

MEMORANDUM OF UNDERSTANDING
BETWEEN THE FEDERAL GOVERNMENT OF AUSTRIA
AND THE UNITED NATIONS

This Memorandum of Understanding (“MOU”) is made by and between the Federal Government of Austria (the “Government”) and the United Nations (the “UN”).

WHEREAS, the Government has offered to provide air transportation services to the UN in support of the UN/OPCW Joint Mission, which consists of a UN Component and a OPCW Component regarding the elimination of chemical weapons programme of the Syrian Arab Republic (“Joint Mission”), in accordance with the terms and conditions set out herein and the UN has accepted that offer.

NOW THEREFORE, the Government and the UN (collectively, the “Parties”) agree as follows:

1. The Government shall provide the air transportation services utilizing any one (1) C-130 Hercules aircraft with the following with registration numbers: 8TCA, 8TCB or 8TCC (the “Aircraft”) and up to a total of fourteen (14) crew, air movement, medical and liaison officers for the on call use of the Joint Mission as more specifically described in Annex A hereof (the “Services”). The Aircraft shall be made available from 1 January 2014 until 30 June to the Joint Mission on an on-call basis at 48 hours’ notice. The provision of the Aircraft in support of the Joint Mission includes mobilization and demobilization, positioning and depositioning, operating and maintenance and the salary and daily allowance for the Aircraft crew and support staff, except for the personnel subsistence provided by the UN in accordance with paragraph 9(b) below.

2. The Services shall consist of a maximum of sixty (60) hours of flight time by the Aircraft per month period during the periods indicated above. For purposes of this MOU, flight time means the total time from the moment Aircraft first moves under its own power for the purpose of taking off for a flight tasked by the UN until it comes to rest at the end of such flight. The services may include, but are not limited to, administration and logistics support flights, transport of cargo and passengers, members of the Joint Mission, and non-UN personnel, resupply, VIP transport, and emergency medical transport (with augmented CASEVAC and MEDEVAC capabilities required) between Cyprus and Beirut, Lebanon, and other possible routes, as agreed by the UN and the Government. The Parties agree that the Aircraft shall not transport any chemical, biological or nuclear weapons or materials.

3. The Parties agree that the terms and conditions of this MOU shall apply to those Services tasked by the UN. The Government shall comply with all laws, ordinances, rules and regulations, including applicable national and international air navigation laws, regulations and rules, such as the Convention on International Civil Aviation, bearing upon the performance of Services in accordance with this MOU.

4. The Government shall ensure that, in accordance with all applicable national and international air navigation laws, regulations and rules, including the Convention on International Civil Aviation:

a) The Aircraft shall be properly manned, equipped, operated, inspected, fueled, maintained and serviced, in a fully safe and operative condition and shall be completely airworthy during the entire term of the MOU;

b) The flight crew and maintenance and other personnel shall be medically fit, qualified, competent and fully licensed to perform the air transportation and related services. The flight crew shall contain at least one pilot who is fully fluent in English. Without prejudice to the above, the UN reserves the right to review and inspect documentation relating to the experience level and current medical status of all crew members, including the pilot, co-pilot, engineer and loadmaster, and maintenance personnel;

c) All necessary certificates, licenses and authorizations by appropriate governmental authorities have been obtained and all such certificates, licenses and authorizations shall be maintained in good standing for the duration of this MOU. Without prejudice to the above, the UN reserves the right to review and inspect all such certificates, licenses and authorizations;

d) The Aircraft shall be fit for the purposes for which it is being used and shall be safe and certified for passenger, cargo and passenger/cargo combination air transportation in the designated areas of operations under this MOU.

5. The Austrian Aircraft crew and support personnel providing services for the Joint Mission outside of the Republic of Austria shall enjoy the status of experts on missions for the UN and shall accordingly enjoy the privileges and immunities outlined in Articles VI and VII of the Convention on the Privileges and Immunities of the United Nations, as well as under the Tripartite Agreement between the United Nations and Cyprus and under the transit arrangements concluded by the United Nations with Lebanon.

6. a) The Government shall bear the risk of loss or damage to the body and parts of the Aircraft and shall be responsible for any claims by its crew, its support personnel and its other support personnel who are not members of the Joint Mission arising from the performance of

Services hereunder. The Government may meet its responsibility through insurance or self-insurance.

b) The Government shall reimburse the UN for loss of or damage to UN-owned equipment and property caused by the crew and other support personnel referred to in paragraph 6(a) above, or any personnel or equipment provided by the Government if such loss or damage (a) occurs outside of the performance of Services or any other activity or operation under this MOU, or (b) arises or results from gross negligence or willful misconduct of any the crew and other support personnel referred to in paragraph 6(a) above or from the acts or omissions of any additional personnel provided by the Government.

c) The Government shall indemnify, hold harmless, and defend the UN against any suits, claims and liability of any kind or nature arising out of or relating to the performance of the Services under this MOU. The Government may meet its responsibilities through insurance or self-insurance.

7. The Aircraft shall operate on an on-call basis. Its main operational base (MOB) shall be LINZ/HÖRSCHING, Austria. The aircraft will be tasked by relevant Austrian authorities, based on an explicit request from the Chief of Mission Support of the Joint Mission, or his/her designate.

8. The Government shall be solely responsible for the safety and airworthiness of the Aircraft and the operation of the Aircraft. The Government shall be solely responsible for the crew and the Aircraft and shall ensure compliance with the representations set forth in paragraph 4 of this MOU.

9. (a) Except as provided in (b) below, the UN shall not pay any amounts to the Government.

(b) The financial responsibility of the UN under this MOU shall be limited to reimbursing the Government personnel subsistence, the reasonable, actual cost for fuel consumed by the UN in tasking the Services, and airport services, if any, incurred while providing services under this MOU, excluding taxes from which the UN is exempt under Section 7 of the Convention on the Privileges and Immunities of the United Nations, provided, however, that the UN will not claim exemption from taxes which are no more than charges for public utility services.

10. The Government shall be responsible for obtaining authorizations and other documents necessary for the performance of the Services under this MOU from relevant governmental authorities.

The UN will use best efforts to assist the Government in obtaining relevant flight clearances and access to Cyprus and Lebanon. The UN may, in its sole discretion, deem appropriate, to liaise with other appropriate authorities where and when they may exist.

11. The flights under this MOU shall conform to a flight schedule tasked by the UN. The flight schedule will specify the dates and times of departure, originating airports, routes, appropriate UN call signs, number of passengers, the type (e.g. hazardous materials), estimated volume and total weight of cargo and estimated time of arrival. The Government shall promptly notify the UN of any delay or cancellation of a flight, including if the pilot in command determines that to fly would in the circumstances endanger the safety of the passengers, Aircraft or its crew.

12. The UN shall have the right, but not the obligation, to inspect the Aircraft, and any document pertaining thereto, at any time, including upon arrival of the Aircraft at the operating bases.

13. This MOU may be terminated by either the Government or the UN for convenience, providing fifteen (15) days prior notice in writing. Either Party may terminate this MOU for cause upon seven (7) days written notice to the other Party. The UN may also terminate this MOU at any time for convenience in the interest of the Organization should the mandate of the Joint Mission or funding be curtailed or terminated.

14. The Government shall not assign, transfer, pledge or make other disposition of any of its rights, claims or obligations under this MOU, except with the prior written agreement of the UN. The Government agrees that it shall not sub-contract the Services except as may otherwise be agreed to in writing between the UN and the Government. The Parties expressly acknowledge and agree that any approval by the UN of a request by the Government for the use of a sub-contractor shall not relieve the Government of any of its obligations under this MOU.

15. In the event of any accidents or incidents involving the Aircraft, the Government shall immediately report such accidents or incidents to the UN and all appropriate governmental authorities, and shall protect and preserve all evidence in connection with the accidents or incidents. In addition, the Government shall cooperate with all investigations into the accidents or incidents which may be instituted by the UN and/or governmental authorities, including the preparation of reports.

16. No changes in, or modifications to, this MOU shall be made except by mutual agreement, in writing, between the Government and the UN.

17. The Parties recall that Section 7 of the Convention on the Privileges and Immunities of the United Nations exempts the UN from direct taxes and duties other than taxes and duties that are no more than charges for public utilities services.

18. The UN will establish a mechanism to discuss and resolve amicably by negotiation in the spirit of cooperation disputes arising under this MOU. In the event that a dispute arises, the Under-Secretary-General for Field Support will institute discussions and consultations with representatives of the Government with a view to reaching an amicable resolution of the dispute. Disputes that have not been resolved through consultations or discussions, as described above, may be submitted to arbitration at the request of either Party. Each Party will appoint one arbitrator, and the two arbitrators so appointed will appoint a third, who will be the Chairman. If within thirty (30) days of the request for arbitration either Party has not appointed an arbitrator, or if within thirty (30) days of the appointment of two arbitrators the third arbitrator has not been appointed, either Party may request the President of the International Court of Justice to appoint an arbitrator. The arbitrators will fix procedures for the arbitration, and each Party will bear its own expenses. The arbitrators will have no authority to award punitive damages. The arbitral award will contain a statement of reasons on which it is based and will be accepted by the Parties as the final adjudication of the dispute.

19. In the event of and as soon as possible after the occurrence of any event constituting force majeure, the Government shall immediately give notice and full particulars in writing to the UN of each event if the Government is thereby rendered unable, wholly or in part, to perform its obligations and meets its responsibilities under this MOU.

20. The present MOU shall become effective upon the signature of the Parties. It shall enter into force on the first day of the month following the day on which the Government has informed the United Nations of the fulfillment of the legal requirements for the entry into force.

For the Federal Government of Austria:

For the United Nations:

Andreas Riecken

Ameerah Haq

Deputy Permanent Representative,
Permanent Mission of Austria to the United
Nations in New York

Under-Secretary-General for Field Support

Date: 23 December 2013

Date: 30 December 2013

ANNEX A:**DESCRIPTION OF AIR TRANSPORTATION SERVICES****REFERENCE: C-130K AIRCRAFT****I GENERAL INFORMATION****1. Operative Position**

1.1 One (1) C-130K Aircraft to be used for flights between Cyprus and Lebanon (Beirut), and other possible routes as agreed by the UN and the Government. The Aircraft shall be available on an on-call basis, on 48 hours' notice. The Aircraft shall be based in LINZ/HÖRSCHING, Austria, and deploy to Cyprus and Lebanon or other destinations as mutually agreed. Aircraft **must** be certified as airworthy as per relevant ICAO Annexes, and fully meet the specifications set out hereunder:

2. Aircraft call signs:

2.1 The United Nations will, if required, assign to the Government of the Aircraft appropriate UN call signs which the Government may use only for self-deployment and redeployment of the Aircraft to and from the mission area. In addition the UN will, together with the flight schedule, assign to the Government appropriate UN call signs which the Government may use only for flights which have been tasked by the UN. In both of the above-mentioned instances, the Government may only use the UN call sign together with its own ICAO designator in order to ensure the proper identity of the Aircraft and Government. In this connection, the Government must always identify itself and the Aircraft in all communications with airports and in-flight agencies. The Government's flight plan may also only include the UN call sign together with the Government's ICAO designator and the Aircraft registration mark. The UN call sign cannot, under any circumstances, be used as a substitute for the Government's own ICAO designator.

3. Aircraft Painting and Markings:

3.1 The Government is not required to paint the Aircraft in United Nations livery (white) nor affix "UN" markings to the Aircraft. If the Government chooses to mark the Aircraft, it will apply these professionally and uniformly. The Government may only use such marked Aircraft for flights, which have been tasked by the United Nations.

4. Aircraft Specifications and Configurations:

4.1 The Aircraft shall, inter alia, be capable of the following configurations:

- a) Cargo: for internal cargo complete with proper cargo straps and tie-downs for a maximum of 14,000 kg, and dimension of length 7.65m, width 2.90m, height 2.35 m
- b) Passenger: removable paratrooper seats for up to 60 passengers complete with 8G rated seat belts for each seat.
- c) CASEVAC/MEDEVAC: for Casevac/Medevac missions augmentation required.

- d) Flight Instruments: National instrumentation necessary/required for IFR/Night conditions (no NVG).
- e) Fully operational in tropical climates and dust conditions.
- f) No capability of self-defense by missile warning receiver.
- g) Accept standard size pallets (HCU).
- h) Able to operate from Main Operations Base (MOB).
- i) Capability for 24/7 response.
- j) Able to operate night and day (no NVG).

4.2 In addition to the above, the Aircraft shall include the following minimum equipment:

- a) Global Positioning System (GPS);
- b) Automatic Direction Finding (ADF) equipment capable to guide aircraft to Emergency Locator Transmitters (UHF-DF 243 MHz);
- c) Dual VHF/AM (118.00-135.975 MHz);
- d) Dual HF communications equipment (2 - 30 MHz);
- e) 1 UHF FM military frequency (no duplication);
- f) TCAS;
- g) Automatic Emergency Locator Transmitter (ELT) 406 MHz;
- h) Transponder;
- i) Weather Radar;
- j) Passenger Briefing Cards in English; pre-briefing by loadmaster in English
- k) Posted No-Smoking signs prohibiting smoking on the aircraft in English;
- l) Fire extinguishers and first aid kits;
- m) Survival kits appropriate to the mission area;
- n) Radar Altimeter;
- o) ILS/VOR, DME, ADF;
- p) Tracking System; manual flight watch
- q) A flotation device (life jacket) for each passenger when conducting flights over water;
- r) Tow bar (1);
- s) Cargo nets and straps;
- t) Satellite phone;
- u) Auto-pilot.

5. Personnel Requirements:

Due to the sensitive nature of UN flights, the flight crews will possess the following minimum qualifications:

- a) The Aircraft Captain for any sortie tasked by the UN will have a minimum of 1500 total flight hours, with a minimum of 500 actual flight hours in the aircraft. In addition, the PIC will have a minimum of 75 actual instrument flight hours and 50 actual night flight hours.
- b) The Co-Pilot will have a minimum of 200 actual flight hours in the aircraft, and will be Instrument rated.

6. Flight Time

A maximum of sixty (60) hours of flight time per month. There shall be no expectation of a minimum number of hours of use.

7. To be provided by United Nations:

The United Nations will provide the Government such facilities as are necessary for the performance of services hereunder, as agreed by the Parties and set out below:

- a) Office space.
- b) Vehicle for ground transportation of crew members on Cyprus and in Lebanon.

III OTHER INFORMATION**Aircraft Description:**

- a. Type of Aircraft: C-130K
- b. Year of Manufacture: 1966/1967
- c. Maximum available seating: 80 pax, for MEDEVAC: 30 stretchers + 26 pax, standard configuration 60 pax incl. hand luggage (60 x 25 x 30 cm) + 1 HCU
- d. Minimum payload capacity: NIL
- e. Maximum payload: 18 tons (for 1 hr flight, 18 tons, 4 hrs flight, 14 tons)
- f. Aircraft Registration: 8TCA, 8TCB or 8TCC
- g. Country of registration: Austria
- h. Nationality of Crew: Austrian
- i. Airworthiness certified by the Austrian Ministry of Defence and Sports

Points of Contact (POC) for UN tasked flight schedule:**Austria:**

Austrian Ministry of Defence and Sports:
Joint Forces Command / Duty Officer Air
Schwarzenberg Barracks
5071 WALS-SIEZENHEIM
Tel.: +43/ (0) 50 201-80-23015
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