the job and task at hand.

8. 5-year operating plan

8.1. Type of service including flying location, route, and frequency

8.2. Details of the fleet and airplane types in use and the documents showing the source of aircrafts and flight hours per day (aircraft utilization)

8.3. ASK and/or ATK production

8.4. RPK and/or RTK load

8.5. Business performance

1) For scheduled flights, include the following items:

- Cabin or load factor – CF/LF
- Flight route and capacity/frequency of service
- Yield (revenue per unit) in baht per RPK and/or RTK
- Unit cost in baht per ASK and/or ATK
- Breakeven LF/CF
- Revenues and expenses
- Other revenues (if any)
- Profits and losses

2) For non-scheduled flights, include the following items:

- Revenues per flying hours
- Expenses per flying hours
- Number of flying hours
- Revenues and expenses
- Profits and losses

9. Supporting business plan (if any) comprises of the followings:

9.1. Business details

9.2. Investment

9.3. Income and expense as well as profit and loss

10. Financial plan comprises of the followings:

10.1. Assumptions in finance and source of capital that does not come from the ordinary business operation (if any)

10.2. 5-year financial statements comprises of the followings:

1) Statement of financial position

- Total assets
- Total debts
- Shareholding portion
- Debt to equity ratio of the shareholders

2) Comprehensive income statement

- Income and expense
- Earnings before interest, taxes, depreciation, and amortization (EBITDA)
- Profit before tax
- Profit margin before tax
- Net profit after tax

3) Statement of cash flows

- Cash in the beginning of the year
- Source of cash (from operation, or from other sources such as borrowing)
- Cash usage
- Cash at the end of the year

11. Conditions of carriage
