



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 1st Day of August, 2000

Applications of

AIR-SERV., INC. d/b/a AIRSERV

for certificates of public convenience and necessity
under 49 U.S.C. 41102 to engage in interstate and
foreign charter air transportation of persons,
property and mail

Served: August 1, 2000

Dockets OST-00-7231 - 7
OST-00-7232 - 11

**ORDER TO SHOW CAUSE
PROPOSING ISSUANCE OF CERTIFICATE AUTHORITY**

Summary

By this order, we tentatively find that Air-Serv., Inc. d/b/a AirServ (AirServ) is a citizen of the United States and is fit, willing, and able to provide interstate and foreign charter air transportation of persons, property and mail as a certificated air carrier using small (less than 30 seat) aircraft.

Background

Section 41102 of Title 49 of the United States Code (Transportation) (the "Statute") directs us to determine whether applicants for certificate authority to provide interstate and foreign charter air transportation are "fit, willing, and able" to perform such transportation, and to comply with the Statute and the regulations and requirements of the Department. In making fitness findings, the Department uses a three-part test that reconciles the Airline Deregulation Act's liberal entry policy with Congress' concern for operational safety and consumer protection. The three areas of inquiry that must be addressed in order to determine a company's fitness are whether the applicant (1) will have the managerial skills and technical ability to conduct the proposed operations; (2) will have access to financial resources sufficient to commence operations without posing an undue risk to consumers; and (3) will comply with the Statute and regulations imposed by Federal and State agencies. We must also find that the applicant is a U.S. citizen.

On April 11, 2000, AirServ filed applications in Dockets OST-00-7231 and OST-00-7232 for certificates to provide interstate and foreign charter air transportation of persons, property and

mail pursuant to 49 U.S.C. 41102. AirServ accompanied its applications with the information required by section 204.3 of our regulations.¹ It also requested that its certificates include the trade names "Indigo.L.L.C." and "NewWorldAir Holdings, Inc.," the names of its sister and parent companies, respectively.

No answers opposing AirServ's applications were filed and no special issues regarding the applicant have come to our attention. Under these circumstances, we propose to decide the issue of the applicant's fitness on the basis of the written record, and we tentatively conclude that AirServ is a U.S. citizen and is fit, willing, and able to operate its proposed interstate and foreign charter service. However, we will give interested persons an opportunity to show cause why we should not adopt as final the tentative findings and conclusions stated herein.

FITNESS

The Company

AirServ, an air taxi operator, was incorporated in 1962 under the laws of the State of Connecticut. It operated as a Hartford-based on-demand air carrier until 1998 when it was acquired by NewWorldAir Holdings, Inc. (NWAH) and moved to Chicago, which is now its headquarters and current base of operations. NWAH was incorporated in Delaware in March 1998. In addition to owning AirServ, NWAH owns Indigo, L.L.C., which was formed in Illinois in August 1999. Indigo intends to conduct operations as a Part 380 public charter operator with AirServ as the direct air carrier. Mr. Matthew Andersson, Chairman and CEO of NWAH, holds 76.3 percent of the voting common stock and 66.5 percent of the total equity of NWAH. At this time, Mr. Andersson is the only shareholder owning an interest of 10 percent or more.²

AirServ currently operates only on-demand charter service using one 8-seat Falcon 20 aircraft. Although AirServ has a Part 380 charter prospectus on file with the Department listing Indigo as the indirect air carrier, it has not as yet performed any such operations.³ Upon receiving effective certificate authority, AirServ plans to operate its public charter flights with Indigo offering business jet shuttle-type service initially from Chicago to New York (Teterboro) with subsequent service during the first year from Chicago to Minneapolis, Detroit to New York and Cleveland to New York. AirServ's plans call for the operation of three Falcon 20 aircraft during the first quarter of operations with two aircraft to be added during each of the succeeding three quarters for a total of nine aircraft by the end of the first year.

¹ Information supplementing AirServ's applications was filed on April 21, May 18, June 8 and June 30, 2000.

² American Express Travel Related Services Company, Inc. (AMEX Travel) holds a 6.1 percent equity interest in NWAH. While this investment is expected to increase, due to dilution from other equity investors, it is not expected to be greater than 10 percent.

³ AirServ indicated that, since it only holds authority to perform on-demand operations, it would be limited to operating only four round trips per week between any two points based on an interpretation of Part 298 by the Department's Office of Aviation Enforcement and Proceedings. AirServ/Indigo believes that it would not be economically feasible to conduct such limited operations and thus has chosen not to hold out or operate any public charter flights pending receipt of its certificate. See also footnote 9.

Managerial Competence

Mr. Matthew Andersson, NWAH's Chairman and CEO, holds these same positions with AirServ and also serves as CEO of Indigo. Mr. Andersson holds a Master of Business Administration degree from the University of Chicago and is a graduate of Embry-Riddle Aeronautical University. From 1979 to 1987, he held pilot and manager positions with various commercial aviation operations including: Air Ventures, Inc., Air Pouch, Ltd., Crown Airlines, Pilgrim Airlines and Priester Aviation Services. From 1988 to 1994, he held various positions with Ameritech Corporation, including Captain on its Falcon aircraft, project manager and corporate finance manager. From 1994 to 1996, he served as Executive Vice President with Aviation Resource Management, Inc./Jet Charter, Inc. From 1996 until forming NWAH in 1998, he was employed by Merrill Lynch & Co. in its Private Advisory Service.

Mr. John N. Fenton holds the position of President and Chief Operating Officer with NWAH, AirServ and Indigo. He also serves as Chief Pilot for AirServ. He holds a Master of Business Administration degree from Florida Metropolitan University and a Master of Aeronautical Science from Embry-Riddle University. He began his aviation career in September 1978 as a Chief Pilot and Check Airman with Flight Safety International. He subsequently served in similar positions with L.F. Rossignol Development Company, Communications Equity Associates, Inc., and Supertest Oil Company. Mr. Fenton joined AirServ in April 1999. He holds an Airline Transport Pilot certificate and has accumulated over 7,600 flight hours.

Mr. Dennis Brown serves as Vice President of Flight Operations and Director of Safety for AirServ and as Vice President of Operations for NWAH and Indigo. He began his aviation training at Parks College where he majored in Aerospace Engineering. He began his career as a flight instructor with Sparta Aviation in August 1975. From March 1976 until May 1983, he served as Captain with various companies including Thunderbird Trucking, Interstate Tire, Advance Capital, and Emerson Electric. Beginning in May 1983, he held the positions of Chief Pilot and Director of Flight Operations with Ameritech Corporation until joining AirServ in January 2000. Mr. Brown holds an FAA Airline Transport Pilot certificate and has accumulated over 10,500 flight hours.

Mr. Thomas Ciotti, AirServ's Director of Operations, began his aviation career in 1978 as a pilot for Air Ventures, a Part 135 operator. He subsequently served in the position of Director of Operations with various air carriers including Shoreline Aviation, Inc., Thermtran, Ltd., Aircraft Charter Group and Executive Air Fleet. Mr. Ciotti currently holds the position of Director of Operations with AirServ and Jet Charter, Inc. He also is President and owner of Aviation Resource Management, Inc.⁴ Mr. Ciotti holds an Airline Transport Pilot certificate and has accumulated over 8,500 flight hours. He also holds a Master of Business

⁴ The FAA is aware of Mr. Ciotti's outside positions and has approved him to serve as AirServ's Director of Operations. AirServ indicates that, as flight operations increase, Mr. Ciotti may need to transition to full-time employment or be replaced.

Administration degree in finance and a Bachelor of Science degree in Air Transportation Management.

Mr. George Biondic joined AirServ as its Director of Maintenance in April 2000. He has an Associate Degree in Aviation from Lewis University. He began his aviation career in 1971 as a mechanic and Chief of Maintenance with Swift and Company. Subsequently, he held maintenance-related positions with various FAA companies including Esmark, Inc., Beatrice Corporation and Ameritech. He holds an FAA Airframe and Powerplant Mechanic certificate.

In view of the experience and background of the applicant's key personnel, we tentatively conclude that AirServ has demonstrated that it has the management skills and technical ability to conduct its proposed service.⁵

Operating Proposal and Financial Condition

If granted the certificate authority it seeks, AirServ intends to initiate public charter operations using Indigo as the charter operator, in addition to conducting on-demand service. During the first year of certificated operations, AirServ intends to phase in additional Falcon 20 aircraft increasing its fleet from one to nine.

In support of its plans to undertake the proposed expansion, NWAH has entered into various investment and marketing agreements with AMEX Travel, a New York corporation, and a wholly-owned subsidiary of American Express. American Express is one of the world's largest travel agencies and charge card issuers. NWAH will utilize the marketing and other resources available at American Express and its related companies to promote the service offered by AirServ and Indigo.

AirServ submitted a consolidated balance sheet as of May 31, 2000, and an income statement for the period January 1, 2000, to May 31, 2000, for NWAH.⁶ As of May 31, 2000, NWAH had a current ratio of 1.76:1, working capital of \$677,000 and total stockholder's equity of \$275,000. For the five months ended May 31, 2000, NWAH incurred a net loss of \$1.38 million.⁷

Included in its application was an accounting of AirServ's expenses to be incurred prior to its commencement of certificated operations. Actual expenses for the five months ended May 31, 2000, were \$1.46 million. AirServ anticipates that it will incur additional expenses of

⁵ Before authorizing a carrier to conduct air transportation operations, the FAA also evaluates certain of the carrier's key personnel with respect to the minimum qualifications for those positions as prescribed in the Federal Aviation Regulations. The FAA's evaluation of these key personnel provides an added practical and in-person test of the skills and technical ability of these individuals.

⁶ The income statement includes revenue from on-demand charter operations performed by AirServ and interest income. As indicated above, Indigo has conducted no public charter operations and thus had no associated revenues. NWAH is a holding company and conducts no operations independent of AirServ and Indigo.

⁷ This loss represents primarily pre-certification expenses. The only revenue was from interest income and \$82,000 from on-demand operations.

approximately \$800,000 from June 1 to the inauguration of certificated operations for total costs of approximately \$2.3 million. In addition, AirServ projects that it will incur \$19.1 million in total operating expenses for its first year of certificated operations. Thus, in order to meet the Department's financial fitness criteria, AirServ will need access to approximately \$7.1 million.⁸

AirServ's capital requirements will be satisfied by an equity infusion of \$8 million provided by AMEX Travel for operating expenses. In addition, AMEX Travel will support the acquisition of an additional five aircraft through an operating lease credit facility. The carrier provided evidence that \$2 million of the \$8 million had been received and verification that the remaining \$6 million will be invested in the carrier in several stages. The carrier further states that it anticipates other equity investments from institutional and/or individual sources over the next several months through NWAH's private placement efforts.

Based on our review of this information, we tentatively conclude that AirServ's financial plan, if carried out, will provide sufficient financial resources to enable it to commence its proposed charter passenger operations without posing an undue risk to consumers or their funds.

Compliance Disposition

The applicant states that there have been no formal complaints filed against it, or orders issued finding it, its owners, its affiliates, or its key personnel in violation of the Statute; nor have any charges of unfair, deceptive or anticompetitive business practices, or of fraud, felony or antitrust violations been brought against them. AirServ further states that there are no actions or outstanding judgments filed against it, its owners, its affiliates, or its key personnel.⁹

⁸ To meet the Department's financial fitness criteria, an applicant should have access to financial resources sufficient to cover its pre-operating expenses and the expenses that are reasonably projected to be incurred during three months of normal certificated operations. Because projected operations during the first several months of air transportation services frequently do not include all costs that will be incurred during a "normal" period of operations, it is our practice to base our three-month test on one-quarter of the first year's operating cost forecast. Projected revenues may not be used to offset any of this amount. In AirServ's case, three months of operating expenses equal \$4.78 million plus the \$2.3 million in expenses incurred prior to its commencement of certificated operations equals \$7.1 million.

⁹ Prior to filing this application, NWAH, AirServ and Indigo engaged in a series of communications with the Department's Office of Aviation Enforcement and Proceedings (AEP) regarding the scope of AirServ's present and future DOT authority. AEP advised AirServ that neither AirServ nor any other Part 298 air taxi may operate on behalf of any public charter operator more than four round-trip flights per week between any two points unless the air taxi has undergone a fitness determination. AirServ states that it believes that AEP's reading of Part 298's restrictions in this respect is overly broad, but acknowledges that it is complying voluntarily with AEP's position. In addition, the Enforcement Office wrote to Mr. Ciotti as President of Aviation Resources Management, Inc., regarding that company's listing on web sites offering charter service as a "charter operator," affiliated with Jet Charter, Inc., when the former company held no Part 298 authority in its own right. That issue was remedied when Jet Charter, Inc., amended its Part 298 registration so that it could properly do business as Aviation Resource Management.

We examined the Department's records and have found that during the past ten years, AirServ has been the subject of four enforcement cases two of which were closed with no action, one with a warning letter and one with a letter of correction. Our records also indicate that since an incident in 1992 under its prior ownership, the carrier has not been involved in any accidents or incidents.

The FAA states it knows of no reason why the Department should not find AirServ fit for its proposed operation.

In light of the foregoing, we tentatively conclude that AirServ will have the proper regard for the laws and regulations governing its service to ensure that its aircraft and personnel conform to applicable safety standards and that acceptable consumer relations practices are followed.

CITIZENSHIP

The Statute requires that authority to engage in air transportation operations be held only by citizens of the United States as defined in 49 U.S.C. 40102(a)(15). That section specifies that the president and two-thirds of the board of directors and other managing officers be U.S. citizens and that at least 75 percent of the outstanding voting stock be owned by U.S. citizens. We have also interpreted the Statute to require that, as a factual matter, the carrier must actually be controlled by U.S. citizens.

As noted above, 76.3 percent of AirServ's voting stock is currently held by Mr. Andersson, who is a U.S. citizen. AMEX Travel, which owns 6.1 percent, indicates that, while its common stock is publicly traded and changes hands frequently, it has concluded that it is a U.S. citizen within the meaning of 49 U.S.C 40102(a)(15). The remainder of the stock is held by individuals or entities holding less than 10 percent ownership. AirServ affirmed that each of its key management and operations personnel is a U.S. citizen and provided an affidavit attesting that it is a U.S. citizen within the meaning of 49 U.S.C 40102(a)(15). Moreover, there is nothing in the record that would lead us to conclude that AirServ is controlled by non-U.S. citizens.

In view of the foregoing, we tentatively conclude that AirServ is a citizen of the United States and that it is fit, willing, and able to provide the interstate and foreign charter passenger operations it proposes as a certificated air carrier.

PUBLIC CONVENIENCE AND NECESSITY

No finding of consistency with the public convenience and necessity is required for the award of authority for interstate charter air transportation of persons, property and mail under section 41102, although such a finding is required for authority to engage in foreign charter air transportation. We tentatively find that the foreign charter air transportation proposed by AirServ is consistent with the public convenience and necessity. By Order 78-7-106, which instituted the *Former Large Irregular Air Service Investigation*, the Civil Aeronautics Board found that there was a continuing demand and need for additional charter air carriers. These findings remain valid and apply to the authority sought by AirServ. Therefore, if AirServ

meets the fitness requirements of the Statute, it will receive certificates authorizing it to engage in interstate and foreign charter air transportation of persons, property and mail under section 41102.¹⁰

OBJECTIONS

We will give interested persons 7 days following the service date of this order to show cause why the tentative findings and conclusions made here should not be made final; answers to objections will be due within 5 days thereafter. We expect such persons to direct their objections, if any, to the applications and points at issue and to support such objections with detailed economic analyses. If an oral evidentiary hearing or discovery procedures are requested, the objector should state in detail why such a hearing or discovery is considered necessary, and what material issues of decisional fact the objector would expect to establish through a hearing or discovery that cannot be established in written pleadings. The objector should consider whether discovery procedures alone would be sufficient to resolve material issues of decisional fact. If so, the type of procedure should be specified (See Part 302, Rules 19 and 20); if not, the reasons why not should be explained. We will not entertain general, vague, or unsupported objections. If no substantive objections are filed, we will enter an order making final our tentative findings and conclusions with respect to AirServ's fitness and certification.

CERTIFICATE CONDITIONS AND LIMITATIONS

AirServ currently holds the necessary FAA authority to provide its proposed service and has submitted evidence that it has the appropriate insurance coverage meeting the requirements of section 205.5(b) of our rules. Also, the carrier appears to have access to sufficient funds to cover any remaining costs incurred prior to the start of certificated operations and expenses that are reasonably projected to be incurred during three months of normal certificated operations. Thus, if we finalize our tentative findings with respect to AirServ's fitness, we will issue it effective authority in the final orders.

We note that our finding of fitness for AirServ is based on the operating plans described in its application, namely, the use of small aircraft. Were the applicant to propose to expand its operations to include larger aircraft, our fitness findings, particularly those regarding the adequacy of its financial resources, might no longer apply.¹¹ Therefore, we propose to limit any authority issued to AirServ to operations with aircraft having a maximum passenger capacity of not more than 30 seats. Should AirServ subsequently desire to operate larger aircraft, it must first be determined fit for such operations.

Furthermore, we remind AirServ of the requirements of 49 U.S.C. 41110(e). Specifically,

¹⁰ Pursuant to 49 U.S.C. 41307, issuance of foreign authority to AirServ is subject to Presidential review.

¹¹ In this regard, we note that the operation of charter passenger operations with aircraft having a seating capacity of 30 or more would require the carrier to transition from Part 135 to Part 121 of the Federal Aviation Regulations, a step which may require the applicant to obtain additional management personnel and/or incur additional financial outlays.

that section requires that, once a carrier is found fit initially, it must remain fit in order to hold its authority. Thus, should AirServ propose other substantial changes in its ownership, management, or operations, it must first comply with the requirements of section 204.5 of our rules.¹² The compliance of the carrier with this requirement is essential if we are to carry out our responsibilities under section 41110(e).¹³

Finally, to aid the Department in monitoring the fitness of new carriers, we have decided to impose a special reporting requirement on all start-up carriers. Specifically, within 45 days of the end of AirServ's first year of certificated operations, it should submit to the Air Carrier Fitness Division a first year progress report. The report should include a description of the carrier's current operations (number and type of aircraft, principal markets served, total number of full-time and part-time employees), a summary of how these operations have changed during the year, a discussion of any changes it anticipates from its current operations during its second year, current financial statements,¹⁴ and a listing of current senior management and key technical personnel. The carrier should also be prepared to meet with staff members of the Fitness Division to discuss its current and future operations.

REQUEST FOR CONFIDENTIAL TREATMENT

On April 11, 2000, AirServ filed a motion under section 302.12 of the Department's regulations requesting confidential treatment of (1) an investor's letter to the Department referenced in AirServ's application and (2) the information redacted from Exhibits AS-8 (narrative service proposal) and AS-9 (financing plan). On April 21, AirServ filed Supplement No. 1 to its application along with a motion to withhold from disclosure Exhibits AS-14 (investment term sheet) and AS-15 (marketing agreement). On May 18, AirServ filed Supplement No. 2. Included in that filing were Exhibits AS-16 (stock purchase agreement) and AS-17 (marketing agreement) and unredacted copies of Exhibits AS-8 and AS-9.¹⁵ On

¹² AirServ may contact our Air Carrier Fitness Division to report proposed substantial changes in its operations, ownership or management, and to determine what additional information, if any, will be required under section 204.5. Moreover, by notice dated July 21, 1998, the Department requested air carriers to provide a 30-day advance notification of any proposed change in ownership, restructuring, or recapitalization. If the carrier fails to file the information or if the information fails to demonstrate that the carrier will continue to be fit upon implementation of the substantial change, the Department may take such action as is appropriate, including enforcement action or steps to modify, suspend, or revoke the carrier's certificate authority.

¹³ We also remind AirServ about the requirements of section 204.7 of our rules. This section provides, among other things, that (1) the certificate authority granted to a company shall be revoked if the company does not commence actual flying operations under that authority within one year of the date of the Department's determination of its fitness; (2) if the company commences operations for which it was found fit and subsequently ceases such operations, it may not resume certificated operations unless its fitness has been redetermined; and (3) if the company does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

¹⁴ These financial statements should include a balance sheet as of the end of the company's first full year of actual flight operations and a twelve month income statement ending that same date.

¹⁵ Since all documents in Exhibits 8 and 9 have been made public, the motion for confidential treatment of those exhibits is moot.

June 30, AirServ filed Supplement No. 4, which included responses to an additional information request and Exhibit AS-27.¹⁶

Rule 12 instructs us to evaluate requests for confidential treatment in accordance with the standards of disclosure found in the Freedom of Information Act (5 U.S.C. section §52). Information may be withheld from disclosure under 5 U.S.C. section 552(b)(4) if it is (1) commercial or financial, (2) obtained from a person outside of government, and (3) privileged or confidential. [See *Gulf and Western Industries, Inc. v. United States*, 615 F.2d 527, 529 (D.C. Cir 1979)]

There is no question that the information for which confidential treatment is sought is financial or commercial in nature and that it was obtained from a person outside the government. The remaining question is whether the information is privileged or confidential--whether "disclosure of the information is likely to have either of the following effects: (1) impair the Government's ability to obtain necessary information; or (2) cause substantial harm to the competitive position of the person from whom the information was obtained." [See *National Parks and Conservation Association v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974)] Further, to be privileged or confidential, the information must not be the type that is usually released to the public. [See *Gulf and Western Industries, Inc. v. United States*, 615 F.2d 527, 530 (D.C. Cir. 1979)]

We have decided to grant confidential treatment to Exhibits AS-14, 15, 16, 17 and 27. We agree with AirServ that disclosure of investment and marketing agreements could lead to a disincentive to investors or marketing partners. These documents are similar to those for which we have granted confidential treatment in the past and contain information that, if released, could cause harm to the competitive position of the applicant.

ACCORDINGLY,

1. We direct all interested persons to show cause why we should not issue orders making final the tentative findings and conclusions stated above and award certificates to Air-Serv., Inc. d/b/a AirServ, d/b/a Indigo L.L.C., and d/b/a NewWorldAir Holdings, Inc., authorizing it to engage in interstate and foreign charter air transportation of persons, property and mail, subject to the attached specimen Terms, Conditions, and Limitations.

2. We direct any interested persons having objections to the issuance of orders making final any of the proposed findings, conclusions, or the certificate awards set forth here to file such objections with the Department of Transportation Dockets, 400 7th Street, S.W., PL401, Washington, D.C. 20590, in Dockets OST-00-7231 and OST-00-7232 and serve them upon all persons listed in Attachment A no later than 7 days after the service date of this order; answers to objections shall be filed no later than 5 days thereafter.

¹⁶ The response included Part 1 and Part 2. Part 2 involved issues for which AirServ had requested confidential treatment. Exhibit AS-27 is a list of voting and non-voting stockholders owning less than 10 percent for which confidential treatment is requested.

3. If timely and properly supported objections are filed, we will accord full consideration to the matters or issues raised by the objections before we take further action.¹⁷
4. In the event that no objections are filed, we will consider all further procedural steps to be waived and we will enter orders making final our tentative findings and conclusions.
5. We grant the requests of Air-Serv., Inc., to withhold from public disclosure information submitted pursuant to Rule 12 on April 21, 2000 (Exhibits AS-14 and AS-15), May 18, 2000 (Exhibits AS-16 and AS-17) and June 30, 2000 (Exhibit AS-27).
6. We dismiss, as moot, the request of Air-Serv., Inc., to withhold from public disclosure information submitted pursuant to Rule 12 on April 11, 2000 (Exhibits AS-8 and AS-9).
7. We will serve a copy of this order on the persons listed in Attachment A.
8. We will publish a notice of this order in the Federal Register.

By:

A. BRADLEY MIMS
Acting Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this document is available on the World Wide Web at
http://dms.dot.gov/reports/reports_aviation.asp*

¹⁷ Since we have provided for the filing of objections to this order, we will not entertain petitions for reconsideration.



Specimen

Terms, Conditions, and Limitations

**AIR-SERV., INC. d/b/a AIRSERV
d/b/a INDIGO, L.L.C.
d/b/a NEWWORLDAIR HOLDINGS, INC.**

is authorized to engage in interstate charter air transportation of persons, property, and mail between any point in any State, territory, or possession of the United States or the District of Columbia, and any other point in any of those entities.

This authority is subject to the following provisions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.*
- (2) The holder's authority under this certificate is effective only to the extent that such operations are also authorized by the Federal Aviation Administration.*
- (3) The holder may not operate aircraft designed to have a maximum passenger capacity of more than thirty (30) seats. In the event that the holder wishes to institute operations with aircraft having a larger capacity, it must first be determined fit for such operations.*
- (4) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).*
- (5) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this certificate.*
- (6) The holder is not authorized to engage in air transportation between points within the State of Alaska.*

(7) *Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(l)), it must first comply with the requirements of 14 CFR 204.5.*

(8) *In the event that the holder commences but subsequently ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.*



Specimen

Terms, Conditions, and Limitations

**AIR-SERV., INC. d/b/a AIRSERV
d/b/a INDIGO, L.L.C.
d/b/a NEWWORLDAIR HOLDINGS, INC.**

is authorized to engage in foreign charter air transportation of persons, property, and mail:

Between any place in the United States and any place outside thereof.

This authority is subject to the following provisions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.*
- (2) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any orders of the Department of Transportation issued under them or for the purpose of requiring compliance with them.*
- (3) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.*
- (4) The holder's authority under this certificate is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA), and comply with all FAA requirements concerning security.*
- (5) The holder may not operate aircraft designed to have a maximum passenger capacity of more than thirty (30) seats. In the event that the holder wishes to institute operations with aircraft having a larger capacity, it must first be determined fit for such operations.*
- (6) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).*

(7) *The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this certificate.*

(8) *Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(l)), it must first comply with the requirements of 14 CFR 204.5.*

(9) *In the event that the holder commences but subsequently ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.*

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