

Kazakhstan  
Perm φ

June 20, 2006

**Agreement  
between  
the Government of the Republic of Kazakhstan  
and  
Federal Express Corporation  
concerning  
international cargo air transportation**

This Agreement is made and entered into force this 20 day of June, 2006, by and between the Government of the Republic of Kazakhstan, and Federal Express Corporation, a corporation organized and existing under the laws of the State of Delaware, United States of America, and with its principal place of business in Memphis, Tennessee, United States of America (hereinafter - "FedEx Express").

Whereas the Government of the Republic of Kazakhstan, recognizing the economic benefits inherent in an expansion of air transportation between its territory and the territory of other countries of the world, desires to attract "FedEx Express" to carry out scheduled cargo air transportation to, from, and via a point or points in the Republic of Kazakhstan; and

whereas "FedEx Express" desires to carry out scheduled cargo air transportation to, from, and via a point or points in the Republic of Kazakhstan;

now, therefore, in consideration of the provisions contained in this Agreement the Government of the Republic of Kazakhstan and "FedEx Express" (hereinafter - the Parties) hereby agree as follows.

**Article 1  
Definitions**

For the purposes of this Agreement, unless otherwise stated, the terms, used herein, shall have the following meaning:

1. "Aeronautical authorities" means the Civil Aviation Committee of the Ministry of Transport and Communications of the Republic of Kazakhstan;

2. "Agreement" means this Agreement and any amendments thereto;

3. "Air transportation" means the public carriage by aircraft of cargo and mail, separately or in combination, for remuneration or hire;

4. "Convention" means the Convention on International Civil Aviation, opened for signature at Chicago on December 7, 1944, and includes:

1) any amendment that has entered into force under Article 94(a) of the Convention and has been ratified by both the Parliament of the Republic of Kazakhstan and the Government of the United States of America, and

2) any Annex or any amendment thereto adopted under Article 90 of the Convention, insofar as such Annex or amendment is at any given time effective for both the Government of the Republic of Kazakhstan and the Government of the United States of America;

5. "International cargo air transportation" means cargo air transportation, during the course of which the points of departure and the points of destination, notwithstanding a delay in transportation or in reloading are:

1) in the territory of two different States; or

2) in the territory of one State, if a stop is foreseen in the territory of another State;

6. "Price" means any rate or charge for the carriage of cargo or mail in air transportation charged by "FedEx Express", including its representatives, and the conditions governing the availability of such rates or charges;

7. "Stop for non-traffic purposes" means a landing for any purpose other than taking on or discharging cargo and/or mail in air transportation;

8. "Stop for traffic purposes" means a landing for the purpose of taking on or discharging cargo and/or mail in air transportation.

9. "Territory" means the land areas under the sovereignty, jurisdiction of the Republic of Kazakhstan, and the territorial waters adjacent thereto; and

10. "User charge" means the charges imposed on airlines for the provision of airport, air navigation, or aviation security facilities or services including related services and facilities.

## **Article 2**

### **Grant of Rights**

1. The Government of the Republic of Kazakhstan grants to "FedEx Express" the following rights for the conduct of international cargo air transportation:

1) to fly across the territory of its State without landing;

2) to make stops in territory of its State for non-traffic purposes; and

3) to perform scheduled international cargo air transportation between the Republic of Kazakhstan and any point or points in any other country of the world.

2. Nothing in this Article shall be deemed to confer on "FedEx Express" the right to take on board, in the territory of the Republic of Kazakhstan, cargo or mail carried for compensation and destined for another point in the territory of the Republic of Kazakhstan.

3. "FedEx Express" may, on any or all flights and at its option, without directional or geographic limitation and without loss of any right to carry traffic otherwise permissible under this Agreement:

1) operate flights in either or both directions;

- 2) combine different flight numbers within one aircraft operation;
- 3) serve behind, intermediate, and beyond points and points in the territory of the Republic of Kazakhstan in any combination and in any order;
- 4) make stopovers at any points having the status of international airports whether within or outside the territory of the Republic of Kazakhstan;
- 5) omit stops at any point or points;
- 6) carry transit traffic through the territory of the Republic of Kazakhstan;
- 7) transfer traffic from any of its aircraft to any of its other aircraft at any point on the routes;
- 8) combine on the same aircraft traffic originating in the Republic of Kazakhstan with traffic originating in another country or countries;
- 9) serve points behind any point in any country with or without change of aircraft or flight number and hold out and advertise such services to the public as through services;
- 10) on any segment or segments of the routes above, perform cargo air transportation without any limitation as to change, at any point on the route, in type or number of aircraft operated; and
- 11) utilize any airway or route over the territory of the Republic of Kazakhstan which is available for use by any airline of any other country, and may request permission to utilize additional or alternative airways and routes these requests will be given for consideration to the aeronautical authorities.

### **Article 3 Authorization**

On receipt of applications from “FedEx Express”, in the form and manner prescribed for operating and aircraft ground-handling authorizations, the aeronautical authorities shall grant appropriate permissions, certificates, and licenses according to the order established by the legislation.

### **Article 4 Application of Laws**

1. While entering, within, or leaving the territory of the Republic of Kazakhstan, its legislation relating to the operation and navigation of aircraft shall be complied with by “FedEx Express”.

2. While entering, within, or leaving the territory of the Republic of Kazakhstan, its legislation relating to the transportation, admission to or departure from the territory

of the Republic of Kazakhstan of crew or cargo on aircraft (including regulations relating to entry, aviation security, licensing, immigration, passports, customs and quarantine procedures or, in the case of mail, postal regulations) shall be complied with by, or on behalf of "FedEx Express".

## **Article 5 Safety**

1. The Government of the Republic of Kazakhstan shall recognize as valid, for the purpose of operating the international cargo air transportation provided for in this Agreement, certificates of airworthiness, certificates of competency, and licenses issued or validated by the Government of the United States of America and still in force, provided that the requirements for such certificates or licenses at least equal the minimum standards that may be established by the Republic of Kazakhstan, Convention or exceed them.

2. "FedEx Express" may request consultations concerning the safety rules maintained by the Government of the Republic of Kazakhstan relating to aeronautical facilities.

## **Article 6 Aviation Security**

1. In accordance with its rights and obligations under international law, the Government of the Republic of Kazakhstan reaffirms that its obligation to protect the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement. Without limiting the generality of its rights and obligations under international law, the Government of the Republic of Kazakhstan shall in particular act in conformity with the provisions of the Convention on Offenses and Certain Other Acts Committed on Board Aircraft, done at Tokyo September 14, 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, done at the Hague December 16, 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal September 23, 1971, and the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal February 24, 1988.

2. The Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft and crew, and of airports and air navigation facilities, and to address any other threat to the security of civil air navigation.

3. The Government of the Republic of Kazakhstan shall, in relation to the services operated by "FedEx Express" pursuant to this Agreement, act in conformity with the aviation security rules and appropriate recommended practices established by the International Civil Aviation Organization and designated as Annexes to the Convention and by legislation of the Republic of Kazakhstan.

4. "FedEx Express" agrees to observe the security rules established by the legislation of the Republic of Kazakhstan for entry into, for departure from, and while within the territory of the Republic of Kazakhstan.

5. The Government of the Republic of Kazakhstan agrees to take adequate measures to protect aircraft and to inspect crew, and their baggage and carry-on items, as well as cargo and aircraft stores, prior to and during boarding or loading. Each Party shall also give positive consideration to any request from the other Party for special security measures to meet a particular threat.

6. When an incident or threat of an incident of unlawful seizure of aircraft or other unlawful acts against the safety of crew, aircraft, airports or air navigation facilities occurs, the Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat.

7. When a Party has reasonable grounds to believe that the other Party has departed from the aviation security provisions of this Article, that Party may request immediate consultations with the other Party and the Parties shall proceed in good faith to resolve the matter as expeditiously as possible.

## **Article 7**

### **Commercial Opportunities**

1. "FedEx Express" shall have the right in an order established by the legislation of the Republic of Kazakhstan to establish its offices in the territory of the Republic of Kazakhstan for the promotion and sale of international cargo air transportation.

2. "FedEx Express" shall be entitled, in accordance with the legislation of the Republic of Kazakhstan relating to entry, residence, and employment, to bring in and maintain in the territory of the Republic of Kazakhstan managerial, sales, technical, operational, and other specialist staff required for the provision of international cargo air transportation.

3. "FedEx Express" shall have the right to perform its own ground-handling in the territory of the Republic of Kazakhstan ("self-handling") or, at its option, select among competing agents for such services in whole or in part. The rights shall be subject only to physical constraints resulting from considerations of airport safety. Where such considerations preclude self-handling, ground services shall be available on an equal basis to "FedEx Express" as to all other airlines; charges shall be based on the costs of

services provided; and such services shall be comparable to the kind and quality of services as if self-handling were possible.

4. "FedEx Express" may engage in the sale of international cargo air transportation in the territory of the Republic of Kazakhstan directly and, at its discretion, through its agents. "FedEx Express" shall have the right to sell such transportation, and any person shall be free to purchase such transportation, in the national currency of the Republic of Kazakhstan or in freely convertible currencies pursuant to national legislation in a field of currency regulation.

5. "FedEx Express" shall have the right to convert and remit to its country revenues from its activity in the territory of the Republic of Kazakhstan in excess of sums disbursed in accordance with legislation of the Republic of Kazakhstan.

6. "FedEx Express" shall be permitted to pay for expenses in the territory of the Republic of Kazakhstan, including purchases of fuel, in the territory of the Republic of Kazakhstan in national currency. At its discretion, "FedEx Express" may pay for such expenses in the territory of the Republic of Kazakhstan in freely convertible currencies according to national legislation in a field of currency regulation.

7. In operating or holding out the authorized services on the routes described in Article 2 above, "FedEx Express" may, but shall not be required to, enter into cooperative marketing arrangements such as blocked-space, code-sharing or leasing arrangements, with

- 1) an airline or airlines of any country; and
- 2) a surface transportation provider of any country;

provided that all participants in such arrangements (i) hold the appropriate authority and (ii) meet the requirements normally applied to such arrangements.

8. Notwithstanding any other provision of this Agreement, "FedEx Express" shall be permitted, without restriction, to employ in connection with international cargo air transportation any surface transportation for cargo to or from any points in the territory of the Republic of Kazakhstan or in third countries, including transport to and from all airports with customs facilities, and including, where applicable, the right to transport cargo in bond under applicable legislation. Such cargo, whether moving by surface or by air, shall have access to airport customs processing and facilities. "FedEx Express" may elect to perform its own surface transportation or to provide it through arrangements with other surface carriers, including surface transportation operated by other airlines and indirect providers of cargo air transportation. Such intermodal cargo services may be offered at a single, through price for the air and surface transportation combined, provided that shippers are not misled as to the facts concerning such transportation.

9. Notwithstanding any other provision of this Agreement, traffic moving in international air cargo transportation performed by FedEx Express and which transits the territory of the Republic of Kazakhstan enroute between two third countries shall not be subject to customs procedures (clearance, documentation, inspection, or other such

services provided; and such services shall be comparable to the kind and quality of services as if self-handling were possible.

4. "FedEx Express" may engage in the sale of international cargo air transportation in the territory of the Republic of Kazakhstan directly and, at its discretion, through its agents. "FedEx Express" shall have the right to sell such transportation, and any person shall be free to purchase such transportation, in the national currency of the Republic of Kazakhstan or in freely convertible currencies pursuant to national legislation in a field of currency regulation.

5. "FedEx Express" shall have the right to convert and remit to its country revenues from its activity in the territory of the Republic of Kazakhstan in excess of sums disbursed in accordance with legislation of the Republic of Kazakhstan.

6. "FedEx Express" shall be permitted to pay for expenses in the territory of the Republic of Kazakhstan, including purchases of fuel, in the territory of the Republic of Kazakhstan in national currency. At its discretion, "FedEx Express" may pay for such expenses in the territory of the Republic of Kazakhstan in freely convertible currencies according to national legislation in a field of currency regulation.

7. In operating or holding out the authorized services on the routes described in Article 2 above, "FedEx Express" may, but shall not be required to, enter into cooperative marketing arrangements such as blocked-space, code-sharing or leasing arrangements, with

1) an airline or airlines of any country; and

2) a surface transportation provider of any country;

provided that all participants in such arrangements (i) hold the appropriate authority and (ii) meet the requirements normally applied to such arrangements.

8. Notwithstanding any other provision of this Agreement, "FedEx Express" shall be permitted, without restriction, to employ in connection with international cargo air transportation any surface transportation for cargo to or from any points in the territory of the Republic of Kazakhstan or in third countries, including transport to and from all airports with customs facilities, and including, where applicable, the right to transport cargo in bond under applicable legislation. Such cargo, whether moving by surface or by air, shall have access to airport customs processing and facilities. "FedEx Express" may elect to perform its own surface transportation or to provide it through arrangements with other surface carriers, including surface transportation operated by other airlines and indirect providers of cargo air transportation. Such intermodal cargo services may be offered at a single, through price for the air and surface transportation combined, provided that shippers are not misled as to the facts concerning such transportation.

9. Notwithstanding any other provision of this Agreement, traffic moving in international air cargo transportation performed by FedEx Express and which transits the territory of the Republic of Kazakhstan enroute between two third countries shall not be subject to customs procedures (clearance, documentation, inspection, or other such

formalities), whether such traffic remains onboard the same aircraft or is transferred from one aircraft to another during such transit. Without limiting the generality of the foregoing, transit traffic may be transferred within the territory of the Republic of Kazakhstan directly from one aircraft to another while such aircraft are parked on the airport ramp, without such traffic having to be moved to and from the airport cargo warehouse or other cargo processing facility.

### **Article 8 Customs Duties and Charges**

Collection of customs duties and charges shall be performed pursuant to the national legislation of the Republic of Kazakhstan as well as to the Convention on International Civil Aviation (7 December 1944, Chicago).

### **Article 9 User Charges**

1. User charges that may be imposed by the competent charging authorities or authorized bodies of the Republic of Kazakhstan on “FedEx Express” shall be just, reasonable, not unjustly discriminatory, and equitably apportioned among categories of users. In any event, any such user charges shall be assessed on “FedEx Express” on terms not less favorable than the most favorable terms available to any other airline at the time the charges are assessed.

2. User charges shall be imposed on “FedEx Express” at the rate of charges and the size of prices, established for the services of the airports and air navigation, provided for by current legislation of the Republic of Kazakhstan.

3. The Government of the Republic of Kazakhstan shall encourage consultations between the competent charging authorities or authorized bodies in the territory of its State and “FedEx Express”, and shall encourage the competent charging authorities or bodies and “FedEx Express” to exchange such information as may be necessary to permit an accurate review of the reasonableness of the charges in accordance with the principles of paragraphs 1 and 2 of this Article. The Government of the Republic of Kazakhstan shall encourage the competent charging authorities to provide “FedEx Express” with reasonable notice of any proposal for changes in user charges to enable “FedEx Express” to express its views before changes are made.



## **Article 10 Fair Competition**

1. The Government of the Republic of Kazakhstan shall allow a fair and equal opportunity for “FedEx Express” to compete in providing the international cargo air transportation governed by this Agreement.

2. The Government of the Republic of Kazakhstan shall allow “FedEx Express” to determine the frequency and capacity of the international cargo air transportation it offers based upon commercial considerations in the marketplace. Consistent with this right, aeronautical authorities of the Republic of Kazakhstan shall not limit the volume of traffic, frequency or regularity of service, or the aircraft type or types operated by “FedEx Express”, except as may be required for customs, technical, operational, or environmental reasons. Notwithstanding above-mentioned provision “FedEx Express” notifies on the frequency and capacity of the international cargo air transportation the aeronautical authorities of the Republic of Kazakhstan.

3. The Government of the Republic of Kazakhstan shall not impose on “FedEx Express” a first-refusal requirement, uplift ratio, no-objection fee, or any other requirement with respect to capacity, frequency or traffic that would be inconsistent with the purposes of this Agreement.

4. The Government of the Republic of Kazakhstan shall require the filing of the schedule of flights to be performed (Application) for a navigation period but shall not require the filing of schedules, or operational plans by “FedEx Express” for approval, except as may be required on a non-discriminatory basis to enforce the uniform conditions foreseen by paragraph 2 of this Article. If the Government of the Republic of Kazakhstan requires filings for information purposes, it shall minimize the administrative burdens of filing requirements and procedures on air transportation intermediaries and on “FedEx Express” itself. Notwithstanding the foregoing, “FedEx Express” confirms that it shall respect all normal air traffic control and air navigation advance notification procedures.

## **Article 11 Pricing**

1. The Government of the Republic of Kazakhstan shall allow prices for international cargo air transportation to be established by “FedEx Express” based upon commercial considerations in the marketplace.

2. Prices for international cargo air transportation to and from the Republic of Kazakhstan shall not be required by the Aeronautical authorities of the Republic of Kazakhstan to be filed by “FedEx Express”. Notwithstanding the foregoing, “FedEx Express” shall provide immediate access, on request, to information on historical,

existing, and proposed prices to the Aeronautical authorities in a manner and format acceptable to those Aeronautical authorities.

3. The Government of the Republic of Kazakhstan shall not take unilateral action to prevent the inauguration or continuation of a price proposed to be charged or charged by "FedEx Express" for international cargo air transportation, including transportation on an interline or intraline basis.

### **Article 12 Consultations**

Either Party may, at any time, request consultations relating to this Agreement. Such consultations shall begin at the earliest possible date, but not later than 60 days from the date the other Party receives the request unless otherwise agreed.

### **Article 13 Settlement of Disputes**

Any dispute arising under this Agreement that is not resolved by a first round of formal consultations shall be referred to the court bodies of the Republic of Kazakhstan in case of violation of national legislation and this Agreement. Applicable material and processual right is legislation of the Republic of Kazakhstan.

### **Article 14 Waiver of Sovereign Immunity**

Recognizing the commercial character of the subject matter of this Agreement, the Government of the Republic of Kazakhstan hereby explicitly, unconditionally, and irrevocably waives and agrees not to plead any entitlement it might otherwise have to assert a defense of sovereign immunity, act of state, or any similar legal defense or theory, with respect to itself or any of its assets, in any arbitration or other legal proceeding in any jurisdiction to enforce this Agreement, or to enforce any award under this Agreement, or otherwise arising out of this Agreement.

### **Article 15 Applicable Law**

Interpretation and execution of this Agreement is regulated by the legislation of the Republic of Kazakhstan.

**Article 16**  
**Entry into Force**

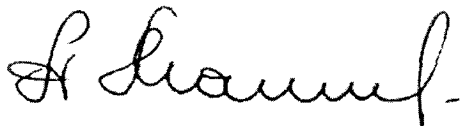
This Agreement shall enter into force on the date of signature, be concluded for an indefinite time, and be in force until one year expiry from the date when either Party receives a written notification from the other Party about its intention to terminate this Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Agreement.

DONE at Astana, this 20 day of June, 2006, in duplicate, in each of the Kazakh, English, and Russian languages, each of which shall be equally authentic.

In the event of any discrepancies at interpretation or implementation of the provisions of this Agreement, the Parties shall apply to the text in the English language.

**For THE GOVERNMENT  
OF THE REPUBLIC OF KAZAKHSTAN:**



**For FEDERAL EXPRESS  
CORPORATION:**

