

APPLICATION GUIDE

FOR CANADIAN APPLICANTS

FOR A LICENCE

OR FOR AN AMENDMENT TO A LICENCE

TO OPERATE A

NON-SCHEDULED INTERNATIONAL SERVICE

*Information
and
Instructions*

revised August, 1997

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PART 1

GENERAL INFORMATION

A. Relevant Acts and Regulations

The issuance of a licence by the Canadian Transportation Agency (the Agency) and the operation of air services are governed by the following:

- (i) the *Canada Transportation Act* (the Act);
- (ii) the *Air Transportation Regulations* (the ATR);
- (iii) the *National Transportation Agency General Rules* (General Rules); and
- (iv) the *Aeronautics Act* and associated regulations.

These documents are available through authorized bookstore agents and other bookstores or by mail from:

Canadian Government Publishing Centre
Canada Communication Group
Ottawa, Ontario, Canada
K1A 0S9

Telephone: **(819) 956-4800**

You are encouraged to acquire the aforementioned documents and to familiarize yourself with their contents.

SHOULD THERE BE ANY DISCREPANCY BETWEEN WHAT IS CONTAINED IN THIS DOCUMENT AND WHAT IS CONTAINED IN THE CANADA TRANSPORTATION ACT AND THE AIR TRANSPORTATION REGULATIONS, THE ACT AND THE REGULATIONS SHALL PREVAIL.

B. Definitions

In this document,

“**Air service**” means a service, provided by means of an aircraft, that is publicly available for the transportation of passengers or goods, or both.

“**All-cargo aircraft**” means an aircraft that is equipped for the carriage of goods only.

“**Canadian aviation document**” pursuant to the *Aeronautics Act*, means any licence, permit accreditation, certificate or other document issued by the Minister under Part I to or with respect to any person or in respect of any aeronautical product, aerodrome, facility or service (in this guide the term "**Air Operator Certificate**" is used with respect to a Canadian aviation document).

“**Certificated Maximum Carrying Capacity**” means

- (a) the maximum number of passengers specified in the Type Approval Data Sheet or the Type Certificate Data Sheet issued or accepted by the competent Canadian authority for the aircraft type and model, or
- (b) in respect of a particular aircraft that has been modified to allow a higher number of passengers, the maximum number of passengers specified in the Supplemental Type Approval or the Supplemental Type Certificate issued or accepted by the competent Canadian authority.

"**International Service**" means an air service between Canada and a point in the territory of another country.

“**Large aircraft**” means an aircraft equipped for the carriage of passengers and having a certificated maximum carrying capacity of more than 89 passengers.

“**MCTOW**” means the maximum certificated take-off weight for aircraft as shown in the aircraft flight manual referred to in the aircraft’s Certificate of airworthiness issued by the competent Canadian or foreign authority.

“**Medium aircraft**” means an aircraft equipped for the carriage of passengers and having a certificated maximum carrying capacity of more than 39 but not more than 89 passengers.

"**Non-scheduled international service**" means an international service other than a scheduled international service.

“Passenger seat”, for insurance purposes, means a seat on board an aircraft that may be permanently occupied by a passenger for the period during which the aircraft is being used for a domestic service or an international service.

“Scheduled international service” means an international service that is a scheduled service pursuant to

- (a) an agreement or arrangement for the provision of that service to which Canada is a party, or
- (b) a determination made under section 70 of the Act.

“Small aircraft” means an aircraft equipped for the carriage of passengers and having a certificated maximum carrying capacity of not more than 39 passengers.

International Charter Types

“Transborder goods charter” or **“TGC”** means a one-way or return charter that originates in Canada and that is operated between Canada and the United States according to the conditions of a charter contract to carry goods, entered into between one or two air carriers and one or more charterers, under which the charterer or charterers charter the entire payload capacity of an aircraft.

“Transborder passenger charter” or **“TPC”** means a one-way or return charter that originates in Canada and that is operated between Canada and the United States according to the conditions of a charter contract to carry passengers, entered into between one or two air carriers and one or more charterers, under which the charterer or charterers charter the entire passenger seating capacity of an aircraft, for resale by the charterer or charterers.

“Transborder passenger non-resaleable charter” or **“TPNC”** means a one-way or return charter that originates in Canada and that is operated between Canada and the United States according to the conditions of a charter contract to carry passengers, entered into between one or two air carriers and one or more charterers, under which the charterer or charterers charter the entire passenger seating capacity of an aircraft and do not resell that passenger seating capacity.

“Transborder United States charter” or **“TUSC”** means a charter originating in the United States that is destined for Canada.

"Advance Booking Charter" or "ABC" means a round-trip passenger flight originating in Canada that is operated according to the conditions of a contract entered into between one or two air carriers and one or more charterers that requires the charterer or charterers to charter the entire passenger seating capacity of an aircraft for resale by them to the public, at a price per seat, not later than a specified number of days prior to the date of departure, of the flight from its origin in Canada.

"Common Purpose Charter" or "CPC" means a round-trip passenger flight originating in Canada that is operated according to the conditions of a contract entered into between one or two air carriers and one or more charterers that requires the charterer or charterers to charter the entire passenger seating capacity of an aircraft to provide transportation at a price per seat to passengers

- a) travelling to and from a CPC event; or
- b) participating in a CPC educational program.

"Entity Charter" means a flight operated according to the conditions of a charter contract under which:

- a) the cost of transportation of passengers or goods is paid by one person, corporation or organization without any contribution, direct or indirect, from any other person, and
- b) no charge or other financial obligation is imposed on a passenger as a condition of carriage or otherwise in connection with the transportation.

"Inclusive Tour Charter" or "ITC" means a passenger flight operated according to the conditions of a contract entered into between an air carrier and one or more tour operators that requires the tour operator or tour operators to charter the entire passenger seating capacity of an aircraft for resale by them to the public at an inclusive tour price per seat.

"ABC/ITC" means a passenger charter flight on which both advance booking passengers and inclusive tour participants are carried and that is operated pursuant to Division IV of Part III of the *Air Transportation Regulations*.

C. Air Services Excluded From Licensing Requirements

You do not require an Agency licence to operate the following specialty services to which Part II of the Act does not apply, however, you will continue to be required to obtain an Air Operator Certificate and to satisfy Transport Canada concerning insurance coverage:

- aerial advertising services
- aerial fire-fighting services
- aerial sightseeing services
- aerial survey services
- aerial weather altering services
- air cushion vehicle services
- glider towing services
- external helitransport services
- parachute jumping services
- transportation services for the retrieval of human organs for human transplants
- aircraft demonstration services
- aerial reconnaissance services
- hot air balloon services
- rocket launching
- aerial spreading services
- air flight training services
- aerial inspection services
- aerial construction services
- aerial photography services
- aerial forest fire management services
- aerial spraying services

D. Classification of Aircraft

The following classes of aircraft that may be operated by a Canadian air carrier under a non-scheduled international licence are (subsection 4.(1) of the ATR refers):

- small aircraft (being an aircraft equipped for the carriage of passengers and having a certificated maximum carrying capacity of not more than 39 passengers)
- medium aircraft (being an aircraft equipped for the carriage of passengers and having a certificated maximum carrying capacity of more than 39 but not more than 89 passengers)
- large aircraft (being an aircraft equipped for the carriage of passengers and having a certificated maximum carrying capacity of more than 89 passengers)
- all-cargo aircraft (being an aircraft that is equipped for the carriage of goods only)

THE PASSENGER AIRCRAFT CLASSIFICATION IS BASED ON THE CERTIFICATED MAXIMUM CARRYING CAPACITY OF THE AIRCRAFT (SEE DEFINITION IN ITEM B OF PART I OF THIS GUIDE) AS OPPOSED TO THE ACTUAL CONFIGURATION OF THE AIRCRAFT. FOR EXAMPLE, ALTHOUGH THE DASH 8-100 AIRCRAFT IS USUALLY CONFIGURED WITH LESS THAN 40 PASSENGER SEATS, IT IS CURRENTLY CONSIDERED TO BE A MEDIUM PASSENGER AIRCRAFT GIVEN IT HAS A CERTIFICATED MAXIMUM CARRYING CAPACITY OF 40 PASSENGERS, WHICH IS WITHIN THE THRESHOLD OF THE MEDIUM AIRCRAFT CATEGORY.

E. Classification of Non-scheduled International Air Services

The following classes of non-scheduled international air services that may be operated by a Canadian air carrier are (section 5 of the ATR refers):

- Non-scheduled international service, small aircraft
- Non-scheduled international service, medium aircraft
- Non-scheduled international service, large aircraft
- Non-scheduled international service, all-cargo aircraft.

F. Requirements For Licence Issuance

A licence to operate a non-scheduled international service will be issued by the Agency if it is satisfied that you:

- (i) are Canadian;
- (ii) hold an Air Operator Certificate issued by Transport Canada in respect of the service to be provided under the licence;
- (iii) have submitted a certificate of insurance evidencing that you have the prescribed liability insurance coverage in respect of the service to be provided under the licence;
- (iv) meet prescribed financial requirements where applicable; and
- (v) within the preceding twelve months, have not contravened section 59 of the Act to the effect that no person has sold, caused to be sold or publicly offered for sale in Canada transportation in respect of the applied for air service without holding the required licence

G. Evidence of Canadian Status

Canadian applicants must submit evidence of being Canadian, as defined in section 55 of the Act, with the Agency at the same time that the information required to be filed pursuant to Appendix 1 of this guide is to be submitted. Documentary requirements to demonstrate “Canadian” status are described in Appendix 3 of this guide.

H. Evidence of holding a Canadian Aviation Document

For information regarding requirements and procedures to be followed when applying for an Air Operator Certificate, contact the appropriate regional office of Transport Canada.

A CANADIAN AVIATION DOCUMENT ISSUED BY TRANSPORT CANADA IS A PREREQUISITE FOR LICENCE ISSUANCE. A COPY OF THE CANADIAN AVIATION DOCUMENT, VALID FOR THE PROPOSED SERVICE, MUST BE SUBMITTED TO THE AGENCY BEFORE AN AGENCY LICENCE CAN BE ISSUED.

I. Insurance Requirements

The insurance requirements are set out in sections 7 and 8 of the ATR. For reference purposes, sections 7 and 8 are set out below:

SECTION 7

- 7.(1) No air carrier shall operate a domestic service or an international service unless , for every accident or incident related to the operation of that service, it has:
- (a) liability insurance covering risks of injury to or death of passengers in an amount that is not less than the amount determined by multiplying \$300,000 by the number of passenger seats on board the aircraft engaged in the service; and
 - (b) insurance covering risks of public liability in an amount that is not less than
 - (i) \$1,000,000, where the MCTOW of the aircraft engaged in the service is not greater than 7,500 pounds,

- (ii) \$2,000,000, where the MCTOW of the aircraft engaged in the service is greater than 7,500 pounds but not greater than 18,000 pounds, and
 - (iii) where the MCTOW of the aircraft engaged in the service is greater than 18,000 pounds, \$2,000,000 plus an amount determined by multiplying \$150 by the number of pounds by which the MCTOW of the aircraft exceeds 18,000 pounds.
- 7.(2) The insurance coverage required by paragraph (1)(a) need not extend to any passenger who is an employee of an air carrier if workers' compensation legislation governing a claim for damages against that air carrier by the employee is applicable.
- 7.(3) No air carrier shall take out liability insurance to comply with subsection (1) that contains an exclusion or waiver provision reducing insurance coverage for any accident or incident below the applicable minima determined pursuant to that subsection, unless that provision
 - (a) consists of standard exclusion clauses adopted by the international aviation insurance industry dealing with
 - (i) war, hijacking and other perils,
 - (ii) noise and pollution and other perils, or
 - (iii) aviation radioactive contamination;
 - (b) is in respect of chemical drift;
 - (c) is to the effect that the insurance does not apply to liability assumed by the air carrier under any contract or agreement unless such liability would have attached to the air carrier even in the absence of such contract or agreement; or
 - (d) is to the effect that the entire policy shall be void if the air carrier has concealed or misrepresented any material fact or circumstance concerning the insurance or the subject thereof or if there has been any fraud, attempted fraud or false statement by the air carrier touching any matter relating to the insurance or the subject thereof, whether before or after a loss.
- 7.(4) An air carrier may have a comprehensive single limit liability coverage where liability risks are covered by a single policy or a combination of primary and excess policies, but no single limit liability coverage of that air carrier shall be for an amount that is less than the applicable combined insurance minima determined pursuant to paragraphs (1)(a) and (b).

SECTION 8

- 8.(1) Every applicant for a licence or for an amendment to or renewal of a licence, and every licensee, shall file with the Agency, in respect of the service to be provided or being provided, as the case may be, a valid certificate of insurance in the form set out in Schedule I.
- 8.(2) A person referred to in subsection (1) who files a certificate of insurance electronically shall, on the request of the Agency, file forthwith a certified true copy of the certificate.

A BLANK CERTIFICATE OF INSURANCE FORM TO BE COMPLETED AND FILED BY THE INSURER IS ATTACHED TO THIS GUIDE. APPLICANTS REQUESTING MODIFICATIONS TO EXISTING LICENCE AUTHORITIES ARE REMINDED THAT APPROPRIATE AMENDMENTS TO INSURANCE CERTIFICATES ON FILE WITH THE AGENCY WILL ALSO BE REQUIRED. THE REQUIREMENTS CONCERNING CERTIFICATES OF INSURANCE ARE CLOSELY MONITORED AND STRICTLY ENFORCED BY THE AGENCY.

J. Financial Requirement Information

PERSONS SUBJECT TO PRESCRIBED FINANCIAL REQUIREMENTS

You are subject to prescribed financial requirements if :

- you are a “Canadian” applicant; AND
- you apply for the issuance or the reinstatement (if suspended for 60 days or more) of:
 - . a domestic licence;
 - . a non-scheduled international licence; or
 - . a scheduled international licence

that authorizes the operation of an air service using **medium** or **large** aircraft.

HOWEVER, you are *not* subject to prescribed financial requirements if:

- you apply for the issuance or the reinstatement of a licence to operate an air service using **all-cargo** aircraft;

- you apply for the issuance or the reinstatement (as described above) of a licence to operate an air service using **medium** aircraft AND you already operate an air service using medium or large aircraft pursuant to:
 - . a non-scheduled international licence;
 - . a scheduled international licence; or
 - . a domestic licence for which you have met the financial requirements within the last 12 months; OR

- you apply for the issuance or the reinstatement (as described above) of a licence to operate an air service using **large** aircraft AND you already operate an air service using large aircraft pursuant to:
 - . a non-scheduled international licence;
 - . a scheduled international licence; or
 - . a domestic licence for which you have met the financial requirements within the last 12 months.

IF YOU ARE SUBJECT TO PRESCRIBED FINANCIAL REQUIREMENTS, YOU SHOULD ALSO PROVIDE THE INFORMATION AND DOCUMENTATION REQUESTED IN THE “FINANCIAL REQUIREMENTS GUIDE”. THIS GUIDE IS AVAILABLE UPON REQUEST.

K. Prohibition regarding Sale of an Air Service

Section 59 of the Act requires that no person shall sell, cause to be sold or publicly offer for sale in Canada an air service unless, where required under Part II of the Act, a licence has been issued under Part II in respect of that service.

NOTE

Where an individual has contravened section 59 of the Act, the Agency may, for a period not exceeding twelve months after the date of the contravention, refuse to issue a licence in respect of an air service to the individual or to any corporation of which the individual is a principal.

Where a corporation has contravened section 59, the Agency may, for a period not exceeding twelve months after the date of the contravention, refuse to issue a licence in respect of an air service to

- (a) the corporation;
- (b) any person who, as a principal of the corporation, directed, authorized, assented to, acquiesced in or participated in a contravention that gave rise to the suspension or cancellation; and
- (c) any body corporate of which the corporation or the person referred to in paragraph (b) above is a principal.

L. Licence Not Transferable

A licence for the operation of an air service is not transferable (section 58 of the Act refers).

M. Other Requirements

There are various permit and notification requirements which may have to be adhered to prior to the operation of international charter flights. You should refer to the ATR for details concerning the requirements of such flights.

For your convenience, item B of Part I of this guide contains definitions for the following charter types:

- Transborder Goods Charters
- Transborder Passenger Charters
- Transborder Passenger Non-resaleable Charters
- Transborder United States Charters
- Advance Booking Charters
- Common Purpose Charters
- Entity Charters
- Inclusive Tour Charters
- ABC/ITC

N. Canada Border Services Agency Reporting Requirements

Applicants must report electronically to Canada Border Services Agency (formerly referred to as Customs or Revenue Canada)

- all goods (whether or not company owned) and
- all passengers and personnel (including personnel of another air carrier)

Such reporting is required:

- prior to arrival (per Advance Commercial Information (ACI) and Advance Passenger Information/Passenger Name Record (API/PNR) regulations, and
- upon arrival at the point of entry in Canada (per the *Customs Act*)

For more details, contact Canada Border Services Agency at the following numbers:

Inside Canada: 1-800-461-9999 (English);
1-800-959-2036 (French)

Outside Canada: 204-983-3500 or 506-636-5064 (English);
204-983-3700 or 506-636-5067 (French)

O. Tariff Filing Requirements

Notwithstanding licence issuance, Canadian applicants are reminded that appropriate tariffs are required to be on file and in effect with the Agency prior to commencing respective air services.

P. Statistical Reporting Requirements

New applicants for licences to operate air services should be aware of the type and volume of statistics that will be required and the frequency of reporting.

Detailed information and instructions with respect to reporting requirements may be obtained from:

Statistics Canada
Transportation Division
Aviation Statistics Centre
Room 1506, Main Building
120 Parkdale Avenue
Ottawa, Ontario
K1A 0T6
Telephone: **(613) 951-0141**
Facsimile: **(613) 951-0010**

Q. Annual Licence Validation Requirement

Pursuant to section 15 of the ATR, every holder of a non-scheduled international licence is required to file with the Agency, within 30 days after each anniversary date of the licence, a declaration of continuance of qualifications in the form set out in Schedule II of the ATR. Schedule II is attached as Appendix 4.

PART II

APPLICATION INSTRUCTIONS

1. Format

Applications should be typewritten in the format and titled and numbered as set out in the Appendices.

2. Language

Applications are to be submitted in either English or French.

3. Filing Instructions

The Original application and two (2) copies thereof, including all supporting documentation, are to be submitted to the Agency (except only an Original and one (1) copy of Appendix 3 and Financial Requirement Information referred to in item J of Part I of this guide are required to be submitted). The application should be addressed as follows:

By mail to:	OR	By courier to:
Secretary		Secretary
Canadian Transportation Agency		CanadianTransportation Agency
Ottawa, Ontario		15 Eddy Street
Canada,		Hull, Quebec
K1A 0N9		Canada J8X 4B5

THE ONUS IS ON THE APPLICANT TO COMPLETE THE APPLICATION IN FULL AND TO INCLUDE ALL SUPPORTING DOCUMENTATION REQUESTED. PROCESSING OF AN INCOMPLETE APPLICATION OR AN APPLICATION NOT FILED IN ACCORDANCE WITH THE INSTRUCTIONS INCLUDED IN THIS GUIDE MAY BE DELAYED.

For your information, subsection 29(1) of the Act states:

“The Agency shall make its decision in any proceedings before it as expeditiously as possible, but no later than one hundred and twenty days after the originating documents are received, unless the parties agree to an extension or this Act or a regulation made under subsection (2) provides otherwise.”

A proceeding includes an application submitted pursuant to this guideline. You are encouraged to file evidence of compliance with the requirement to be Canadian and the financial requirements, if such apply, as expeditiously as possible so that you can be given sufficient time to respond if matters need to be clarified following your submissions.

4. Signature

The original of an application should be identified as such and the Original should be signed by:

- a) the proprietor, if a proprietorship (i.e. an individual);
- b) each partner, if a partnership; or
- c) an officer or director of the corporation duly authorized to execute such documents under seal, if any, on behalf of the corporation, if a corporation.

A PERSON SUCH AS A LAWYER OR CONSULTANT, WHO PREPARES AN APPLICATION ON BEHALF OF AN APPLICANT, CANNOT SIGN THE APPLICATION UNLESS THE PERSON IS A DULY AUTHORIZED AGENT OR SOLICITOR ACTING FOR THE APPLICANT.

5. Verification

All of the information contained in the application, including the supporting documentation and changes subsequently made thereto, must be verified by an affidavit of the applicant, attesting to its truth, accuracy and completeness. (A sample affidavit form which may be used by applicants is attached as Appendix 2)

A PERSON SUCH AS A LAWYER OR CONSULTANT, WHO PREPARES AN APPLICATION ON BEHALF OF AN APPLICANT, CANNOT SIGN THE AFFIDAVIT.

6. Amendments

Any changes made to the application are considered to be amendments to the original application and are to be titled and numbered in the same fashion as the corresponding items in the original application.

7. Additional Information

The Agency may request additional information and documentation if it is required or if ambiguities need to be clarified.

SENSITIVE OR CONFIDENTIAL INFORMATION SHOULD BE CLEARLY MARKED AS SUCH AND SHOULD BE SUBMITTED AS SEPARATE DOCUMENTS.

LICENCE APPLICATION

NON-SCHEDULED INTERNATIONAL LICENCE

- CANADIAN APPLICANTS -

1.a) NAME AND ADDRESS OF APPLICANT: (PROPRIETORSHIP, PARTNERSHIP OR CORPORATION)

Name

Street Address

City Prov/Terr

Postal Code Attention

Phone (.....) Fax (.....)

1.b) NAME UNDER WHICH THE PROPOSED AIR SERVICE IS TO BE OPERATED:

.....
.....
.....

THE NAME STATED IN 1.B) ABOVE MUST INCLUDE THE FULL LEGAL NAME OF THE APPLICANT (PROPRIETORSHIP, PARTNERSHIP OR CORPORATION) AND INCLUDE ANY TRADE NAME THE APPLICANT PROPOSES TO USE WHEN OPERATING INTO AND OUT OF CANADA AND MUST BE CONSISTENT WITH THE NAME STATED IN THE REQUIRED SUPPORTING DOCUMENTS.

**1.c) NAME AND ADDRESS TO WHICH CORRESPONDENCE RELATING TO
THIS APPLICATION SHOULD BE DIRECTED:**

Same as 1.a) above [], or

Name

Street Address

CityProv/Terr

Postal Code Attention

Phone (....) Fax (....)

2. DESCRIPTION OF THE PROPOSED SERVICE

The applicant proposes to operate the following class(es) of air service(s)*

for the transportation of passengers and goods on aircraft equipped for the carriage of passengers:

[] Non-scheduled international service, small aircraft

[] Non-scheduled international service, medium aircraft

[] Non-scheduled international service, large aircraft

for the transportation of goods on aircraft equipped for the carriage of goods only:

[] Non-scheduled international service, all-cargo aircraft.

*For information on how aircraft are classified, see item D of Part I of this guide.

3. PROPOSED AIRCRAFT

Provide the following details with respect to each model of aircraft to be used in respect of the service to be provided under the licence.

Type and Model	Number of Aircraft per Type and Model to be Operated at Commencement or During the First 90 Days of Operation	Maximum Certificated Take-Off Weight	Maximum Number of Passengers specified in the Type Approval or Type Certificate Data Sheet**	In respect of all-cargo services, maximum number of seats for attendants accompanying cargo	Maximum Certificated Payload Capacity

**If aircraft has been modified to allow a higher number of passengers, disclose the maximum number of passengers specified in the Supplemental Type Approval or Supplemental Type Certificate.

For information respecting the maximum number of passengers disclosed on a Type Approval Data Sheet, Type Certificate Data Sheet or on any Supplemental Type Approval or Supplemental Type Certificate, you may contact:

Airworthiness Technical Reference Centre

Transport Canada

Ottawa, Ontario

K1A 0N8

Telephone: (613) 952-4401

(613) 952-4455

4. SCOPE OF THE PROPOSED SERVICE

State whether the proposed service will be:

Year round **OR** Seasonal

If the service is seasonal, provide the starting and ending dates of the season and indicate why the service would be provided on a seasonal basis.

5. SUPPORTING DOCUMENTATION

- a) Evidence of Canadian status is attached (see Appendix 3)
- b) A copy of an Air Operator Certificate (Canadian aviation document) valid for the service applied for
is attached **OR** will be forwarded upon receipt
- c) A Certificate of Insurance (see Attachment) valid for the service applied for
is attached **OR** will be forwarded upon receipt

8. UNDERTAKING

On behalf of the applicant, I/we undertake to the Agency that, in respect of the applied for air service, the applicant will not contravene section 59 of the *Canada Transportation Act* prior to the issuance of the applied for licence.

Signed at _____, on the _____ day of _____, _____
(place) (month) (year)

(Name and Title)

(Signature)

(Name and Title)

(Signature)

(Witness)

(Signature and date)

AFFIDAVIT

Re: Application by _____
(name of applicant)

for _____
(state licence(s) applied for or describe the amendment(s) to existing licence(s) applied for)

I, _____, of _____, make oath and say as follows:
(name of person signing affidavit) (name of City, Town, etc. and Province or Territory)

• I am _____ of _____
(proprietor, partner, authorized officer or director, as applicable) (full name of applicant)

and, as such, have knowledge of the matters deposed.

- I have read the information and documentation submitted for the licence application(s) referenced above and state that the information and documentation are, to the best of my knowledge, true, accurate and complete.
- Within the preceding twelve months, the applicant has not contravened section 59 of the *Canada Transportation Act* to the effect that no person has sold, caused to be sold or publicly offered for sale in Canada transportation in respect of the applied for air service without holding the required licence.

(date signed)

(signature of person signing affidavit)

Sworn before me at

(name of City, Town, etc. and Province or Territory)

on the _____ day of _____ .

(signature and official seal of commissioner witnessing the affidavit)

EVIDENCE OF BEING "CANADIAN"

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SECTION A: GENERAL INFORMATION

The information included in this section is intended to assist you in establishing, to the satisfaction of the Agency, that you are “Canadian”.

1) **DEFINITION OF “CANADIAN”**

For a licence to issue, you need, among other matters, to establish to the satisfaction of the Agency that you are Canadian as defined in section 55 of the Act. Section 55 of the Act defines "Canadian" as a Canadian citizen or a permanent resident within the meaning of the *Immigration Act*, a government in Canada or an agent of such a government or a corporation or other entity that is incorporated or formed under the laws of Canada or a province, that is controlled in fact by Canadians and of which at least seventy-five per cent, or such lesser percentage as the Governor in Council may by regulation specify, of the voting interests are owned and controlled by Canadians.

2) **CONTROL IN FACT**

The term “control in fact” is not defined in the Act or the ATR. Generally, control in fact can be viewed as the ongoing power or ability, whether exercised or not, to determine or decide the strategic decision-making activities of an enterprise. It can also be viewed as the ability to manage and run the day-to-day operations of an enterprise. Every control in fact review is unique and, when determining where control in fact lies, the Agency may need to examine, among other matters, all actual and proposed operational, managerial and financial matters relating to the applicant.

3) **CONFIDENTIALITY OF INFORMATION PROVIDED**

The Canadian ownership documentation which needs to be filed will contain financial and corporate information. For this reason, the documents will *not* be placed on the public record and will be treated on a confidential basis.

4) **POSSIBLE DELAY WHEN DETERMINING CANADIAN STATUS**

If you are required to meet prescribed financial requirements in order to obtain or reinstate the applied for licence, the Agency may not be able to finalize its review of your Canadian status until you have met such financial requirements. This is because the financial requirements may result in you needing to obtain funds, some of which may need to be in the form of capital stock. You can refer to section J of Part I of this guide to determine if you are subject to prescribed financial requirements.

5) ADDITIONAL INFORMATION

You are encouraged to file any additional information and documentation, over and above that requested in this guide, which relates in any way to your Canadian status. The Agency reserves the right to request additional information and documentation should such be required or should ambiguities need to be clarified.

6) PUBLIC TRADING OF SHARES OR FINANCIAL INSTRUMENTS

You should advise the Agency if you, or a shareholder which is a corporation (a “Corporate Shareholder”), lists or intends to list shares or financial instruments such as debentures, warrants and notes on a stock exchange or stock market.

It may be necessary to establish a voting share control and constraint system if you or a Corporate Shareholder lists or intends to list voting shares on a stock exchange or stock market. This share control and constraint system would need to ensure that:

- i) at least 75% of the voting interests are, at all times, owned and controlled on a beneficial basis by Canadians;
- ii) no more than 25% of the votes cast at shareholders’ meetings are cast by non-Canadians; and
- iii) procedures are in place which prohibit the trading of voting shares to non-Canadians once the beneficial ownership of such by non-Canadians approaches 25%.

Similar controls and constraints may also be necessary in the case of financial instruments which allow the holder to obtain voting shares.

If the above applies, you are encouraged to discuss these matters with Agency staff before the filing of your application or the listing of your shares or financial instruments on a stock exchange or stock market.

7) REQUIREMENT TO ADVISE AGENCY OF CHANGES TO CANADIAN STATUS

Subsection 82 (c) of the Act requires that, when licensed by the Agency, you notify the Agency without delay, in writing, if any change occurs that affects, or is likely to affect, your status as a Canadian. Changes which could affect your status as a Canadian may include, but would not be limited to, the listing of shares or financial instruments such as debentures, warrants and notes on Canadian or foreign stock exchanges or stock markets, capital stock issuances or transfers to non-Canadians, amendments to shareholders' agreements, financing arrangements or aircraft acquisition arrangements that are entered into with non-Canadian entities, including non-Canadian air carriers.

8) TRANSPORT CANADA'S POLICY CONCERNING AIR OPERATOR CERTIFICATES

For applicants that need to meet prescribed financial requirements as specified in the Air Transportation Regulations in order to obtain or reinstate a licence, the Agency has been advised that it is Transport Canada's position that it will normally not initiate work for the issuance, amendment or reinstatement of an Air Operator Certificate valid for the proposed service until such time as the Agency has ruled that the financial and Canadian ownership requirements have been complied with. Accordingly, in these cases, the Agency will conduct a financial requirement and Canadian ownership requirement review and issue compliance rulings as expeditiously as possible once the applicant has filed its application with the Agency. The applicant should be aware of this process as it plans for the initiation of proposed air services.

SECTION B: REQUIRED INFORMATION AND DOCUMENTATION

Information and documentation required from all applicants:

- 1) Will the aircraft that the applicant proposes to operate be retained at all times by the applicant ?:
Yes [] or No []

If no, provide complete details on their retention and use.

- 2) Disclose the amount of funds needed to finance proposed operations. Disclose the amount and nature of the funds (i.e. capital stock, proprietor's or partners' capital injections, shareholders' loans or third party debt) and from whom such funds have been or will be obtained. This information should be consistent with the other disclosures made in this guide.

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- 3) Describe the nature of existing or proposed relationships, if any, that the applicant has or will have with entities that are not Canadian, including non-Canadian air carriers and non-Canadian entities that are related to the travel industry, such as charterers. Provide a copy of all actual or proposed agreements that have been or are to be entered into with such parties. If no such relationships or agreements exist or are to exist, state that fact.

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Specific information and documentation required from:

PROVIDE INFORMATION AND DOCUMENTATION FOR

**1) PROPRIETORSHIP, 2) PARTNERSHIP OR 3) CORPORATION,
AS APPLICABLE.**

1) PROPRIETORSHIP

1.1 Full name of proprietor
Address of proprietor
.
Citizenship of proprietor

1.2 Firm name of Proprietorship
Address of Proprietorship
.

2) PARTNERSHIP

2.1 Name of partnership
Address of partnership
.

2.2 Identification of partners (all partners must be listed):

% of
ownership

Full Name

Address

.

Citizenship

Full Name

Address

.

Citizenship

Full Name

Address

.

Citizenship

Full Name

Address

.

Citizenship

2.3 Provide a copy of the partnership agreement which specifies the extent of participation by each partner.

3) CORPORATION

3.1 Name and location

Full name of corporation

Address of head office

.

3.2 Incorporation documents and amendments

Provide a copy of all incorporation documents which include the Certificate of Incorporation, Articles of Incorporation, Memoranda of Association or Letters Patent of Incorporation, as applicable, all corporate By-laws and all amendments to each incorporation document.

3.3 Officers (i.e. president, vice-president(s), treasurer, secretary, etc.)

3.3.1 Provide the following for each officer:

Name

Address

.

Title

Citizenship

Name
Address
.
Title
Citizenship

Name
Address
.
Title
Citizenship

Name
Address
.
Title
Citizenship

3.3.2 Provide a copy of the minutes of the meetings of the board of directors which disclose the appointment of the officers listed in 3.3.1.

3.4 **Directors** (list all members of the board of directors)

3.4.1 Provide the following for each director:

Name

Address

.

Citizenship

Name

Address

.

Citizenship

Name

Address

.

Citizenship

Name

Address

.

Citizenship

3.4.2 Provide a copy of the minutes of shareholders' meetings which disclose the appointment of the directors listed in 3.4.1.

3.5 **Total number of shares issued and outstanding per class of shares**

Class of shares

Total number of shares issued and outstanding of this class

Class of shares

Total number of shares issued and outstanding of this class

Class of shares

Total number of shares issued and outstanding of this class

3.6 **Shareholders** (provide information on “permanent” shareholders and *not* on individuals, such as legal representatives, who are shareholders solely for incorporation purposes)

3.6.1 Provide the following for each shareholder:

Name

Address

.

Citizenship

Class of	No. of	Total amount
shares held	shares held	paid per Class

Class of	No. of	Total amount
shares held	shares held	paid per Class

Name

Address

.....

Citizenship

Class of	No. of	Total amount
shares held	shares held	paid per Class

Class of	No. of	Total amount
shares held	shares held	paid per Class

Name

Address

.....

Citizenship

Class of	No. of	Total amount
shares held	shares held	paid per Class

Class of	No. of	Total amount
shares held	shares held	paid per Class

Name

Address

.....

Citizenship

Class of	No. of	Total amount
shares held	shares held	paid per Class

Class of	No. of	Total amount
shares held	shares held	paid per Class

Name

Address

.

Citizenship

Class of	No. of	Total amount
shares held	shares held	paid per Class

Class of	No. of	Total amount
shares held	shares held	paid per Class

3.6.2 Provide a copy of the current and updated shareholders’ register and a copy of the minutes of the meetings of shareholders or of the board of directors which disclose that the shares listed in 3.6.1 have been issued and fully paid.

IF ANY OF THE SHAREHOLDERS LISTED IN 3.6.1 ARE CORPORATIONS (A “CORPORATE SHAREHOLDER”), YOU SHOULD PROVIDE THE INFORMATION REQUESTED IN SECTIONS 3.3, 3.4, 3.5 AND 3.6 FOR EACH CORPORATESHAREHOLDER.

3.7 Shareholders’ agreements entered into between the applicant and its shareholders

Has the applicant entered into or will the applicant be entering into a shareholders’ agreement ?:

Yes [] or No []

If yes, provide a copy of the shareholders’ agreement that has been entered into or a final draft copy of the shareholders’ agreement that will be entered into.

3.8 Additional share issuances or transfers of existing shares of the applicant

SCHEDULE II

(Sections 10 and 15)

DECLARATION OF CONTINUANCE OF QUALIFICATIONS

(Name and address of licensee)

(Date)

To: The Secretary

Canadian Transportation Agency

Ottawa, Ontario

K1A 0N9

(Name of licensee), holder of Licence No. *(number of licence)* issued on *(date of issuance of licence)*, hereby declares that *(name of licensee)* continues to have the qualifications necessary for the issuance of the said licence, namely, that the licensee

- a) is
 - (i) a Canadian or exempt from this requirement under section 62 of the *Canada Transportation Act*,
 - (ii) pursuant to subsection 69(2) of that Act, eligible to hold a scheduled international licence, or
 - (iii) a non-Canadian and holder of a document issued by the government of the licensee's state or an agent thereof that, in respect of the service provided under the document, is equivalent to the non-scheduled international licence;
- b) holds a valid Canadian aviation document in respect of the service provided under the licence; and
- c) has liability insurance coverage in accordance with section 7 of the *Air Transportation Regulations* in respect of the service provided under the licence.

*(Signature, name and title
of authorized officer)*

Corporate Seal (if a corporation)