



**Registration of a Charge**

Company name: **Virgin Atlantic Airways Limited**

Company number: **01600117**

Received for Electronic Filing: **25/04/2016**



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**Details of Charge**

Date of creation: **21/04/2016**

Charge code: **0160 0117 0160**

Persons entitled: **FLIP NO. 103 CO., LTD. AS AN ASSIGNEE ("FLIP NO.103")  
FLIP NO. 104 CO., LTD. AS AN ASSIGNEE ("FLIP NO.104")  
FLIP NO. 105 CO., LTD. AS AN ASSIGNEE (TOGETHER WITH FLIP NO.103  
AND FLIP NO.104, THE "ASSIGNEES")  
FLIP NO. 103 CO., LTD. AS REPRESENTATIVE ASSIGNEE (AS AGENT  
FOR EACH OF THE ASSIGNEES)**

Brief description: **N/A.**

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

This form was authorised by: **a person with an interest in the registration of the charge.**

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT  
TO S. 859G OF THE COMPANIES ACT 2006 THE ELECTRONIC**

**COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION  
FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL  
INSTRUMENT.**

Certified by:

**CLIFFORD CHANCE LLP**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 1600117

Charge code: 0160 0117 0160

The Registrar of Companies for England and Wales hereby certifies that a charge dated 21st April 2016 and created by Virgin Atlantic Airways Limited was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 25th April 2016 .

Given at Companies House, Cardiff on 26th April 2016

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**

DATED 21 April 2016

VIRGIN ATLANTIC AIRWAYS LIMITED  
as Assignor

AND

FLIP NO.103 CO., LTD., FLIP NO.104 CO.LTD. AND FLIP NO.105 CO., LTD.  
as Assignees

AND

FLIP NO.103 CO., LTD.  
as Representative Assignee

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ASSIGNMENT OF INSURANCES  
IN RESPECT OF  
ONE BOEING 787-9 AIRCRAFT MANUFACTURER'S  
SERIAL NUMBER 37974  
REGISTRATION MARK G-VOWS

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**THIS ASSIGNMENT OF INSURANCES** (this "**Assignment**") is made by way of deed on  
21 April 2016

**BETWEEN:**

- (1) **VIRGIN ATLANTIC AIRWAYS LIMITED**, a limited liability company organised and existing under the laws of England and Wales with company number 01600117 with its registered office and principal place of business at The Office, Manor Royal, Crawley, West Sussex RH10 9NU the United Kingdom (the "**Assignor**");
- (2) **FLIP NO.103 CO., LTD., FLIP NO.104 CO., LTD., and FLIP NO.105 CO., LTD.**, each a corporation formed under the laws of Japan and with their registered offices at 7-2, Marunouchi, 2-Chome, Chiyoda-ku, Tokyo 100-7029, Japan (each an "**Assignee**" and together, the "**Assignees**"); and
- (3) **FLIP NO.103 CO., LTD.**, as agent for each of the Assignees (the "**Representative Assignee**").

**WHEREAS:**

- (A) Pursuant to the Lease Agreement (defined below), the Assignees have agreed to lease the Aircraft to the Assignor on the terms and conditions therein contained.
- (B) As security for the obligations of the Assignor owed or to be owed to the Assignees under, *inter alia*, the Lease Agreement, the Assignor is required to enter into this Assignment.

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Assignment except where the context otherwise requires the following terms have the meanings given to them in this Clause 1.1 (*Definitions*):

"**Aircraft**" means the Boeing 787-9 aircraft bearing manufacturer's serial number 37974 and with United Kingdom registration mark G-VOWS (which term includes a separate reference to all Engines, Parts and Technical Records (in each case as defined in the Lease Agreement relating to the Aircraft)).

"**Airframe**" has the meaning given to it in the Lease Agreement.

"**Assigned Property**" means, collectively, all of the right, title and interest, present and future, of the Assignor to and in respect of the benefits of (i) the Insurances, including, without limitation, the right to compel performance by the insurers of their obligations in respect of such Insurances and (ii) the Requisition Compensation.

"**Authorisation**" shall have the meaning given to it in the Lease Agreement.

"**Compulsory Acquisition**" means requisition for title, forfeiture, confiscation, sequestration, detention, condemnation or any compulsory acquisition whatsoever of

the Aircraft or any Engine by any Government Entity or other governmental or competent authority or by any person acting or purporting to act by authority of the same and whether de jure or de facto.

**"Default Rate"** means the rate of interest applicable to overdue amounts pursuant to clause 5.7 (*Default Interest*) of the Lease Agreement.

**"Enforcement Event"** means an Event of Default (as such term is defined in the Lease Agreement) which is continuing.

**"Engine"** has the meaning given to it in the Lease Agreement.

**"Excluded Insurances"** means (a) all of the rights, title and interests, present and future, actual or contingent, of the Assignor in and to any and all contracts or policies of insurances which are from time to time taken out or effected by, or on behalf of the Assignor in the nature of third party legal liability, passenger baggage, cargo and mail insurances pursuant to clause 16.8(d) of the Lease Agreement and (b) all of the rights, title, legal liability and interests, present and future, actual or contingent, of the Assignor in and to any and all contracts or policies of insurances which are from time to time taken out or effected by the Assignor for its sole benefit as permitted by the terms of clause 16.16 (*Additional Insurance*) of the Lease Agreement.

**"Financing Party"** shall have the meaning given to it in the Lease Agreement.

**"Government Entity"** shall have the meaning given to it in the Lease Agreement.

**"Insurances"** means, in so far as the same relates to the Aircraft:

- (a) all policies and contracts of insurance or reinsurance (other than, for the avoidance of doubt, the Excluded Insurances) effected from time to time in respect of, or relating to, the Aircraft or any part thereof; and
- (b) all the benefits of, and claims under, all such policies and contracts of insurance and reinsurance and all Proceeds thereof.

**"Lease Agreement"** means the aircraft lease agreement dated on or about the date hereof between the Assignees as lessors, the Representative Assignee as representative lessor and the Assignor as lessee in respect of the Aircraft.

**"Losses"** has the meaning given to it in the Lease Agreement.

**"Manufacturer"** means, in relation to the Airframe, The Boeing Company or in relation to the Engines, Rolls-Royce plc.

**"Notice to the Insurers"** means the notice of assignment of insurances set out in schedule 3 (*Form of Notice of Assignment of Insurances*) of the Security Assignment.

**"Operative Documents"** shall have the meaning given to it in the Lease Agreement.

**"Proceeds"** means all cash proceeds, cheques, drafts and orders of, or attributable to, the Assigned Property.

**"Receiver"** means any receiver or receiver and manager appointed by the Representative Assignee hereunder or under any statutory power.

**"Requisition Compensation"** means any and all moneys or other compensation (other than the proceeds of Insurance) from time to time payable in respect of the Compulsory Acquisition of the Aircraft.

**"Secured Obligations"** means all present and future moneys, obligations and liabilities (whether actual or contingent, whether or not for the payment of money and including, without limitation, any obligation or liability to pay damages, whether owed jointly, severally or in any other capacity whatsoever and whether originally incurred by the Assignor or by some other person) of the Assignor to the Assignees or Representative Assignee (or any of them) under or in connection with the Lease Agreement, this Assignment or any of the Operative Documents to which the Assignee is a party.

**"Security Trustee"** means DVB Bank SE (acting through its London Branch) in its capacity as security trustee under the Security Assignment.

**"Security Assignment"** means the security assignment dated on or about the date hereof between the Assignees as lessors, the Representative Assignee as representative lessor and the Security Trustee as security trustee pursuant to which the Assigned Property is further assigned to the Security Trustee as security for the Outstanding Obligations (as such term is defined therein) together with all notices and acknowledgements to be issued thereunder.

**"Security Interest"** means any mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, right of detention, assignment by way of security or any encumbrance or security interest of any kind securing any obligation of any person or any other type of preferential arrangement (including, without limitation, any trust arrangement, title transfer, retention arrangement and/or other encumbrance having a similar effect) in each case howsoever created or arising.

**"Security Period"** means the period commencing on the date of this Assignment and expiring on the date on which all of the Secured Obligations have been irrevocably and unconditionally discharged, paid and performed in full.

## 1.2 Construction

- (a) Unless the contrary intention appears, any reference in this Assignment to:
  - (i) the **"Assignor"**, any **"Assignee"**, the **"Representative Assignee"** or any **"Financing Party"** or any person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
  - (ii) an **"agreement"** also includes a concession, contract, deed, franchise, treaty or undertaking;
  - (iii) an **"amendment"** includes a supplement, novation, restatement or re-enactment and **"amend"** and **"amended"** (or any of their derivative forms) will be construed accordingly;



- (iv) an "**Operative Document**" or any other "**agreement**" or "**instrument**" is a reference to that Operative Document or other agreement or instrument as amended;
  - (v) the expressions "**hereof**", "**herein**", "**hereunder**" and similar expressions shall be construed as references to this Assignment as a whole and shall not be limited to the particular clause or provision in which the relevant expression appears, and references to "**this Assignment**" and all like indications shall include references to this Assignment as supplemented or amended;
  - (vi) "**include**" or "**including**" shall be construed without limitation;
  - (vii) a "**person**" includes any individual, firm, company, corporation, unincorporated association or body (including a partnership, trust, joint venture or consortium), government, state, agency, organisation or other entity (whether or not having separate legal personality) or two or more of the foregoing;
  - (viii) a provision of law is a reference to that provision as extended, applied or amended and includes any subordinate legislation; and
  - (ix) a time of day is a reference to Tokyo time.
- (b) Section, Clause and Schedule headings are for ease of reference only.
  - (c) Unless a contrary indication appears, a term used in any other Operative Document or in any notice given under or in connection with any Operative Document has the same meaning in this Assignment.

### 1.3 Third party rights

- (a) The Security Trustee shall have the benefit of the Contracts (Rights of Third Parties) Act 1999 ("**Third Parties Act**") in relation to this Assignment.
- (b) Unless expressly provided to the contrary in this Assignment, other than the Security Trustee, a person who is not a party to this Assignment may not enforce any of the terms of this Assignment under the Third Parties Act.
- (c) Notwithstanding any term of any Operative Document, the consent of any third party (other than the Security Trustee's) is not required to rescind, vary, amend or terminate this Assignment at any time.
- (d) A Receiver appointed pursuant to paragraph (f) of Clause 9.2 (*Powers of Assignees*) may enforce the relevant provisions of this Assignment subject to this Clause 1.3 and the provisions of the Third Parties Act.

## 2. COVENANT TO PAY

The Assignor hereby covenants to pay and discharge all of the Secured Obligations and acknowledges to the Assignees and the Representative Assignee that the amount secured by this Assignment and in respect of which this Assignment and the security

hereby created by the Assignor is enforceable is the full amount of the Secured Obligations and the Assignor hereby covenants with the Assignees and the Representative Assignee that the Assigned Property is so assigned and charged for the full payment, performance and discharge of the Secured Obligations.

### **3. ASSIGNMENT AND CHARGE**

#### **3.1 Assignment**

As a continuing security for the payment, performance and discharge of the Secured Obligations, the Assignor with full title guarantee hereby assigns and agrees to assign absolutely by way of security all of its right, title, benefit and interest in, to and under the Assigned Property to and in favour of the Assignees.

#### **3.2 Charge**

To the extent that any of the Assigned Property is not at any time assigned pursuant to Clause 3.1 (*Assignment*), the Assignor with full title guarantee hereby, by way of first fixed charge, charges and agrees to charge to, and creates and agrees to create in favour of, the Assignees and Representative Assignee a general encumbrance in such part of the Assigned Property to the fullest extent permitted by applicable law.

#### **3.3 Recovery from Insurers**

The Assignor agrees that the Assignees and Representative Assignee shall be entitled to recover all sums due and payable under the Assigned Property directly from the insurers without notice to, or obligation to inform the Assignor, subject only to the terms and conditions of the Insurances and the Operative Documents.

### **4. REPRESENTATIONS AND WARRANTIES**

#### **4.1 The Assignor represents and warrants to each of the Assignees and the Representative Assignee as of the date of this Assignment that:**

- (a) the Assignor has due power and authority to enter into, deliver and perform its obligations under, and has taken all necessary corporate action on its part to authorise its entry into, delivery and performance of, this Assignment;
- (b) all Authorisations required by the Assignor in connection with its entry into, delivery or performance of this Assignment have been (or will, on or before or within the time periods prescribed by English Law, after, the Delivery Date have been) obtained by the Assignor;
- (c) the Assignor is absolutely entitled to all rights, title and interest in and to the Assigned Property;
- (d) the Assignor has not created any Security Interest over the Assigned Property, and the Assigned Property is free from all Security Interests other than under this Assignment and under the Security Assignment; and
- (e) the Security Interest granted in favour of the Assignees under the terms of this Assignment is legal, valid and binding as a first priority Security Interest and

this Assignment is enforceable in accordance with its terms and no further registration, filing, notarisation or recording is necessary to validate, perfect or preserve the Security Interest constituted by this Assignment, its validity, priority or enforceability.

## **5. COVENANTS BY ASSIGNOR**

### **5.1 Continuing Covenants**

The Assignor covenants and undertakes throughout the Security Period that it shall not:

- (a) assign or otherwise dispose of or deal with the Assigned Property in breach of the obligations hereunder and it shall not create or incur nor shall it agree to or acquiesce in the creation or incurrance by any other person of, any Security Interest in or upon the Assigned Property (other than under this Assignment and the Security Assignment) and it shall, for as long as the Assignees have not executed a discharge of the security created hereby, remain absolutely entitled to all rights, title and interest in and to the Assigned Property;
- (b) give any consent, waiver or approval under any of the Operative Documents in respect of the Assigned Property or take any other action in connection with the Assigned Property if such consent, waiver, approval or other action would or might reasonably be expected to in any way (in the opinion of the Representative Assignee and (where the Assignment has been assigned to the Security Trustee as contemplated under Clause 17.3 (*Successors in Title*)) the Security Trustee (each acting reasonably)) adversely affect the value of the interest or rights assigned and/or charged in Clause 3 (*Assignment and Charge*);
- (c) exercise any right of set-off, counterclaim or defence with respect to the Assigned Property against (i) any Assignee or the Representative Assignee or (ii) the Security Trustee (for so long as the benefit of this Assignment has been assigned to the Security Trustee as contemplated under Clause 17.3 (*Successors in Title*)) or otherwise agree that any other person may exercise any such right;
- (d) at any time:
  - (i) agree or consent to any variation or amendment to Clause 16 of the Lease Agreement; or
  - (ii) agree or consent to or otherwise permit any termination of the Insurances which would result in a breach of the terms of the Lease Agreement.

### **5.2 Covenants following Enforcement Event**

The Assignor agrees:

- (a) that it shall, at all times after the occurrence of an Enforcement Event and whilst the same is continuing, deliver in the form received (properly endorsed,

but without recourse, for collection where required) to the Representative Assignee (acting for and on behalf of the Assignees) all Proceeds and other instruments for the payment of money received; and

- (b) not to commingle any such Proceeds with its other funds or property and agrees to hold the same upon an express trust for and on behalf of the Assignees.

## **6. PERFECTION, FURTHER ASSURANCES AND OBLIGATIONS**

### **6.1 Insurance Broker**

The parties to this Assignment agree to execute, on the date of this Assignment a Notice to the Insurers.

### **6.2 Requisition**

- (a) In the event of Compulsory Acquisition, the parties to this Assignment agree to execute, and the Assignor agrees to deliver promptly following such Compulsory Acquisition, notice of this Assignment to the authority which has requisitioned the Aircraft or to any relevant authority reasonably requested by the Representative Assignee and which notice will state that payment of all Requisition Compensation must be made to the Representative Assignee (acting for and on behalf of the Assignees). The Representative Assignee (acting for and on behalf of the Assignees) shall apply any Requisition Compensation in accordance with the terms of the Operative Documents.
- (b) The Assignor shall take all reasonable steps to procure that the authority which has requisitioned the Aircraft acknowledges receipt of the notice served pursuant to paragraph (a) of Clause 6.2.

### **6.3 Filings**

The parties will each procure that, and the Assignor shall bear any expenses in relation thereto, any registrations, filings and/or submissions required or generally made under the laws of any jurisdiction are made to the extent that the provisions of such laws apply to each of them. Each party will coordinate and cooperate with the other in providing such information and all reasonable assistance to the other as may be requested in connection with any such registrations, filings and/or submissions.

### **6.4 Further Assurance**

The Assignor shall, at its own cost and expense and at the written request of the Representative Assignee or the Security Trustee promptly sign, seal, execute, deliver, acknowledge, file, register and perfect all such assurances, documents, instruments, agreements, certificates and consents and do any and all such acts and things as may be reasonably necessary or prudent or as the Representative Assignee may reasonably request from time to time in order to perfect the Security Interest intended to be created by this Assignment or to establish, maintain, protect or preserve such Security Interest or the rights of the Assignees and the Security Trustee under this Assignment or to enable the Assignees and the Security Trustee to obtain the full benefits of such

Security Interest and this Assignment and to exercise and enforce their respective rights and remedies under this Assignment in respect of the Assigned Property.

#### **6.5 Assignor Always Liable**

Notwithstanding any provision of any Operative Document to the contrary, the Assignor shall at all times remain liable to perform all obligations expressed to be assumed by it under or in respect of the Insurances (including any obligation to pay premiums, calls, contributions or other sums in respect of the Insurances on the terms and conditions of the Operative Documents), and neither this Assignment nor the receipt by any Assignee or the Representative Assignee of any payment pursuant to this Assignment shall cause such Assignee or the Representative Assignee to be under any obligation or liability in any respect under any part of the Insurances for the performance or observance of any of the representations, warranties, conditions, covenants, agreements or other terms contained therein.

#### **6.6 Change of Insurer/Broker**

Should the Assignor or any Permitted Sub-Lessee at any time effect the Insurances or any part of the Insurances with a different insurer or effect the Insurances or any part of the Insurances through a broker or, thereafter, change the broker through whom the Insurances or any part of the Insurances are effected, then the Assignor shall, or shall procure that the relevant Permitted Sub-Lessee shall, at the time of such change promptly (and in any event within seven (7) Business Days of such change) deliver to such new insurer, broker or new broker, as the case may be, a replacement Notice to the Insurers (the "Notice") provided that if, despite using reasonable endeavors the Assignor is unable to secure the signature of any party or parties to such Notice, the new insurer, broker or new broker shall be notified of this Assignment in writing and the Notice shall be delivered to the new insurer, broker or new broker without delay once the outstanding signatures to the Notice are obtained; and shall use all reasonable endeavors to procure that a certificate of insurance is issued (and in any event within seven (7) Business Days of such policy coming into effect) that refers to this Assignment, the Security Assignment and the Notice as a "Contract" under AVN 67B.

### **7. CONTINUING SECURITY**

#### **7.1 Continuing Security**

Without prejudice to the generality of Clause 2 (*Covenant to Pay*), the assignment contained in this Assignment is made for securing any Secured Obligations. This Assignment and the Security Interest hereby created shall be a continuing security and in particular (without limitation) shall not be, nor be considered as, satisfied by any intermediate discharge or payment on account of any liabilities or any settlement of accounts between the Assignor (or any other person) and any Assignee or the Representative Assignee (or any Financing Party) or any other act, event or matter whatsoever, except only the absolute and unconditional release of the security created by this Assignment to the Assignor (or such other person as the Assignor may direct) in accordance with Clause 16 (*Release and Reassignment*), and this Assignment shall extend to cover any sum or sums of money or other liability and obligations which

shall for the time being constitute the balance of the Secured Obligations until all of the Secured Obligations have been paid and discharged in full.

## **7.2 Additional Security**

This Assignment and the Security Interest hereby created shall be in addition to and not in substitution for or derogation of any other Security Interest (whether given by the Assignor or any other person) now or from time to time hereafter held by any Assignee, the Representative Assignee or any Financing Party in respect of or in connection with any or all of the Secured Obligations.

## **7.3 Exercise of Rights**

None of the Assignees and the Representative Assignee shall be obliged, before exercising any of the rights, powers or remedies conferred upon it by this Assignment or by law, to:

- (a) issue or initiate any proceedings or take action or obtain judgment against the Assignor or any other person in any court or otherwise;
- (b) make or file a claim or proof in a winding-up, liquidation, bankruptcy, insolvency, dissolution, reorganization or amalgamation of, or other analogous event of or with respect to, the Assignor or any other person; or
- (c) enforce or seek to enforce the payment or performance of, or the recovery of, any of the moneys, obligations and liabilities hereby secured or any other Security Interest, guarantee or other assurance for all or any of the Secured Obligations.

## **7.4 Security not Discharged**

Subject to Clause 16 (*Release and Reassignment*) the Security Interest created by this Assignment shall continue in full force and effect and shall not be discharged, impaired or otherwise affected by:

- (a) any failure by any Assignee, the Representative Assignee or any other person to take or enforce any other Security Interest, guarantee or other assurance taken or agreed to be taken or given for all or any of the Secured Obligations or under or pursuant to any Operative Document or otherwise;
- (b) any time or indulgence given or agreed to be given by any Assignee, the Representative Assignee or any other person or any failure or delay by any Assignee, the Representative Assignee or any other person in exercising any right, remedy, power or privilege under this Assignment or under any Operative Document or any single or partial exercise of any right, remedy, power or privilege hereunder or thereunder;
- (c) any amendment, modification, variation, supplement, novation, restatement, waiver or replacement of all or any part of the Secured Obligations or any Operative Document;

- (d) any release, modification or exchange of any Security Interest, guarantee or other assurance now or hereafter held by or enuring to the benefit of any Assignee, the Representative Assignee or any other person for all or any part of the Secured Obligations; or
- (e) any other act, omission, fact, matter, circumstance, event or thing (including, without limitation, the invalidity, unenforceability or illegality of any of the obligations of the Assignor or any Operative Document, or the bankruptcy, liquidation, winding-up, insolvency, dissolution, administration, reorganisation or amalgamation of, or other analogous event of or with respect to, the Assignor or any other person) which, but for this provision, might operate to impair, discharge or adversely affect the rights of any Assignee, the Representative Assignee or any other person under this Assignment or under any other Operative Document or to impair, discharge or adversely affect the Security Interest hereby created.

#### **7.5 Conditional Discharge**

Any settlement or discharge between any Assignee or the Representative Assignee and the Assignor or any other person shall be conditional upon no security or payment to any Assignee or the Representative Assignee by the Assignor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any provision or enactment relating to bankruptcy, liquidation, winding-up, insolvency, dissolution, reorganisation, administration, amalgamation or other analogous event or proceedings for the time being in force.

### **8. ASSIGNEES**

#### **8.1 Nature of Rights**

Each of the Assignees, the Representative Assignee and the Security Trustee (for so long as the benefit of this Assignment is assigned to the Security Trustee as contemplated under Clause 17.3 (*Successors in Title*)) shall be entitled and authorised to exercise all such rights, powers, authorities and discretions in relation to all or any part of the Assigned Property as if such Assignee, the Representative Assignee and the Security Trustee (as the case may be) were solely beneficially entitled thereto (including, without limitation, the grant of an indemnity to any person or persons appointed as a Receiver in accordance with this Assignment), subject to the terms of the Operative Documents.

### **9. ENFORCEMENT OF SECURITY**

#### **9.1 Time of Enforcement**

The security constituted by this Assignment and the power of sale and other powers conferred by section 101 (*Powers incident to estate or interest of mortgagee*) of the Law of Property Act 1925 (or any other relevant statutory provision of similar effect), as varied or amended by this Assignment, shall be immediately enforceable and exercisable upon and at any time after the occurrence of an Enforcement Event.

## 9.2 Powers of Assignees

Without prejudice to any of its other rights whether conferred under any of the Operative Documents or by law generally, upon and at any time after the occurrence of an Enforcement Event, each of the Assignees and the Representative Assignee shall be entitled without notice, immediately to put into force and exercise all the powers and remedies possessed by it according to law as assignee by way of security of the Assigned Property as and when it may see fit, including, without limitation:

- (a) to apply to any court of competent authority for an order for foreclosure absolute so as to vest all the Assignor's right, title and interest in all or any part of the Assigned Property in the Assignees;
- (b) to sell, call in, collect and convert into money or otherwise deal with all or any part of the Assigned Property by public or private contract at any place in the world, with or without advertisement or notice to any of the Assignor or any other person in relation to any private contract, with all such powers in that respect as are conferred by law, and:
  - (i) by way of extension thereof, such sale, calling in, collection conversion and dealing may be made for such consideration as the Representative Assignee in its sole and absolute discretion shall deem reasonable (whether such consideration shall be presently payable or by instalments or at some future date, and whether such deferred or future payments shall be secured or not) and in all other respects in such manner as the Representative Assignee shall think fit, and without being liable to account for any loss of or deficiency in such consideration;
  - (ii) section 103 (*Regulation of exercise of power of sale*) of the Law of Property Act 1925 shall not apply to this Assignment or to the power of sale, calling in, collection or conversion hereinbefore contained; and
  - (iii) for the purposes of this Clause 9.2 (*Successors in Title*), each of the Assignees and the Representative Assignee may (in its sole and absolute discretion) by notice appoint any of the Assignor or any other person as its non exclusive agent to sell all or any part of the Assigned Property on terms satisfactory to the Representative Assignee;
- (c) to settle, arrange, compromise or submit to arbitration any accounts, claims, questions or disputes whatsoever which may arise in connection with all or any part of the Assigned Property or in any way relating to this Assignment and execute releases or other discharges in relation thereto;
- (d) to bring, take, defend, compromise, submit to arbitration or discontinue any actions, suits or proceedings whatsoever, civil or criminal, in relation to all or any part of the Assigned Property;
- (e) to execute and do all such acts, deeds and things as the Representative Assignee may reasonably consider necessary or proper for, or in relation to, any of the purposes aforesaid; and



- (f) to appoint a Receiver of all or any part of the Assigned Property upon such terms as to remuneration and otherwise as the Representative Assignee shall deem fit; and the Representative Assignee may from time to time remove any Receiver so appointed and appoint another in his place; and to fix (at or after the time of his appointment) the remuneration of any such Receiver. A Receiver so appointed shall be the agent of the Assignor and the Assignor shall be liable for such Receiver's actions and defaults as the Assignor's agent (save for the wilful misconduct or reckless disregard of such Receiver) to the exclusion of liability on the part of the Assignees and the Representative Assignee. Nothing herein contained shall render the any Assignee or the Representative Assignee liable to any such Receiver for his remuneration, costs, charges or expenses or otherwise.

For so long as the benefit of this Assignment is assigned to the Security Trustee under Clause 17.3 and the Security Assignment, each of the Assignees and the Representative Assignee shall act in accordance with instructions from the Security Trustee in respect of their respective exercise of any of the powers in this Clause 9.2 and in Clause 9.4 (*Other Powers*).

#### **9.3 Law of Property Act 1925**

Sections 109(6) and 109(8) (*Appointment, powers, remuneration and duties of receiver*) of the Law of Property Act 1925 shall not apply in relation to any Receiver appointed under Clause 9.2 (*Powers of Assignees*).

#### **9.4 Other Powers**

Notwithstanding any other provision of this Assignment, and without limiting, and as an addition to, the powers conferred upon any Assignee and/or the Representative Assignee (and any Receiver appointed pursuant to Clause 9.2 (*Powers of Assignees*)) by the laws of England or of any other jurisdiction, any Assignee, the Representative Assignee or the Receiver (as the case may be) may, at any time after the occurrence of an Enforcement Event, exercise against or in respect of the Assignor and/or all or any part of the Assigned Property any of the rights, powers, privileges or discretions conferred on any Assignee and/or the Representative Assignee from time to time by applicable law, domestic or foreign.

#### **10. DELEGATION BY ASSIGNEES**

Each of the Assignees and the Representative Assignee shall be entitled (after appropriate consultation with the Security Trustee for so long as the Assignees and the Representative Assignee have assigned the benefit of this Assignment as contemplated by Clause 17.3) at any time and as often as it may deem expedient to delegate all or any of the powers, rights, remedies and discretions vested in it by or in connection with this Assignment in such manner, upon such terms and to such person as the Representative Assignee in its absolute discretion may think fit.

## **11. POWERS OF RECEIVER**

### **11.1 Powers of Receiver**

Any Receiver appointed under Clause 9.2 (*Powers of Assignees*) shall have all the powers conferred on a receiver by law (save that section 103 (Regulation of exercise of power of sale) of the Law of Property Act 1925 or any other relevant statutory provision of similar effect shall not apply) and, by way of addition to (but without limiting) those powers:

- (a) the Receiver shall have all the powers given to the Assignees and/or the Representative Assignee hereunder of taking possession of, calling in, collecting, converting into money and selling and dealing with all or any part of the Assigned Property and may do all other acts and things which he considers desirable or necessary to enable him to realise any of the Assigned Property, and the Receiver generally shall be entitled to the same protection and to exercise the same powers and discretions as are given to the Assignees and/or the Representative Assignee hereunder and shall also have such other of the powers and discretions given to the Assignees and/or the Representative Assignee hereunder as the Assignees or the Representative Assignee may from time to time confer on him;
- (b) the remuneration of the Receiver may be fixed by the Representative Assignee, shall be appropriate to the work and responsibilities involved upon the basis of charging from time to time adopted by the Receiver in accordance with the current practice of his or her firm (and may be or include a commission calculated by reference to the gross amount of all money received or otherwise), but shall be payable by the Assignor, and the amount of such remuneration may be debited by the Representative Assignee from any amounts held, assigned or charged in favour of the Assignees and/or the Representative Assignee pursuant to the Operative Documents but shall, in any event, be secured on the Assigned Property under this Assignment;
- (c) the Receiver shall have power to make any payment and incur any expenditure which any Assignee or the Representative Assignee is, by this Assignment, expressly or impliedly authorised to make or incur. Any expenses incurred by the Receiver in the exercise of any of his powers hereunder may be paid or retained by him out of any moneys coming into his hands as receiver or may be paid by the Representative Assignee, in which case they shall be treated as expenses properly incurred by such Assignee or the Representative Assignee (as the case may be);
- (d) the Receiver shall, in the exercise of his powers, authorities and discretions conform with the reasonable directions from time to time made and given by the Representative Assignee;
- (e) the Representative Assignee may at any time require security to be given for the due performance of the Receiver's duties as receiver, at the cost of the Assignor; and

- (f) the Representative Assignee may from time to time determine what funds the Receiver shall be at liberty to keep in hand with a view to the performance of his duties as receiver.

#### **11.2 No Liability as Assignees in Possession**

None of the Assignees, the Representative Assignee and the Receiver shall be liable to account as assignee in possession of the Assigned Property and none of the Security Trustee, the Assignees, the Representative Assignee and the Receiver shall be liable for any loss arising from, or in connection with, the realisation of all or any part of the Assigned Property or otherwise for any act, neglect, default or omission for which an Assignee in possession might be liable as such.

#### **11.3 Other Powers of Receiver**

The foregoing powers of a Receiver shall be in addition to any statutory or other powers of any Assignee or the Representative Assignee under the Law of Property Act 1925 and of a receiver under the Insolvency Act 1986, and the Receiver shall, in any event, have and be entitled to exercise all the rights, powers and remedies conferred upon the Assignees and/or the Representative Assignee by this Assignment and by law with respect to all or any part of the Assigned Property and conferred upon the Receiver.

### **12. PROTECTION OF THIRD PARTIES**

#### **12.1 Protection of Third Parties**

No person dealing with any Assignee, the Representative Assignee, the Security Trustee or any Receiver shall be concerned to enquire whether an Enforcement Event has occurred and is continuing or whether the powers which any Assignee, the Representative Assignee, the Security Trustee, or such Receiver is purporting to exercise have become exercisable or whether any money remains due on the security of this Assignment or otherwise as to the propriety, validity or regularity of any sale or other dealing by any Assignee, the Representative Assignee, the Security Trustee or such Receiver of or with all or any part of the Assigned Property, and all the protections to purchasers conferred by law shall apply to such persons dealing with any Assignee, the Representative Assignee, the Security Trustee or such Receiver.

#### **12.2 Receipts**

The receipt of any Assignee, the Representative Assignee, the Security Trustee or the Receiver for the purchase moneys shall absolutely and effectively discharge the purchaser, who shall not be concerned with the manner of application thereof or be in any way answerable therefor.

#### **12.3 Meaning of "Purchaser"**

In Clause 12.1 (*Protection of Third Parties*) and Clause 12.2 (*Receipts*), "purchaser" includes any person acquiring, for money or money's worth, any lease of, or Security Interest over, or any other interest or right whatsoever in relation to all or any part of the Assigned Property.

### **13. POWER OF ATTORNEY**

#### **13.1 Power of Attorney from Assignor**

The Assignor, by way of security for the full and punctual payment, performance and discharge of the Secured Obligations, irrevocably appoints the Representative Assignee (and for as long as the Assignees and the Representative Assignee have assigned the benefit of this Assignment to the Security Trustee as contemplated by Clause 17.3, the Security Trustee) and every Receiver to be its true and lawful attorney (with full power of substitution and delegation) to take any action which the Assignor is obliged to take under or pursuant to this Assignment or entitled to take in respect of the Assigned Property **provided that** the Representative Assignee shall not exercise the power of attorney granted hereunder until the occurrence of, and thereafter during the continuance of, an Enforcement Event.

#### **13.2 Conclusive Evidence of Power of Attorney**

The exercise by the Representative Assignee of the power of attorney referred to in Clause 13.1 (*Power of Attorney from Assignor*) shall be conclusive evidence of its right to exercise the same.

#### **13.3 Delegation of Power of Attorney**

The Representative Assignee may delegate (after appropriate consultation with the Security Trustee for so long as the Assignees and the Representative Assignee have assigned the benefit of this Assignment as contemplated by Clause 17.3) to any person by power of attorney or in any other manner any right, power or discretion exercisable by the Representative Assignee under this Assignment. Any such delegation may be made upon the terms (including power to sub-delegate) and subject to any regulations that the Representative Assignee may in its sole and absolute discretion consider fit.

#### **13.4 No Obligation to Exercise Power**

None of the Assignees, the Representative Assignee and the Security Trustee shall have any obligation to exercise any of the powers hereby conferred upon it or to make any demand or enquiry as to the nature or sufficiency of any payment received by it or to present or file any claim or notice or take any other action, with respect to the Assigned Property. No action taken by or omitted to be taken by the Representative Assignee or the Security Trustee in the proper exercise of the power conferred on it pursuant to Clause 13.1 (*Power of Attorney from Assignor*) shall give rise to any defence, counterclaim or setoff in favour of the Assignor or otherwise affect any of the Secured Obligations.

#### **13.5 Ratification by Assignor**

The power hereby conferred shall be a general power of attorney under the Powers of Attorney Act 1971 and the Assignor shall ratify and confirm and agree to ratify and confirm, any deed, assurance, agreement, instrument, act or thing which any of the Assignees, the Representative Assignee, the Security Trustee or any substitute or delegate may execute or do in the exercise of such power.

#### **14. APPLICATION OF PROCEEDS**

All Proceeds received by any Assignee, the Representative Assignee or any other person following the occurrence of an Enforcement Event shall be applied by the Representative Assignee in accordance with the Lease Agreement and the other Operative Documents.

#### **15. EXPENSES AND INDEMNITIES**

##### **15.1 Indemnities**

The Assignor hereby agrees to indemnify on first written demand, and hold harmless, each Assignee, the Representative Assignee, the Security Trustee, the Receiver and every attorney, manager, agent or other person appointed by any Assignee, the Representative Assignee, the Security Trustee or the Receiver, in respect of all Losses from time to time suffered or incurred by any of them:

- (a) in the execution or purported execution of any rights, powers, remedies, authorities or discretions vested in any of them by or pursuant to this Assignment, or otherwise in connection with the performance of this Assignment or any documents required pursuant hereto or any consent, waiver, amendment, supplement or approval which may be required or requested under this Assignment, or in enforcing or endeavouring to enforce any provisions of this Assignment or the security constituted hereby; or
- (b) by reason of any failure of the Assignor to perform any of its obligations pursuant to this Assignment or any other Operative Document,

but excluding any loss in relation to any of those persons described in this Clause 15.1 to the extent that such Loss arises solely as a result of the fraud, gross negligence or wilful misconduct of such person.

##### **15.2 Assignees' Right to Remedy**

If at any time the Assignor fails to do any act which it is obliged to do hereunder or to make any payment which it is obliged to make hereunder (other than a payment to the Assignee), the Representative Assignee may (but shall not be bound to) do such act or procure its doing or make such payment itself. The Assignor shall indemnify the Representative Assignee on demand in respect of any amount of payment made or Losses incurred by the Representative Assignee in doing any act pursuant to this Clause 15, together with interest thereon at the Default Rate calculated from the date of payment by the Representative Assignee until the date of payment by the Assignor.

## **16. RELEASE AND REASSIGNMENT**

- 16.1 Upon the Security Trustee becoming obliged to release and reassign to the Assignees and the Representative Assignee the Security Assignment pursuant to the terms thereof and **provided that** the Secured Obligations have been irrevocably and unconditionally paid, performed, and discharged in full, the Assignees and the Representative Assignee shall, at the request and cost of the Assignor, promptly:
- (a) release the Assigned Property from the Security Interest constituted by this Assignment;
  - (b) reassign the Assigned Property to the Assignor without recourse or warranty; and
  - (c) execute all such notices, directions and agreements as Assignor may reasonably require in order to give effect to such release.

## **17. SUCCESSORS IN TITLE**

- 17.1 This Assignment shall be binding upon and enure to the benefit of each of the parties hereto and their respective successors and permitted assignees and permitted transferees.
- 17.2 The Assignor shall not be entitled to assign or transfer any of its rights, benefits or obligations hereunder without the prior written consent of the Representative Assignee and the Security Trustee.
- 17.3 Each of the Assignees and the Representative Assignee may assign or transfer all or any part of its rights, benefits or obligations under this Assignment to the Security Trustee pursuant to the terms of the Security Assignment (but not otherwise without the Assignor's consent which shall not be unreasonably withheld or delayed).

## **18. REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of any Assignee or the Representative Assignee, any right or remedy under this Assignment shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent exercise of any other right or remedy nor shall the giving by any Assignee or the Representative Assignee of any consent to any act which by the terms of this Assignment requires such consent prejudice the rights of any Assignee or the Representative Assignee to withhold or give consent to the doing of any other similar Act. The rights and remedies provided in this Assignment are cumulative and not exclusive of any rights or remedies provided by law.

## **19. PARTIAL INVALIDITY**

If, at any time, any provision of this Assignment is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the applicable law of any other jurisdiction will in any way be affected or impaired.

20. **AMENDMENTS**

20.1 No variation of this Assignment shall be valid unless it is in writing and signed by or on behalf of all of the parties to this Assignment.

20.2 Unless expressly agreed, no variation shall constitute a general waiver of any provisions of this Assignment, nor shall it affect any rights, obligations or liabilities under or pursuant to this Assignment which have already accrued up to the date of variation, and the rights and obligations of the parties under or pursuant to this Assignment shall remain in full force and effect, except and only to the extent that they are so varied.

21. **NOTICES**

Any communication to be made under or in connection with this Assignment shall be made in accordance with clause 26.8 (*Notices*) of the Lease Agreement.

22. **COUNTERPARTS**

This Assignment may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Assignment.

23. **GOVERNING LAW**

This Assignment and all non-contractual obligations arising from, out of or in connection to it are governed by and shall be construed in accordance with English law.



24. **ENFORCEMENT**

Clause 27.2 (*English Courts*) and clause 27.6 (*Waiver of Immunity*) of the Lease Agreement apply to this Assignment as if each such clause were set out in full, *mutatis mutandis*.

**IN WITNESS WHEREOF** the parties have executed and delivered this Assignment as a Deed on the date shown at the beginning of this Assignment

EXECUTION PAGE

EXECUTED and DELIVERED as a DEED )  
by VIRGIN ATLANTIC AIRWAYS LIMITED )  
acting by ~~two directors or~~ )  
a director and the Company Secretary )  
)  
)

  
.....  
Director  
  
.....  
Director/Company Secretary



Assignees

SIGNED as a DEED by

Elko GRIEGER  
UNDER POA

being an attorney who under the laws of  
Japan is acting for and on behalf of  
FLIP NO. 103 CO., LTD.

in the presence of:



Signature of witness

Anne Thümmel

Name of witness

c/o KLGates, Frankfurt

Address of witness

Lawyer

Occupation of witness

SIGNED as a DEED by

Elko GRIEGER

being an attorney who under the laws of  
Japan is acting for and on behalf of  
FLIP NO. 104 CO., LTD.

in the presence of:



Signature of witness

Anne Thümmel

Name of witness

c/o KLGates, Frankfurt

Address of witness

Lawyer

Occupation of witness

SIGNED as a DEED by

EIKO GRIEGER

being an attorney who under the laws of  
Japan is acting for and on behalf of  
FLIP NO. 105 CO., LTD.

in the presence of:

Signature of witness

Anne Thümmel

Name of witness

c/o KLGates, Frankfurt

Address of witness

Lawyer

Occupation of witness

**The Representative Assignee**

SIGNED as a DEED by

EIKO GRIEGER

being an attorney who under the laws of  
Japan is acting for and on behalf of  
FLIP NO. 103 CO., LTD.

in the presence of:

Signature of witness

Anne Thümmel

Name of witness

c/o KLGates, Frankfurt

Address of witness

Lawyer

Occupation of witness