U.S. Department of Transportation
Federal Aviation Administration

Advisory Circular

Subject: Scope and Recommended Content for an Airworthiness Agreement Between a Certificate Holder and a Maintenance Provider

Date: DRAFT **AC No:** 120-106C
Initiated by: AFS-300 **Change:**

1 **PURPOSE OF THIS ADVISORY CIRCULAR (AC).** This AC outlines the scope and recommended content for airworthiness agreements between a certificate holder (CH) and its contract maintenance providers. It explains the necessity to interject specific requirements into an airworthiness agreement to ensure the CH fully follows the requirements imposed by Title 14 of the Code of Federal Regulations (14 CFR). The CH has the primary responsibility for the airworthiness of its aircraft and must ensure the proper controls are in place to assess, qualify, and authorize work performed for it by other persons regardless of whether a certificated or noncertificated person performs the work.

1.1 **Not Mandatory or Regulatory.** This is a guidance document. Its content is not legally binding in its own right and will not be relied upon by the Department as a separate basis for affirmative enforcement action or other administrative penalty. Conformity with the guidance document is voluntary only. Nonconformity will not affect rights and obligations under existing statutes and regulations.

1.2 **No Changes to Regulations.** This document does not change, create any additional, authorize changes in, or permit deviations from existing regulatory requirements. The contents of this document do not have the force and effect of law and are not meant to bind the public in any way, and the document is intended only to provide information to the public regarding existing requirements under the law or agency policies.

2 **AUDIENCE.** The primary audience for this AC is CHs that, as authorized by 14 CFR §§ 121.379(a) and 135.437(a), make arrangements with other persons for the performance of maintenance, preventive maintenance, and alterations as provided in their manual. The secondary audience for this AC includes certificated repair stations and noncertificated entities that perform or arrange for the performance of maintenance on behalf of a CH.

3 **WHERE YOU CAN FIND THIS AC.** You can find this AC on the Federal Aviation Administration's (FAA) website at https://www.faa.gov/regulations_policies/advisory_circulars and the Dynamic Regulatory System (DRS) at https://drs.faa.gov.

4 **WHAT THIS AC CANCELS.** AC 120-106B, Scope and Recommended Content for an Airworthiness Agreement Between a Certificate Holder and a Maintenance Provider, dated June 18, 2024, is canceled.

5 TERMS.

5.1 Contract Maintenance. As provided in 14 CFR §§ 121.368(a) and 135.426(a), contract maintenance is a CH's arrangement with another person for the performance of maintenance, preventive maintenance, or alterations as authorized in 14 CFR §§ 121.379(a) or 135.437(a).

5.2 Maintenance Provider. Title 14 CFR §§ 121.368(a)(1) and 135.426(a)(1) define a maintenance provider as "any person who performs maintenance, preventive maintenance, or an alteration for a certificate holder other than a person who is trained by and employed directly by that certificate holder." For example, a maintenance, repair, and overhaul (MRO) facility is a maintenance provider. In the past, many nonregulatory words and terms have been used in the aviation industry to describe a person who performs maintenance, preventive maintenance, and alterations for a CH under the provisions of 14 CFR §§ 121.379(a) and 135.437(a), such as outsource, contract, emergency, vendor, and on call.

5.3 Airworthiness Agreement. When performing maintenance, preventive maintenance, or alterations, an airworthiness agreement specifies the details of the arrangement between a CH and a maintenance provider.

5.3.1 The airworthiness agreement should clearly specify how the maintenance provider will perform the requested maintenance along with any other requirements of the CH's maintenance program and maintenance manual (refer to 14 CFR §§ 121.369(b)(10) and 135.427(b)(10)).

5.3.2 When a maintenance provider performs the work, the CH retains the primary responsibility for the airworthiness of its aircraft and the proper performance of all maintenance (refer to 14 CFR §§ 121.363 and 135.413).

6 REGULATORY REQUIREMENTS.

6.1 Adequate Organization. Title 14 CFR §§ 121.365 and 135.423 state CHs must ensure the person or persons, as described in 14 CFR § 1.1, with whom they arrange to perform maintenance has an organization adequate to perform the work. In addition, if Required Inspection Items (RII) are completed by the maintenance provider, the inspection and maintenance must be separated in the provider's organization. The person performing the required inspection must be under the control of the inspection unit, which must be separate from the other maintenance, preventive maintenance, and alteration functions (refer to 14 CFR §§ 121.369(b)(8), 121.371(b), 135.427(b)(8), and 135.429(b)). If the CH's Continuous Airworthiness Maintenance Program (CAMP) or procedures require specific compliance aspects, the CH must be able to verify the maintenance provider is equally capable of following the manual and procedures. The CH's Continuing Analysis and Surveillance System (CASS) must verify this (refer to 14 CFR §§ 121.373(a) and 135.431(a)).

6.2 Maintenance Program. Refer to 14 CFR §§ 121.369(b)(10) and 135.427(b)(10), which state, in part, the CH must ensure the maintenance provider will perform the contracted

work in accordance with the CH's manual, which includes programs such as the CAMP. That means the information necessary to ensure the CH's maintenance manual and the CAMP are available to the maintenance provider before work is to begin. The manual must have procedures that ensure the maintenance provider follows the CAMP procedures (refer to 14 CFR §§ 121.368(c) and 135.426(c)). Furthermore, the CH must be able to verify the maintenance provider has competent personnel, adequate equipment, and facilities as required by regulations. Through onsite auditing and oversight, the CH can validate that aircraft are returned to service in accordance with the provisions of its CAMP (refer to 14 CFR §§ 121.363, 121.365, 121.367, 121.709, 135.413, 135.423, 135.425, and 135.443).

6.3 Manual Requirements. Title 14 CFR §§ 121.369 and 135.427 state the CH must provide a manual covering the administration of its CAMP. The manual(s) often include specific methods for complying with the enumerated paragraphs of this regulatory section. The CH must provide the maintenance provider with the necessary sections of its manual applicable to the work performed (refer to 14 CFR §§ 121.368 and 135.426). The CH and the maintenance provider are bound to verify compliance with the information provided in the CH's manual. Safety controls, such as the areas outlined in this AC, should be included in the airworthiness agreement for this purpose.

6.4 Continuing Analysis and Surveillance System (CASS). Title 14 CFR §§ 121.368(f) and 135.426(f) require the CH's CASS to hold procedures for oversight of all contracted work.

6.4.1 Continuing Maintenance Provider Oversight. Verifying that each of the CH's maintenance providers is in continuous compliance is a core function of the CASS. CH management should use a risk-based process to establish a schedule for auditing and inspecting each maintenance provider's performance under airworthiness agreements. This risk-based process may determine that certain maintenance providers do not require an onsite audit. Consistent with the performance-based requirements of 14 CFR §§ 121.373 and 135.431, the audits accomplished by the CH should focus primarily on work in progress to determine whether maintenance personnel follow the CAMP and the provisions of the airworthiness agreement. Qualified auditors should conduct these audits, and qualified analysts should evaluate the results. The analytical results should enable CH management to determine whether each maintenance provider maintains continuous compliance with 14 CFR part 121 subpart L or part 135 subpart J, as applicable, to justify continued use.

6.4.2 Corrective Action. The CH must take corrective action for any deficiencies or inadequacies found in its CAMP, which includes work performed on its behalf by a maintenance provider. In addition, the CH should have a process for its onsite representative to document findings and corrective action taken that may not be associated with any scheduled audit or review process. These findings should also be included in the CH's CASS and are essential to show deficiencies or inadequacies in the CH's CAMP (refer to 14 CFR §§ 121.373 and 135.431).

Note: Refer to AC 120-16, Air Carrier Maintenance Programs, for more information on the 14 CFR regulatory requirements for contract maintenance.

7 DEVELOPING AN AIRWORTHINESS AGREEMENT.

7.1 Develop Policies and Procedures. An airworthiness agreement is not a regulatory requirement. However, when established by the CH, the agreement should explicitly state: "All policies and procedures are mutually agreed upon."

7.2 Subcontracted Maintenance. Airworthiness agreements should fit the scope of work each maintenance provider will perform on behalf of the CH. The CH's airworthiness responsibility does not stop at the original maintenance provider; it continues with the subcontractors of the original maintenance provider. The CH must ensure that CASS oversight addresses all levels of contract maintenance. It does not matter how many levels of contract maintenance are provided to the CH; the CH has the responsibility for airworthiness (refer to 14 CFR §§ 121.363 and 135.413).

7.3 Scope of Work. The scope of work performed will dictate the depth of supervision, information exchange, and auditing needed to ensure compliance with the CH's CAMP. The more extensive the work, the CH should expect more training, information, and oversight. A CH's CAMP will dictate the level of training needed for specific tasks for the CAMP requirements. Any contract maintenance will be carried out as if the CH was doing the maintenance (refer to 14 CFR §§ 121.368 and 135.426).

8 AIRWORTHINESS AGREEMENT CONTENT.

To ensure compliance with specific sections of 14 CFR, the airworthiness agreement between the CH and the maintenance provider should address all sides of maintenance that the maintenance provider will carry out on behalf of the CH. As applicable, the airworthiness agreement should include, yet not be limited to, the following areas of the CAMP:

8.1 Proprietary Data. Many times, CH maintenance manuals have specific information for in-house maintenance. These manuals may have proprietary or other confidential information that a CH may not want to share with a maintenance provider. In many cases, the maintenance provider also works on competitors' aircraft. This tends to make CHs reluctant to share their information. The proper handling of proprietary data issues should be specific in the airworthiness agreement between the CH and the maintenance provider.

Note: The proprietary or other confidential information referred to in this paragraph refers only to that information developed by a CH for purposes of its in-house maintenance. Proprietary or confidential information does not refer to other data to which the maintenance provider is entitled, such as instructions for continued airworthiness (ICA) under 14 CFR § 21.50(b). Such data made available under the regulations may not be restricted by design approval holders, with respect to a CH's maintenance manual, through restrictive language in the ICA or through restrictive access or use agreements.

8.2 Voluntary Reporting Data. The maintenance provider works as an extension of the CH's CAMP, and the resultant relationship of maintenance, preventive maintenance, and

alterations must be transparent in all respects. The CH should ensure airworthiness agreements include provisions for reciprocal sharing of corrective action processes that may have resulted from voluntary programs, such as Aviation Safety Action Program (ASAP) and Voluntary Disclosure Reporting Program (VDRP).

8.3 Required Inspection Item (RII). If maintenance provider personnel are authorized to perform RIIs on behalf of a CH under 14 CFR §§ 121.371(d) and 135.429(e), RII procedures should be part of the airworthiness agreement. The RII inspection functions within the maintenance provider's organization must be separate from other maintenance, preventive maintenance, and alteration functions per 14 CFR §§ 121.365(c) and 135.423(c). If the CH's maintenance program or procedures require specific compliance aspects, the CH must be able to verify the maintenance provider is equally capable of understanding its manual and procedures. A listing of maintenance provider personnel trained and authorized for RIIs by the CH should be available for ready reference.

8.4 Regulatory Authority. The airworthiness agreement should have provisions to ensure the FAA has that level of access provided in 14 CFR § 119.59 to any person supplying maintenance services to a CH, whether performed by a certificated or noncertificated entity.

8.5 Training Programs. Training requirements required by 14 CFR §§ 121.375 and 135.433 should be included in an airworthiness agreement. The CH's training programs must have policy and procedures to ensure proper training of all maintenance personnel, including the personnel employed by its maintenance provider (certificated or noncertificated). Maintenance provider personnel must be:

8.5.1 Properly trained and qualified to support the CH's aircraft under the CAMP. The training provided to the maintenance provider should be the same or equivalent training afforded to the employees of the CH.

8.5.2 Properly certificated, trained, and authorized for RIIs by 14 CFR §§ 121.371(d) and 135.429(e) under the CH's manual. There should not be any difference between the CH personnel or maintenance provider RII training or accomplishment and approval of RII tasks. The training syllabus should include the proper procedures for preparing, signing, and handling maintenance records by following the CH procedures.

8.6 Duty Time. CHs operating under 14 CFR part 121 must ensure that each maintenance provider, including each subcontracted maintenance provider, follows the duty time requirements of 14 CFR § 121.377. There is no corresponding 14 CFR part 135 requirement for duty time.

8.7 Certificate Requirements. Title 14 CFR §§ 121.378 and 135.435 require that, within the United States, persons directly in charge of maintenance and/or performing required inspections must be appropriately certificated. The airworthiness agreement should cover this requirement to ensure there are no misunderstandings.

8.8 Authority to Perform. The airworthiness agreement should clearly show the scope and nature of each party's authority and responsibility under the regulations in the CH's CAMP. The center of the relationship between the CH and its maintenance provider is the policies and procedures in the CH's CAMP. The CH must continually verify that its maintenance provider is able to show compliance with its CAMP, either through direct supervision or auditing. The airworthiness agreement sections associated with regulatory compliance should enable the CH to verify the work performed meets the requirements of the CH's CAMP.

8.9 Records. The airworthiness agreement should include procedures for documentation and retention of the contracted work as in the CH's CAMP as required by 14 CFR §§ 121.380 and 135.439. The airworthiness agreement should clearly address the records required by the CH, the length of time of record retention, and the form and manner of keeping the records.

8.10 Information Exchange. The airworthiness agreement will hold the requirements of information exchanged based on the complexity of work. As an example, the maintenance provider will supply information to the CH needed for the CAMP reliability program. Additionally, since the maintenance provider must supply competent personnel and adequate facilities, a clause to notify the CH of changes in maintenance provider staffing, facilities, and ownership should be in the agreement.

8.11 Traceability of Components and Parts. This could include everything from new parts to scrapping and/or returning parts to the CH. Consideration should include parts exchanged being in the same configuration, including Service Bulletin (SB) and Airworthiness Directive (AD) compliance.

8.12 Airworthiness Release. A CH may choose to train and authorize specific maintenance provider personnel to sign an airworthiness release on either on an airworthiness release form or in a logbook entry as required by 14 CFR §§ 121.709 and 135.443. The approval for return to service must be prepared by following the procedures in the CH's manual.

8.13 Subcontracting. During maintenance, it may be necessary for the maintenance provider to use the services of a subcontractor. The airworthiness agreement should include procedures for the use of subcontractors, including how to receive approval from the CH before use.

Note: Refer to FAA Order 8900.1, Volume 20, Chapter 8, Section 1, Subparagraph 20-8-1-11G, Subcontracted Maintenance.

8.14 Policy and Procedures. The maintenance provider must follow the CH's work instructions as required by 14 CFR §§ 121.368 and 135.426. The CH must maintain documented policies and procedures in its manual.

8.14.1 Although an airworthiness agreement is not required by regulation, the CH may include or incorporate these policies and procedures by reference within an agreement between the CH and the maintenance provider for clarity.

8.14.2 The CH must review and accept any maintenance provider procedures that represent an exception to the CH's procedures. The CH's manual should define the evaluation process for these exceptions, as well as the methods for distributing relevant maintenance information and instructions to the maintenance provider.

8.15 Drug and Alcohol Testing. Drug and alcohol testing policies are required by law in 14 CFR part 120. It is generally a good idea to include an overview of the program in the airworthiness agreement. The following are examples of who must comply with 14 CFR part 120 drug and alcohol requirements:

8.15.1 All operators certificated under 14 CFR part 119 authorized to conduct operations under 14 CFR part 121 or 135; all air traffic control (ATC) facilities not operated by the FAA or by or under contract to the U.S. military; and all operators as defined in 14 CFR § 91.147.

8.15.2 All individuals who perform, either directly or by contract, a safety-sensitive function listed in 14 CFR part 120 subpart E or F.

8.15.3 All 14 CFR part 145 CHs who perform safety-sensitive functions and elect to implement a drug and alcohol testing program under 14 CFR part 120.

8.15.4 All contractors who choose to implement a drug and alcohol testing program under 14 CFR part 120.

8.16 Hazardous Materials (Hazmat) Training. CHs may consider the airworthiness agreement as an area to provide the written notification required by 14 CFR §§ 121.1005(e) and 135.505(e). This will ensure that each repair station performing work for the CH, or on the CH's behalf, understands the CH's policies and operations specification (OpSpec) authorization permitting, or prohibition against, the acceptance, rejection, handling, storage incidental to transport, and transportation of hazmat, including company material.

8.17 Aircraft Electronic Security. Operators of aircraft certificated with electronic system security special conditions under 14 CFR § 21.16 are required to develop an Aircraft Network Security Program (ANSP). The operator's ANSP should acknowledge any interactions with a maintenance provider and should be part of any airworthiness agreement. ANSP specifics can be found in AC 119-1, Operational Authorization of Aircraft Network Security Program. For 14 CFR part 121 operators, the ANSP is regulated under 14 CFR § 119.49, which pertains to OpSpecs. The FAA authorizes the program through the issuance of OpSpec D301, Aircraft Network Security Program (ANSP).

Note: Refer to Order 8900.1, Volume 3, Chapter 61, Section 1, Subparagraph 3-4898, Contract Maintenance Providers.

8.18 Calibrated Tooling. CHs may choose to accept maintenance provider programs for calibrated tooling. The airworthiness agreement should address tooling, and the CH's

manual should have procedures for evaluating a maintenance provider's calibrated tool program.

9 AC FEEDBACK FORM. For your convenience, the AC Feedback Form is the last page of this AC. Note any deficiencies found, clarifications needed, or suggested improvements regarding the contents of this AC on the Feedback Form.

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