

REGULATION OF THE CIVIL AVIATION BOARD

NO. 97

RE: GRANTING LICENSING TO CIVIL AVIATION BUSINESS:
COMMERCIAL AIR TRANSPORT AND AERIAL WORK

By virtue of Section 15 (6), Section 41/125, Section 41/127, Section 41/128, Section 41/129, and Section 41/132 of the Air Navigation Act B.E. 2497 (1954) amended by the Air Navigation Act (No. 14) B.E. 2562 (2019). The Civil Aviation Board issues the following regulation for stipulating qualifications and prohibited characteristics of an applicant for the civil aviation business license for commercial air transport or aerial work; criteria, procedures and conditions for application and renewal of license; its consideration; the form of license; and the period of validity of the license; as well as how to regulate the licensee's business operation ; and how to stipulate conditions and limitations relating to the operating and how to change, amend, improve, suspend or revoke those type of the civil aviation business license:

Clause 1 The followings shall be repealed:

- (1) Notification of the Ministry of Transport Re: Criteria and Conditions for Granting Licensing to Air Operation Business B.E. 2559 (2016);
- (2) Notification of the Ministry of Transport Re: Criteria and Conditions for Granting Licensing to Air Operation Business (No. 2) B.E. 2561 (2018);
- (3) Notification of the Ministry of Transport Re: Criteria and Conditions for Granting Licensing to Air Operation Business (No. 3) B.E. 2561 (2018).

Clause 2 In this Regulation;

“Commercial air transport” means an aircraft operation involving the transport of passengers, cargo or mail for remuneration or hire.

“Scheduled air services” means a commercial air transport which 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 a commercial air transport which is not scheduled air services;

“Aerial work” means an aircraft operation in which an aircraft is used for specialised services such as agriculture, construction, photography, surveying, observation, patrol, flight inspection, aerial advertisement, glider towing or advertisement towing for remuneration or hire;

“License applicant” means a person applying for the civil aviation business license for commercial air transport or aerial work, as the case may be;

“Licensee” means a person granted with a civil aviation business license for commercial air transport or aerial work, as the case may be;

“Minister” means Minister of Transport;

“Committee” means the Committee on scrutiny of civil aviation business licensing;

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

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

“Authority” means the Civil Aviation Authority of Thailand.

CHAPTER I

COMMITTEE ON SCRUTINY OF CIVIL AVIATION BUSINESS LICENSING

Clause 3 There shall be the Committee on scrutiny of civil aviation business licensing, consisting of the Director General as the chairperson, the Deputy Director General as assigned 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 4 The expert members shall be in position for a term of three (3) 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 (2) 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 Civil Aviation Board 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 such 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 constitute a quorum.

Clause 5 In the case where the chairperson does not attend the meeting, the deputy chairperson shall perform his or her duties instead.

Clause 6 At any meeting of the committee, there shall be more than one half of the total members to constitute the quorum.

Clause 7 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 an equality of votes, presiding member shall have an additional vote as the casting vote.

Clause 8 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 6 and clause 7 shall apply *mutatis mutandis*.

Clause 9 The Committee has the powers and duties as follows:

(1) to make a scrutiny , analysis and provide the opinions and recommendations to the Civil Aviation Board relating to:

(a) application for a civil aviation business license for commercial air transport and aerial work;

(b) conducts characterised as the manner of transferring of right, embedded option or nominee shareholding under clause 33;

(c) request for withholding of the business operation or termination of business operation under clause 41, clause 63 and clause 77;

(d) issuance of notifications to prescribe the followings:

1) the numbers of personnel and knowledge, expertise, experience of the personnel considered to be appropriate and sufficient to the business operation as applied for under clause 12 (8);

2) other qualifications as deemed necessary and appropriate of a person applying for license under clause 12 (11);

3) domination in other manners under clause 15 (9);

- 4) commission of an offence of high treason under clause 16 (7) and (8);
 - 5) other prohibited characteristics as deemed necessary under clause 16 (9);
 - 6) other documentary evidence as deemed necessary under clause 20 (16)
- and clause 42 (7);
- 7) criteria and conditions for reporting of material changes in the content under clause 39 (6);
 - 8) criteria and conditions for submitting the business performance report and statement of cash flow of licensee under clause 39 (7);
 - 9) criteria and conditions for submitting the financial statement of licensee under clause 39 (8);
 - 10) other duties of licensee under clause 39 (11);
- (2) consider to approve a change of business plan and order a licensee to proceed correctly under the business plan in accordance with clause 40;
- (3) provide the opinions or perform other duties as assigned by the Civil Aviation Board.

CHAPTER II

COMMERCIAL AIR TRANSPORT

PART I

GENERAL PROVISIONS

Clause 10 Civil aviation operating license for commercial air transport shall be divided into two (2) types as follows:

- (1) Commercial Air Transport Operating License to operate scheduled air services;
- (2) Commercial Air Transport Operating License to operate non-scheduled air services.

Clause 11 Any person who wishes to apply for Commercial Air Transport Operating License may be able to apply for conducting both the scheduled air services and non-scheduled air services simultaneously, by clearly specifying in the application and submit the documentary evidence according to criteria in these regulation, and also illustrating the airline business plan which is in accordance with the business operation under the two 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 two types of business at the same time.

In submitting an application and consideration of the issuance of license, the provisions of clause 20, clause 21, clause 22, clause 23, clause 24, clause 25 and clause 26 shall apply *mutatis mutandis*.

In licensing, the Minister, upon the approval of the Civil Aviation Board will indicate in the license that the licensee could operate the two types of business.

PART II

COMMERCIAL AIR TRANSPORT IN THE TYPE OF SCHEDULED AIR SERVICES

Clause 12 A license applicant shall have all the following qualifications and shall not have any of the following prohibited characteristics:

- (1) being a juristic person in the form of company limited or public company limited registered under Thai law and having its headquarter in the Kingdom;
- (2) having the purpose for the business operation of air services, air transport or civil aviation;
- (3) having shares held by Thai nationality following the criteria as prescribed in clause 13;
- (4) having the actual management power under the control of Thai person in accordance with the criteria in clause 14;
- (5) members of the Board, manager or person having the power to manage shall not have prohibited characteristics under the criteria prescribed in clause 16;
- (6) having fully paid-up registered capital and sufficient capital to operate the business under the criteria as prescribed in clause 17;
- (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 18;
- (8) having the personnel with appropriate and sufficient knowledge, expertise and experience to operate the business as applied for as prescribed by a Notification of the Civil Aviation Board;
- (9) having the insurance coverage for damages which may occur to body, life including the assets of passengers and third parties under the criteria as prescribe in clause 19;
- (10) not being under the process of having his or her license to operate air services, regardless of its type, revoked and such period has not passed three (3) years;
- (11) having other qualifications as prescribed in a Notification of the Civil Aviation Board.

Clause 13 A person applying for the license shall not possess shares issued to a bearer and more than fifty one (51) 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 (51) 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 (51) 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 nationals;
- (7) other juristic persons as prescribed in a Notification of the Civil Aviation Board.

The juristic person 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 14 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 –thirds 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 no less than two-thirds of members of the Board who have the managerial power of the juristic person and is of Thai nationality;
- (4) having no management under the domination of person not having Thai nationality under the manners and conditions as prescribed in clause 15.

In the case of (3), the license applicant could not determine criteria or conditions in the manner that the signing of Thai nationality member of the Board shall not have an effect on binding the juristic person in following this Regulation.

Clause 15 The management is deemed to be under domination of a person not having Thai nationality in the case where any management or undertaking benefits or facilitates the benefit to any person not having Thai nationality in any 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 Regulation;

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

(3) business domination through a person not having Thai nationality but having control or influence, directly or indirectly, in prescribing the policy making, management, operation, or appointment of members of the board or high-level executive.

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, loan under lower rate of interest 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 solely 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 national;

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

(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 the Civil Aviation Board.

Clause 16 Members of the Board, manager or person having the managerial power 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 (3) years;
- (5) being punished under the disciplinary procedure to be removed from office in a governmental agency, state agency or state enterprise due to misconduct;
- (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 as prescribed in a Notification of the Civil Aviation Board;
- (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 Civil Aviation Board;
- (9) other prohibited characteristics as deemed necessary and as prescribed in a Notification of the Civil Aviation Board.

Clause 17 A license applicant shall:

- (1) have fully 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 of which does not exceed five thousand and seven hundred kilograms (5,700), no less than thirty-five million Baht;
- (2) illustrate that he or she has the sufficient amount of capital for business operation under the following criteria:
 - (a) sufficient to cover the start-up costs;
 - (b) sufficient to cover the fixed and operational costs incurred from the business operation under the business plan under the reasonable presumption of ninety (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 fitness of the license applicant under the details as prescribed in Annex B shall be attached.

Clause 18 An aircraft to be acquired by a license applicant for using in business operation shall be under the following criteria:

Type of aircraft	Numbers of engines	Size and weight	Age of aircraft	Number 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 shall not be over sixteen (16) years as from the date of manufacture. - for all-cargo, it shall not be over twenty two (22) years as from the date of manufacture.	No less than two (2) aircrafts

Clause 19 A license applicant shall provide 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 limit for passengers, baggage and cargo shall be in accordance with the law on international carriage by air. In this regard, the insurance limit 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 limit for passengers, baggage, cargo and third parties, the Director General shall issue a notification of the amended Annex C.

Clause 20 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 following documentary evidence illustrating the qualifications and characteristics as prescribed in clause 12:

- (1) copy of the certificate or evidence of being a juristic person illustrating the details of name, purposes, location of the office and present authorized person with the affirmation of the person having the authority to provide the affirmation under the law and it shall not exceed six (6) 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;

(3) business structure of the organization specifying names, qualifications and relevant experience of, at least Chief Executive Officer (CEO), vice 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 fitness and 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 17;

(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 18 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 (3) months as from the date of submission of correct and complete documents;

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

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

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

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

(14) documentary evidence for insurance under clause 19;

(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) affirmation form stating that the management is not under domination of person not having Thai nationality as in Annex E;

(17) other documentary evidence as deemed necessary and as prescribed in a Notification of the Civil Aviation Board.

Clause 21 Upon the receipt of application and documentary evidence under clause 20, an official shall conduct a preliminary inspection as follows:

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

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

(3) organizational structure and managerial and personnel structure;

(4) other information which illustrates that the applicant is competent to be a commercial air transport operator for schedule air services.

Clause 22 In the case where the official is of the view that the applicant has correct qualifications and submitted the complete documentary evidence and is in accordance with the criteria for preliminary inspection under clause 21, 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 21 or the submitted documentary evidence is not correct or complete, the official shall notify the license applicant of such facts including reasons therefor promptly and without delay so that the license 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 sixty (60) days as from the date of being notified. In the case where the license applicant fails to correct or amend within the prescribed time period. The official shall return the application to the license applicant and shall make a clarification in writing about the ground of such return altogether.

Clause 23 In considering an application, the Committee shall scrutinise, examine and assess the suitability of the license applicant as follows:

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

(2) suitability in operating commercial air transport by considering from:

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

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

(c) history 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 license applicant or high level executive of the license applicant has no history of violation of law or rule issued by the Civil Aviation Board, the Minister of Transport, the Authority or other relevant authorities and has never caused damages or affected the public;

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

(4) suitable and feasible commercial air transport business and safety action plans showing that the route wished to operate is the suitable route for the public demand and airport to be used for flights must have the capacity for the flights of such license applicant;

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

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

In the case where the Committee sees that it is necessary to request for additional information, the Committee may order the license 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 dismiss such application be dismissed and the Committee shall notify the license applicant of that order. Such decision of the Committee is final.

Clause 24 After considering under clause 23, the Committee shall assess the suitability in the business operation including the license applicant's readiness for financial matter, organization, personnel, feasibility of the business operation, services user and public demand, the number 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 Civil Aviation Board to consider the approval whether or not the Minister shall grant the license to the applicant, in this case, the Committee may also propose to the Civil Aviation Board conditions, requirements or limitations of the business operation that the license applicant must follow;

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

Clause 25 Upon receiving the application and the opinion of the Committee under clause 24 (1), the Civil Aviation Board shall grant approval to the Minister for granting a license to the license applicant when it appears that:

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

(2) the license applicant is suitable for operating commercial air transport for schedule air services under clause 23 (2);

(3) the license applicant has substantial ownership and the actual business management power (the effective control) which is under the person having Thai nationality;

(4) the license applicant has suitable and feasible commercial air transport business and safety action plans showing that the route wished to operate is the suitable route for the public demand and airport to be used for flights must have the capacity for the flights of such license applicant;

(5) the license applicant is ready complying with current and future laws, rules, notifications of the government, as well as ready for complying with conditions attached to the license;

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

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

In approving the granting of the license under paragraph 1, the Civil Aviation Board may also approve the proposed conditions, requirements or limitations of the business operation that the license applicant must follow.

Clause 26 When the Civil Aviation Board gave the approval for granting the license to the applicant under clause 25, the Director General shall then propose to the Minister to grant the license to the applicant.

In issuing a license, the Minister shall specify conditions, requirements or limitations as approved by the Civil Aviation Board under clause 25 attached to the license with which the licensee must comply.

The Minister, with the approval of the Civil Aviation Board, may amend or add any conditions, requirements or limitations attached to the license and may specify the period of application of such conditions, requirements or limitations as deemed appropriate.

The commercial air transport licensee for scheduled air services shall be deemed to automatically receive the commercial air transport license for non-scheduled air services.

Clause 27 The commercial air transport licensee to operate scheduled air services shall submit an application for the Air Operator Certificate to the Authority. Also, the licensee shall undertake to complete the procedures and process for the issuance of the Air Operator Certificate until the certificate has been granted and begin the actual flight operation within one (1) 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 void except the licensee can illustrate that the actual flight operation cannot begin due to *force majeure* or such other causes not resulted from its own fault.

Clause 28 The civil aviation operating license, type: Commercial Air Transport Operating License to operate scheduled air services, shall have a period of validity not exceeding ten (10) years as from the date of issuance.

Form of the license under paragraph 1 shall be in accordance with the form as attached to this Regulation.

Clause 29 A licensee shall display a license in a disclosed place where it can be easily seen at the place of its business operation as stated in the license.

In the case where the license is lost, destroyed, or damaged substantially, the licensee shall submit an application for the substitute to the Authority, including the document and evidence of police report.

Issuance of the license substitute under paragraph 1 shall be in accordance with the form of the original license by stating or stamping the word “substitute” with the red ink at the front of such substitute and specifying the date, month, and year of its issuance, including signature of the person issuing.

Clause 30 Upon obtaining a license, a licensee shall submit to the Director General an application for allocation of route(s) in accordance with the rights granted by the permission within sixty (60) days as from the date of the Air Operator Certificate being granted.

Consideration for allocation of route(s) shall be in accordance with the criteria for allocating the flight route as prescribed in a Notification of the Director General.

No licensee shall wholly or partly cease flight operation under the rights granted for more than fifteen (15) days, except otherwise permitted by the Director General.

Clause 31 Prior to the beginning of civil aviation operation, a licensee shall submit conditions of carriage to the Director General for approval and shall proceed under the conditions of carriage as approved by the Director General. In the case of any change in any condition, it shall be approved by the Director General.

Granting of approval under paragraph 1 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 32 Prior to the beginning of civil aviation operation, a licensee shall place a bank guarantee containing the statement as specified by the Director General to the Director General for guaranteeing against damages which may occur from the civil aviation operation conducted to the public and to be obliged under the laws, rules, regulations prescribed by the Civil Aviation Board, the Minister, the Ministry of Transport, the Authority and other relevant authorities under the following conditions:

(1) the value of the bank guarantee shall not be lower than five (5) percent of the registered capital under clause 17. 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 (15) days as from the date of being notified by the Authority;

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

In the case where any licensee engaged in the operation for no less than five (5) years continuously, he/she 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 history or complaint relating to non-compliance with the rules concerning protection of passengers' rights 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 civil aviation operation in providing services and aviation safety and has no history of non-compliance with the rules concerning protection of passengers' rights which affect a large number of passengers.

In the case where subsequently the fact appears that the licensee has been granted with exemption of the bank guarantee under paragraph 3 is under the circumstance or the fact appears that it caused or may cause damages from the civil aviation operation or violated the laws, rules, regulations, notifications prescribed by the Civil Aviation Board, the Minister, the Ministry of Transport, the Authority and other relevant authorities and such violation caused or may seriously cause damages to the public, the Director General shall have the power to order a resumption of submitting a bank guarantee by complying with paragraph 1.

Clause 33 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.

Clause 34 A licensee shall have the following duties:

- (1) providing services under the route as permitted;
- (2) providing continuous services under the flight schedule as announced;
- (3) determining the airfares and freights under the rate which is in accordance with the criteria as prescribed in the law on aviation and other related laws;
- (4) announcing the rate of airfares and freights under (3) and other expenses relating to carriage including the conditions in carriage in public at the place of business operation of the licensee, ticket office and on its website.

Clause 35 Provision of services under an agreement between licensees to conduct commercial air transport operating scheduled air services or with licensees to conduct commercial air transport operating non-scheduled air services or with foreign commercial air transport operating on the subject relating carriage by air, for instance, code sharing, shall be approved by the Director General. In this regard, the Director General shall approve for such service if it is deemed to benefit the public.

Clause 36 A licensee wishing to increase or decrease 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 increase or decrease the routes shall be in accordance with the criteria for allocation of route(s) as prescribed in a Notification by the Director General.

Clause 37 A licensee shall comply with the criteria and conditions relating to the measures for protecting the rights of passengers who travel in domestic and international flights in accordance with the criteria as prescribed in the Regulation of the Civil Aviation Board or rules as prescribed in the law on international carriage by air.

Clause 38 Merger of business of at least two (2) licensees shall be in accordance with the law on trade competition and shall be permitted by the Minister with the approval of the Civil Aviation Board.

The criteria under clause 25 shall apply with the approval under this clause *mutatis mutandis*.

In regard to the merger of business under paragraph 1, the juristic person resulted from the merger shall have the rights and duties under the license transferred from the original licensee.

Clause 39 In addition to the duties prescribed in clause 29 to clause 38, the licensee shall have the duties as follows:

- (1) maintaining the qualifications of the licensee for commercial air transport to operate scheduled air services as prescribed in this Regulation throughout the license's validity;
- (2) complying with the terms and conditions attached to the license, as well as the laws, rules, regulations, notifications relating to commercial air transport as prescribed by the Civil Aviation Board, the Minister, the Ministry of Transport, the Authority and other relevant authorities;
- (3) complying with the law on air navigation;
- (4) undertaking to obtain the Air Operator Certificate and complying with the operation specifications, as well as the laws, rules, regulations, notifications prescribed by the Civil Aviation Board, the Minister, the Ministry of Transport, the Authority and other relevant authorities throughout the validity periods of the license and the certificate;
- (5) undertaking to proceed in accordance with the submitted business plan except otherwise applied for a change of plan and granted with the approval by the Committee under clause 40;

(6) reporting the substantial changes which affect the business operation to the Committee under the criteria and conditions as prescribed in a Notification of the Civil Aviation Board;

(7) submitting the business performance report and statement of cash flow every three (3) month until the period of one (1) year as from the date of the beginning of actual flight operations in accordance with the criteria and conditions as prescribed by the Civil Aviation Board;

(8) annually submitting the financial statement to the Director General, including other financial information in accordance with the criteria and conditions as prescribed by the Civil Aviation Board;

(9) submitting for renewal of the insurance policy thirty (30) days before its expiration date. In this regard, such insurance shall be valid continuing from the former insurance;

(10) annually submitting to the Director General, the report on conditions and circumstances of business domination using the form in Annex F within thirty (30) days from the date of the annual general meeting of shareholders.

(11) other duties as prescribed in a Notification of the Civil Aviation Board.

Clause 40 A licensee shall undertake the business operation in accordance with the submitted business plan.

In the case where the business operation cannot follow the submitted business plan, the licensee shall submit an application for amending the business plan but shall 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 insubstantial amendment of the business not prescribed by the Committee, the licensee shall notify the Director General of the amendment in advance and report to the Director General when the amendment takes effect.

Clause 41 A licensee may apply for suspension or termination of its business operation upon a reasonable, appropriate and necessary cause but shall be permitted by the Minister, upon approval from the Civil Aviation Board, but the suspension shall not last for more than one (1) year.

Due consideration of permission for such suspension or termination shall be based on public interest.

The Committee shall consider the application for suspension or termination of the business operation before proposing opinions to the Civil Aviation Board for considering and providing the approval and then, submitting to the Minister for granting permission to such suspension or termination, as the case may be.

The Director General may consider allocating route(s) of the licensee granted with permission to suspend or terminate its business operation to other licensees.

Clause 42 A licensee who wishes to renew the license shall submit an application in accordance with the form as prescribe by the Director General prior to the expiration date of the license for no less than one hundred and twenty (120) days but shall not exceed one hundred and eighty (180) days. Such application shall include the following documentary evidence:

- (1) current copy of certificate or evidence of being a juristic person illustrating the details of name, purposes, location of the office and authorized person having the authority to sign for the juristic person;
- (2) Financial Requirement Form including financial documentary evidence illustrating financial fitness and 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 17;
- (3) information relating to aircraft used in the business operation with the details relating to age of each aircraft and additional aircraft acquisition plan (if any);
- (4) documentary evidence for current insurance under clause 19;
- (5) latest airline business plan with the details as prescribed in Annex D;
- (6) affirmation form stating that the management is not under domination of person not having Thai nationality as in Annex E;
- (7) other documentary evidence as deemed necessary and as prescribed in a Notification of the Civil Aviation Board.

In the case where evidence and document submitted in the application for the initial license was amended or corrected, the applicant applying for renewal of license shall submit the amended and corrected evidence and document, too.

Upon submitting an application for renewal of license within the period as prescribed under paragraph 1, the applicant may operate 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, an application for a new license shall be submitted instead.

Clause 43 In considering the application for renewal of the license, the official and the Committee shall apply clause 21, clause 22, clause 23 and clause 24 *mutatis mutandis* and history of the applicant's business operation shall be also taken into consideration.

When considering and finding it suitable to renew the license, the Committee shall propose its opinion to the Civil Aviation Board to consider and approve the renewal of such license.

The Civil Aviation Board shall approve the license renewal and the Minister shall renew it, only if, upon examining the qualifications, documentary evidence and history or report

of the past business performance, it appears that the applicant maintains standards in its business operation for providing services and aviation safety without any history of violating the conditions attached to the license or failure to comply with the criteria to protect the right of passengers, which affected a large number of passengers, and the provisions of clause 25 shall apply *mutatis mutandis*.

In determining the time period for the validity of license applied for renewal, the provisions of clause 28 shall apply *mutatis mutandis*.

Clause 44 In the case where there is a reasonable ground to believe that business operation of any licensee may cause damages to public interest, the Minister, upon the approval of the Civil Aviation Board, shall have power to order the licensee to undertake one or several of the followings:

- (1) to amend the business plan;
- (2) to amend or review the airfares, freights or other fees;
- (3) to amend the conditions of carriage;
- (4) to improve aircraft or facilities;
- (5) to change in the maximum insurance limit to cover damages which may occur;
- (6) to undertake other matters as deemed appropriate and necessary.

Clause 45 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 permitted within one (1) year as from the date of being granted with the license under clause 27.

Clause 46 When it appears to the Director General that a licensee has committed one of the following acts, the Director General shall have power to order the licensee to rectify its act or to undertake action 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 under the permitted route within six (6) months as from the date of permission;
- (3) irregularly operating flights under the permitted route according to the flight schedule as announced;
- (4) violating or failing to operate in accordance with the laws, rules, regulations, notifications relating to commercial air transport as prescribed by the Civil Aviation Board, the Minister, the Ministry of Transport, the Authority and other relevant authorities;
- (5) violating or failing to comply with the law on air navigation;

- (6) failing to comply with its approved business plan;
- (7) failing to operate its business safely.

Clause 47 The Director General shall have power to withdraw any permitted route if it appears that the licensee:

- (1) does not undertake the actual flight operations under such route within six (6) months as from the date of being granted with permission;
- (2) to irregularly operate its flights under the permitted route according to the flight schedule as announced or fails to undertake continuous services.

Clause 48 A licensee who wishes to operate air service in the route suspended under clause 47 may apply for permission upon the time period of one (1) season has lapsed.

Clause 49 The Minister, upon the approval from the Civil Aviation Board, shall have power to suspend a license within the prescribed time period as deemed appropriate in the case where the fact appears that any licensee:

- (1) has the Air Operator Certificate suspended;
- (2) has failed to rectify its act or to undertake action within the time period as prescribed by the Director General in clause 46.

The suspended licensee may resume its service when the Air Operator Certificate is re-activated to be valid or the licensee has completely rectified its act or undertake action in compliance with the terms and conditions attached to the license and the Minister, upon the approval from the Civil Aviation Board, has ordered that its business operation be resumed.

Clause 50 The Minister, upon the approval from the Civil Aviation Board, shall have power to revoke a license in the case where the fact appears that any licensee:

- (1) lacks any of the qualifications as prescribed in this Notification, especially those relating to the registered capital, shares, and members of the Board or when the substantial ownership or the actual business management power (the effective control) does not belong to a person having Thai nationality;
- (2) has the Air Operator Certificate suspended more than twice (2) in the period of two (2) years;
- (3) has the Air Operator Certificate revoked;
- (4) is unable to operate the business well or being unable to continuously operate the business;
- (5) ceases the flight operation under the right of flight route granted by permission wholly or partly for more than fifteen (15) days without permission from the Director General;

(6) violates or fails 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 Civil Aviation Board or by the Director General and such violation causes hazard to aviation;

(7) fails to supervise its business operation or air operation to be in line with the law on air navigation and other related laws.

When the Minister ordered that the license be revoked under paragraph 1, the Authority shall announce such facts to the public.

PART III

COMMERCIAL AIR TRANSPORT IN THE TYPE OF NON-SCHEDULED AIR SERVICES

Clause 51 For the purpose of this part:

“non- scheduled air service flight” means an ad hoc charter, air ambulance/ medevac, own-use charter or corporate charter under the service contract or agreement and programmed charter;

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

“programmed charter” means a flight for transporting or travelling provided on period of time and having a regular programme subject to a contract or an agreement made with the tourism business operators.

Clause 52 A license applicant shall have the fully paid 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 carriage of passengers, no less than seven million Baht;
- (5) in the case of other aircraft, no less than five million Baht.

In addition to the registered capital under paragraph 1, the licensee shall have the qualifications and not have any of the prohibited characteristics under the criteria as prescribed in clause 12, clause 13, clause 14, clause 15, clause 16 and clause 17 (2).

Clause 53 An aircraft to be acquired by a license applicant for using in business operation shall be under the following criteria:

Type of aircraft	Numbers of engines	Size and weight	Age of aircraft	Number of aircraft
Fixed-wing aircraft	No limitation	In accordance with the appropriateness and manner of the business operation applied for	- for carrying passengers and cargo, it shall not be over sixteen (16) years as from the date of manufacture - for all-cargo, it shall not be over twenty-two (22) years as from date of manufacture	- one (1) aircraft and above for ad hoc charter, all cargo, air ambulance/medevac, own-use charter, corporate charter - two (2) aircraft and above for programmed charter
Helicopter	In the case of performing air operation in the community area, it shall have two (2) engines and shall be in accordance with the Notification of the Ministry of Transportation on Operation of Helicopter in the Metropolitan Bangkok Area.	No limitation on size and weight of the aircraft but shall be appropriate for services proposed to provide.	No more than five (5) years as from the date of manufacture.	One (1) aircraft and above
Balloon and other aircraft	No limitation on size and weight of aircraft. In this regard, it shall be for services proposed to provide. The license applicant shall specify the type, amount, capacity (in the case of balloon) and other relevant equipment including the details of its usage for services to support the consideration.			

Clause 54 A license applicant shall provide 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 limit for passengers, baggage and cargo shall be in accordance with the law on international carriage by air. In this regard, the insurance limit 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 limit for passengers, baggage, cargo and third parties, the Director General shall issue a notification of the amended Annex C.

Clause 55 The provisions of clause 20, clause 21, clause 22, clause 23, clause 24, clause 25, clause 26 and clause 27 shall apply to the submission of application and its consideration for issuing Commercial Air Transport Operating License to operate non-scheduled air services *mutatis mutandis*.

Clause 56 The civil aviation business license, type: Commercial Air Transport Operating License to operate non-scheduled air services, shall have a period of validity not exceeding five (5) years as from the date of issuance.

Form of the license under paragraph 1 shall be in accordance with the form as attached to this Regulation.

Clause 57 A licensee shall display a license in a disclosed place which can be easily seen at the place of its business operation as stated in the license.

In the case where the license is lost, destroyed or damaged substantially, the licensee shall submit an application for the substitute to the Director General, including the document and evidence of police report.

Issuance of the license substitute under paragraph 1 shall be in accordance with the form of the original license by stating or stamping the word “substitute” with the red ink at the front of such substitute and specifying the date, month and year of its issuance, including the signature of the person issuing.

Clause 58 The commercial air transport licensee to operate non - scheduled air services shall submit an application for the Air Operator Certificate to the Authority and shall undertake to complete the procedures and process for the issuance of the Air Operator Certificate until the certificate has been granted and begin the actual flight operation within one (1) 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 void except the licensee can illustrate that the actual flight operation cannot begin due to *force majeure* or such other causes not resulted from its own fault.

Clause 59 The provisions of clause 32, clause 33, clause 35, clause 38, clause 39 and clause 40 shall apply to the commercial air transport licensee to operate non-scheduled air services *mutatis mutandis*.

Clause 60 No commercial air transport licensee to operate non-scheduled air services shall sell passengers' tickets directly to the public individually in the same manner as commercial air transport licensee to operate scheduled air services.

Clause 61 A licensee shall comply with the criteria and conditions relating to the measures for protecting the rights of passengers using service of charter flight in the domestic and international flights in accordance with the criteria as prescribed in the Regulation of the Civil Aviation Board.

Clause 62 The provisions of clause 42 and clause 43 shall apply to the application submission for renewal of the commercial air transport license to operate non-scheduled air services and its consideration for such renewal *mutatis mutandis*.

Clause 63 A licensee may apply for suspension or termination of its business operation upon a reasonable, appropriate and necessary cause but shall be permitted by the Minister, upon approval from the Civil Aviation Board, but the suspension shall not last for more than one (1) year.

Due consideration of permission for such suspension or termination shall be based on public interest.

The Committee shall consider the application for suspension or termination of the business operation before proposing opinions to the Civil Aviation Board for considering and providing the approval and then, submitting to the Minister for granting permission to such suspension or termination, as the case may be.

Clause 64 In the case where there is a reasonable ground to believe that business operation of any licensee may cause damages to public interest, the Minister, upon the approval of the Civil Aviation Board, shall have power to order the licensee to undertake one or several of the followings:

- (1) to amend the business plan;
- (2) to amend or review the airfares, freights or other fees;
- (3) to amend the conditions of carriage;
- (4) to improve aircraft or facilities;
- (5) to change in the maximum insurance limit to cover damages which may occur;
- (6) to undertake other matters as deemed appropriate and necessary.

Clause 65 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 operations under the right of non-scheduled air services permitted within one (1) year as from the date of being granted with the license under clause 58.

Clause 66 When it appears to the Director General that a licensee has committed one of the following acts, the Director General shall have power to order the licensee to rectify its act or to undertake action within the prescribed time period:

- (1) violating or failing to comply with the terms and conditions attached to the license;
- (2) in case of programmed charter operation, irregularly operating flights under the permitted route;
- (3) violating or failing to operate in accordance with the laws, rules, regulations, notifications relating to commercial air transport as prescribed by the Civil Aviation Board, the Minister, the Ministry of Transport, the Authority and other relevant authorities;
- (4) violating or failing to comply with the law on air navigation;
- (5) failing to comply with its approved business plan;
- (6) failing to operate its business safely.

Clause 67 The provisions of clause 49 and clause 50 shall apply to the consideration for suspension or revocation of Commercial Air Transport Operating License to operate non-scheduled air services *mutatis mutandis*.

CHAPTER III AERIAL WORK

Clause 68 A license applicant shall have the fully paid 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, no less than four million Baht;
- (5) in the case of other aircraft, no less than three million Baht.

In addition to the registered capital under paragraph 1, the licensee shall have the qualifications and not have any of the prohibited characteristics under the criteria as prescribed in clause 12, clause 13, clause 14, clause 15, clause 16 and clause 17 (2).

Clause 69 An aircraft to be acquired by a license applicant for using in business operation shall be under the following criteria:

Type of aircraft	Numbers of engines	Size and weight	Age of aircraft	Number of aircraft
Fixed- wing aircraft	No limitation	- Aircraft for carrying passengers for sightseeing which takes off and lands at the same place shall have maximum take-off mass not exceeding of, as prescribed in the flight manual, 5,700 kilograms or maximum passenger seating configuration is not more than nine (9) ; - The use of aircraft for other purposes does not limit the size and weight of the aircraft. In this regard, it shall be as deemed appropriate with the characteristics of services proposed to provide.	- Not exceeding sixteen (16) years as from the date of manufacture	At least one (1) aircraft
Helicopter	In the case of performing air operation in the community area, it shall have two (2) engines and shall be in accordance with the Notification of the Ministry of Transportation on Operation of Helicopter in the	- Aircraft for carrying passengers for sightseeing shall have maximum take-off mass not exceeding, as prescribed in the flight manual, 3,192 kilograms maximum passenger or seating configuration is not more than four (4); - The use of aircraft for other purposes does not limit the size and weight of the aircraft. In this regard,	Not exceeding five (5) years as from the date of manufacture	At least one (1) aircraft

Type of aircraft	Numbers of engines	Size and weight	Age of aircraft	Number of aircraft
	Metropolitan Bangkok Area.	it shall be as deemed appropriate with the characteristics of services proposed to provide.		
Balloon or other categories of aircrafts	No limitation on size and weight of aircraft. In this regard, it shall be for services proposed to provide. The license applicant shall specify the type, amount, capacity (in the case of balloon) and other relevant equipment including the details of its usage for services to support the consideration. In this regard, the use of balloon for flight shall be permitted particularly for some certain types of flight operation which can use balloon for the operation.			

Clause 70 A license applicant shall provide 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 limit for passengers, baggage and cargo shall be in accordance with the law on international carriage by air. In this regard, the insurance limit 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 limit for passengers, baggage, cargo and third parties, the Director General shall issue a notification of the amended Annex C.

Clause 71 The provisions of clause 20, clause 21, clause 22, clause 23, clause 24, clause 25, clause 26 and clause 27 shall apply to the submission of application and its consideration for issuing Aerial Work Operating License *mutatis mutandis*.

Clause 72 The civil aviation operating license, type: Aerial Work Operating License, shall have a period of validity not exceeding three (3) years as from the date of issuance.

Form of the license under paragraph 1 shall be in accordance with the form as attached to this Regulation.

Clause 73 A licensee shall display a license in a disclosed place where it can be easily seen at the place of its business operation as stated in the license.

In the case where the license is lost, destroyed, or damaged substantially, the licensee shall submit an application for the substitute to the Authority, including the document and evidence of police report.

Issuance of the license substitute under paragraph 1 shall be in accordance with the form of the original license by stating or stamping the word “substitute” with the red ink at the front of such substitute and specifying the date, month, and year of its issuance, including signature of the person issuing.

Clause 74 A licensee shall begin the actual flight operations under the right of aerial work operating as license within one (1) year as from the date of being granted with the license except the licensee can illustrate that the actual flight operation cannot begin due to *force majeure* or such other causes not resulted from its own fault.

Clause 75 The provisions of clause 33, clause 38, clause 39 and clause 40 shall apply to the business operation of the Aerial Work Operating Licensee *mutatis mutandis*.

Clause 76 The provisions of clause 42 and clause 43 shall apply to the application submission for renewal of the Aerial Work Operating License and its consideration for such renewal *mutatis mutandis*.

Clause 77 A licensee may apply for suspension or termination of its business operation upon a reasonable, appropriate and necessary cause but shall be permitted by the Minister, upon approval from the Civil Aviation Board, but the suspension shall not last for more than one (1) year.

Due consideration of permission for such suspension or termination shall be based on public interest.

The Committee shall consider the application for suspension or termination of the business operation before proposing opinions to the Civil Aviation Board for considering and providing the approval and then, submitting to the Minister for granting permission to such suspension or termination, as the case may be.

Clause 78 In the case where there is a reasonable ground to believe that business operation of any licensee may cause damages to public interest, the Minister, upon the approval of the Civil Aviation Board, shall have power to order the licensee to undertake one or several of the followings:

- (1) to amend the business plan;
- (2) to amend or review the airfares, freights or other fees;
- (3) to amend the conditions of carriage;
- (4) to improve aircraft or facilities;
- (5) to change in the maximum insurance limit to cover damages which may occur;
- (6) to undertake other matters as deemed appropriate and necessary.

Clause 79 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 operations under the right of aerial work operating permitted within one (1) year as from the date of being granted with the license under clause 74.

Clause 80 When it appears to the Director General that a licensee has committed one of the following acts, the Director General shall have power to order the licensee to rectify its act or to undertake action within the prescribed time period:

- (1) violating or failing to comply with the terms and conditions attached to the license;
- (2) violating or failing to operate in accordance with the laws, rules, regulations, notifications relating to commercial air transport as prescribed by the Civil Aviation Board, the Minister, the Ministry of Transport, the Authority and other relevant authorities;
- (3) violating or failing to comply with the law on air navigation;
- (4) failing to comply with its approved business plan;
- (5) failing to operate its business safely.

Clause 81 . The provisions of clause 49 and clause 50 shall apply to the consideration for suspension or revocation of Aerial Work Operating License *mutatis mutandis*.

CHAPTER IV REGULATING THE LICENSEE'S BUSINESS OPERATION

Clause 82 For the purpose of regulating the licensee's business operation and to ensure that the licensee maintains the qualifications of being a licensee throughout validity of the license, the Director General shall monitor and inspects regularly as deemed appropriate the change of ownership, business management, business domination by non-Thai nationality, financial status and other conduct which may affect the qualifications of the licensee.

Upon Inspection under paragraph 1, the Director General shall have power to call on the information and financial statement as specified in Annex B or other present documents from the licensee for monitoring and inspection.

CHAPTER V
TRANSITORY PROVISIONS

Clause 83 Air Operating License which was issued prior to the applicability of this Regulation and is still valid on the date this Regulation has come into force shall continue to valid until the expiration of the license and it shall be deemed that such license is issued under this Regulation by which the licensee shall comply with the criteria, conditions and provisions prescribed under this Regulation.

Clause 84 All rules, regulations, notifications, criteria, or orders issued under the provisions of Notification of the Ministry of Transport Re: Criteria and Conditions for Granting Licensing to Air Operation Business B.E. 2559 (2016) shall continue to be enforced so long as it is not contradictory or inconsistent with this Regulation.

Clause 85 All applications submitted prior to the applicability of this Regulation and are still pending the consideration shall be deemed to be the applications under this Regulation and shall be proceeded under this Regulation.

Clause 86 This Regulation shall come into force from the date of its publication.

Given on the 12th of July B.E. 2562 (2019)

Arkhom Termpittayapaisith
Minister of Transport
Chairman of the Civil Aviation Board

Form of the Civil Aviation Operating License Attached the Civil Aviation Board Regulation No. 97

Re: Granting Licensing to Civil Aviation Business: Commercial Air Transport and Aerial Work

- Official Emblem -

ใบอนุญาตประกอบกิจการการบินพลเรือน
(CIVIL AVIATION OPERATING LICENCE)

ใบอนุญาตเลขที่/๒๕..

Licence No./25..

อาศัยอำนาจตามมาตรา ๔๑/๑๒๕ แห่งพระราชบัญญัติการเดินอากาศ พ.ศ. ๒๔๙๗ ซึ่งแก้ไขเพิ่มเติมโดยพระราชบัญญัติการเดินอากาศ (ฉบับที่ ๑๔) พ.ศ. ๒๕๖๒ รัฐมนตรีว่าการกระทรวงคมนาคม โดยความเห็นชอบของคณะกรรมการการบินพลเรือนอนุญาตให้

By virtue of Section 41/125 of the Air Navigation Act B.E. 2497 amended by the Air Navigation Act (No.14) B.E. 2562, the Minister of Transport, upon approval of the Civil Aviation Board, licenses

ชื่อผู้ได้รับใบอนุญาต.....

Name of Operator.....

ทะเบียนนิติบุคคลเลขที่.....สำนักงานใหญ่ตั้งอยู่เลขที่.....

อาคาร.....ถนน.....ตำบล/แขวง.....

อำเภอ/เขต.....จังหวัด.....รหัสไปรษณีย์.....

ประกอบกิจการการบินพลเรือนประเภท

Juristic Person Registration No.....Address of the Head Office.....

Building.....Road.....Sub-District.....

District.....Province.....Postal Code.....

to conduct civil aviation business in the area of.....

มีกำหนด (for a period of)ปี (years)

นับตั้งแต่วันที่.....เดือน.....พ.ศ.....ถึง วันที่.....เดือน.....พ.ศ.....

FromMonth.....A.D.....ToMonth.....A.D.....

ทั้งนี้ ผู้ได้รับใบอนุญาตต้องปฏิบัติตามกฎหมาย และข้อบังคับที่เกี่ยวข้อง รวมทั้งเงื่อนไข ข้อกำหนด และข้อจำกัด แนบท้ายใบอนุญาตฯ น้อย่างเคร่งครัด

The Licence holder shall strictly comply with laws and regulations and also the terms, requirements, limitations and conditions attached to this Licence.

ให้ไว้ ณ วันที่เดือน.....พ.ศ.....

Given onMonth.....A.D.....

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รัฐมนตรีว่าการกระทรวงคมนาคม

(Minister of Transport)

Annex A
Financial Requirement Form

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

Personal affirmation of the applicant	I,(name).....,(name)....., and(name)....., directors authorized to sign on behalf of the company.....(name)....., the applicant, certify that ☐ The start-up costs that are specified in this financial requirement form are wholesome, correct, and complete, done with reasonable estimation. ☐ Operating costs are consistent with and sufficient for 90 operating days, done with reasonable estimation. ☐ All information and evidentiary documents are true, correct, and complete. Signature Signature (.....) (.....) Signature Signature (.....) (.....) (directors who are authorized to sign)
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Start-Up Costs Statement

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

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 the operating costs in the first 90 days of the business operation for which the licensee applied for, done on a reasonable basis.

Line	Expense category	Aircraft Type #1	Aircraft Type #2	Totals
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			
	- Management, sales, and administration			
205	- Others (specify)			
206	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:			
	- Office building			
	- Administrative and overhead			
	- Information systems			
	- Sales and marketing			
	- Interest charges			
	- Others (specify)			
999	Total 90-Day Operating Costs	baht	baht	baht

Financial Requirement Statement

This report is conducted in order to calculate;

1. The financial need
2. The invested capital 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 applicant already operating a business)	
1001	Equity/(Deficit) <i>(from audited balance sheet, deficit reported as a negative number)</i>	
1002	Start-up costs incurred prior to financial statement year-end date	
1003	Net equity/(deficit) (line 1001+line 1002, <i>deficit reported as a negative number</i>)	
2000	Financial requirement	
2001	Start-up costs <i>(line 99 from Start-up Cost Statement)</i>	
2002	Operating costs <i>(line 999 from 90-Day Operating Statement)</i>	
2003	Total costs <i>(line 2001+line 2002)</i>	
2004	Net deficit, if any <i>(from line 1003, deficit reported as a negative)</i>	
2005	Financial requirement (line 2003 + line 2004)	
3000	Capital Funding Requirement	
3001	50% of total costs <i>(line 2003x50%)</i>	
3002	Net deficit, if any <i>(from line 1003, 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	Business plan, which should include the following information; (a) A description of the type of air service that will be provided, including whether the schedule and charter type services will be offered; (b) The market and the region within which the applicant intends to operate; (c) The routes that will be operated and the frequency of flights; (d) The type and number of aircraft that will be operated; and (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.	
2	Business plan, which should include the following information; (a) Proposed block hour utilization per aircraft under conditions of optimum demand; (b) The individual start-up costs, as reported within the Start-Up Costs 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 fully paid 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 Examination**

1. For first-time submission and 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, fare, freight, salary and wage, repair expenses, depreciation cost, currency exchange rate fluctuation, airport service charges, air navigation charges, ground service 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 beginning of the actual flight operation together with explanations accompanying each cost item;
 - (5) Details of the existing and projected sources of capital;
 - (6) Details of all shareholders including their 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 clarified;
 - (7) Estimated cash flow budget and 5-year operating liquidity plan as from the starting date;
 - (8) Financial details for the purchase or leasing of aircraft. In the case of aircraft leasing, the aircraft leasing contract or Letter of Intent (LOI) to lease the aircraft or the Memorandum of Understanding (MOU) to lease the aircraft shall be submitted;
 - (9) Other documents and evidence as required by the Committee.
2. In case that the juristic person underwent an organizational change or a change in the nature of operation or service, which has a financial impact
 - (1) 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 projected profit and loss statement of the current budgetary year, including the details of structural and activity change that has significant impact to the overall financial standing;
 - (4) Expenses and revenues in the past and estimated expenses and revenues in the future which are assessed from various factors such as energy, fare, freight, salary and wage, repair expenses, depreciation cost, currency exchange rate fluctuation, airport service charges, air navigation charges, ground services charges, insurance, and forecast for traffic volume and income, for instance;
 - (5) Estimated cash flow budget and annual operating liquidity plan for the following budgetary year, including the details of structural and activity change that has significant impact to the overall financial standing;
 - (6) Financial details for the purchase or leasing of aircraft. In the case of aircraft leasing, the aircraft leasing contract or Letter of Intent (LOI) to lease the aircraft or the Memorandum of Understanding (MOU) to lease the aircraft shall be submitted;
 - (7) Other documents and evidence as required by the Committee.
3. In case of examining financial fitness of the licensee
- (1) Audited account within 6 months including internal management account and latest budgetary account;
 - (2) Estimated balance sheet and projected profit and loss statement of the following year
 - (3) Expenses and revenues in the past and estimated expenses and revenues in the future which are assessed from various factors such as energy, fare, freight, salary and wage, repair expenses, depreciation cost, currency exchange rate fluctuation, airport service charges, air navigation charges, ground services charges, insurance, and forecast for traffic volume and income, for instance;
 - (4) Estimated cash flow account and the operating liquidity plan for the following budgetary year
 - (5) Other documents and evidence as required by the Committee.
-

Annex C
Minimum Insurance Limit

1. Passenger at 128,821 SDRs per person, each time
2. Baggage at 1,288 SDRs per person, each time
3. Cargo at 22 SDRs per kilogram
4. Third party each time/per one aircraft as follows:

Category	Maximum Take-off Mass as specified in the flight manual (MTOM (kg))	Minimum insurance limit (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 insurance (CSL), the minimum insurance limit shall be done for each aircraft by calculating from:

1. Passenger at 128,821 SDRs, multiplied by the maximum number of passengers carried on that aircraft, and
2. Baggage at 1,288 SDRs, multiplied by the maximum number of passengers carried on that aircraft, and
3. Cargo at 22 SDRs, multiplied by the weight of cargo carried on that aircraft (kilograms), and
4. Third party according to the rate specified in the table above.

.....

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

Annex D

Business plan according to Section 20 (8)

Components of the business plan

1. Executive summary in order to inform executives or aviation industry business plan inspectors regarding overviews of the airline operation project and the return on the investment. The details comprise 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 advantages of the aviation 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 written last.

2. Current situation analysis 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 strategy such as personnel and cash.

4. The structure of the aviation industry at the time of the application submission informs the overview of the industry of the airline operation project, vision, mission, and objectives of the airline operation project. The details comprise of the followings:

- 4.1 Brief history of the business/ business operator;
- 4.2 Address;
- 4.3 Vision, specifying what to do and how the organization will be positioned in the future;
- 4.4 Major missions or commitments.

5. Marketing plan

- 5.1 Identify the target market or target customer base;
- 5.2 Business objectives relating to marketing and services both in the present and in the future;
- 5.3 Determine the market share based on a market research;
- 5.4 Marketing strategy to be employed so that the business operation can carry on as planned;
- 5.5 Aircraft procurement plan which specifies the method(s) of acquisition such as lease, or purchase;
- 5.6 Sale channels and advertisement.

6. Market Analysis

6.1 Internal factors analysis

- The value chain or supporting activities of the airline such as purchasing process, research and development, and human resource management etc.;
- Cost of each activity in the value chain;
- The pricing policy and Revenue Management System (RMS) of the airline;
- The strategy of using marketing decision variables;
- The balancing strategy of actual load factors and breakeven load factors.

6.2 External factors analysis

- Rules in every area and in all forms;
- Factors relating to population, economy, technology, society, politics and governance, social value, culture;
- Strategic competition with other airlines;
- Market share.

6.3 SWOT Analysis

- Analyze the strengths and weaknesses of internal factors and environment;
- Analyze business opportunities and challenges from external factors and environment.

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 under review 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 duty and task at hand.

8. Five-year operating plan

- 8.1 Type of service including flying location, route, and frequency;
- 8.2 Details of the fleet and aircraft types in use and the documents showing the acquisition of aircraft and flight hours per day (aircraft utilization);
- 8.3 Production: ASK and/or ATK production
- 8.4 Load: 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:
 - Revenue per flying hours
 - Expense 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 Revenues 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 Five (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. (NPAT)

3) Statement of cash flows:

- Cash in the beginning of the year;
- Source of cash (from operation, or from other sources such as loan);
- Cash utilisation;
- Cash at the end of the year.

11. Conditions of carriage

Annex E

**Affirmation form stating that the management is not under domination of
person not having Thai nationality**

I am(applicant's name)..... certify that I will not conduct the business in the manner that the actual management power is under domination of person not having Thai nationality, which any management or undertaking benefits or facilitates the benefit to any person not having Thai nationality in any 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 Regulation;

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

(3) business domination through a person not having Thai nationality but having control or influence, directly or indirectly, in prescribing the policy making, management, operation, or appointment of members of the board or high-level executive.

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, loan under lower rate of interest compared to the market price, business risk guarantee or lending provision in the discriminatory manner;

(5) business domination through contracts relating to intellectual property, franchise, or contract to provide solely 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 national;

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

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

Signature.....

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Position

Person having the authority to sign

Date

Annex F

Form of the report on conditions and circumstances of business domination

1. Status of the licensee

1.1 Name of Company:

1.2 The civil aviation operating license, types;

- ☐ Commercial Air Transport Operating License to operate scheduled air services;
☐ Commercial Air Transport Operating License to operate non-scheduled air services;
☐ Aerial Work Operating License
☐ Other

1.3 The date of the annual general meeting of shareholders; Date Month Year

1.4 Shareholding proportion in the annual general meeting of shareholders

- ☐ Thai Shareholders..... %
☐ Non-Thai Shareholders %

1.5 Voting rights assignment

- ☐ 1 share per 1 vote
☐ other (please specify)

2. Report on conditions and circumstances of business domination

The licensee has a duty, annually, to report conditions and circumstances of business domination to the Civil Aviation Authority of Thailand (CAAT) within thirty (30) days from the date of the annual general meeting of shareholders. The licensee:

- ☐ is not under conditions and circumstances of business domination of a person not having Thai nationality;
☐ is under conditions and circumstances of business domination of a person not having Thai nationality. (Please specify)
.....
.....
.....

3. List of Documents to be submitted as follows:

- 3.1 Copy of report of the shareholders' annual general meeting (agenda on determination or review of the condition or the status that the management is not under domination of person not having Thai nationality);
3.2 Copy of articles of association as on the date of the shareholders' annual general meeting;
3.3 Copy of certificate of company registration on date of the shareholders' annual general meeting;
3.4 Other (Please specify)

I hereby certify that the above information given in this report on conditions and circumstances of business domination is true as to the best of my knowledge.

Signature
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Position

Person having the authority to sign.....

Date

Unofficial Translation (for convenient use only)