

# M

COMPANIES FORM No. 395

Me 00400107

## Particulars of a mortgage or charge

# 395

A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge.

CHFP025

Pursuant to section 395 of the Companies Act 1985

To the Registrar of Companies  
(Address overleaf - Note 6)

For official use

Company number

[43]

02871331

Name of company

\* Virgair Limited, 120 Campden Hill Road, London W8 7AR (the "Depositor")

Date of creation of the charge

12 July 2007

Description of the instrument (if any) creating or evidencing the charge (note 2)

A Maintenance Collateral Charge relating to one Airbus A340-311, Aircraft Manufacturer's Serial Number 003, Registration Mark G-VSEA (the "MSN 003 Maintenance Collateral Charge") between Virgair Limited as Depositor and RFC Aircraft Leasing 4, LLC as Chargee (the "Chargee")

Amount secured by the mortgage or charge

4  
10  
Any and all monies, liabilities and obligations (whether actual or contingent, whether now existing or hereafter arising, whether or not for the payment of money, and including, without limitation any obligation or liability to pay damages and including any interest which, but for the application of bankruptcy or insolvency laws, would have occurred on the amounts in question) which are now or which may at any time and from time to time hereafter be due, owing, payable or incurred or be expressed to be due, owing, payable or incurred from or by the Depositor to the Chargee under or in connection with the Lessee Documents (including, without limitation, the Depositor's obligations under paragraph 5 6 of schedule 2 part 2 of the Lease Agreement) and references to Secured Obligations includes references to any part thereof (the "Secured Obligations"). Capitalised terms are defined in Schedule 2 attached hereto.

Names and addresses of the mortgagees or persons entitled to the charge

RFC Aircraft Leasing 4, LLC, 3300 S Parker Road, Suite 500, Aurora, Colorado, USA, as Chargee

Postcode 80014

Presentor's name address and reference (if any)

Clifford Chance LLP  
10 Upper Bank Street  
London  
E14 5JJ

For official Use (06/2005)  
Mortgage Section

Post room

MONDAY



LD5

\*L3E7LRO9\*

30/07/2007

454

COMPANIES HOUSE

Short particulars of all the property mortgaged or charged

Please see attached Schedule 1 for particulars of property mortgaged or charged

Capitalised terms are defined in Schedule 2 attached hereto

Please do not write in this margin

**Please complete legibly, preferably in black type, or bold block lettering**

Particulars as to commission allowance or discount (note 3)

None

Signed

*Clifford Chance LLP*

Date *30 July 2007*

On behalf of ~~XXXXXX XXXXXX~~ [chargee] †

*A fee is payable to Companies House in respect of each register entry for a mortgage or charge (See Note 5)*

† delete as appropriate

Notes

- 1 The original instrument (if any) creating or evidencing the charge, together with these prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of creation of the charge (section 395). If the property is situated and the charge was created outside the United Kingdom delivery to the Registrar must be effected within 21 days after the date on which the instrument could in due course of post, and if dispatched with due diligence, have been received in the United Kingdom (section 398). A copy of the instrument creating the charge will be accepted where the property charged is situated and the charge was created outside the United Kingdom (section 398) and in such cases the copy must be verified to be a correct copy either by the company or by the person who has delivered or sent the copy to the Registrar. The verification must be signed by or on behalf of the person giving the verification and where this is given by a body corporate it must be signed by an officer of that body. A verified copy will also be accepted where section 398(4) applies (property situate in Scotland or Northern Ireland) and Form No 398 is submitted.
- 2 A description of the instrument, eg "Trust Deed", "Debenture", "Mortgage", or "Legal charge", etc, as the case may be, should be given.
- 3 In this section there should be inserted the amount or rate per cent of the commission, allowance or discount (if any) paid or made either directly or indirectly by the company to any person in consideration of his,
  - (a) subscribing or agreeing to subscribe, whether absolutely or conditionally, or
  - (b) procuring or agreeing to procure subscriptions, whether absolute or conditional,for any of the debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered.
- 4 If any of the spaces in this form provide insufficient space the particulars must be entered on the prescribed continuation sheet.
- 5 A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge. Cheques and Postal Orders must be made payable to **Companies House**.

## **Schedule 1**

### **Short Particulars of Property Mortgaged or Charged**

#### **1 ASSIGNMENT AND CHARGE**

- 1 1 In consideration of the Chargee agreeing to the amendments contemplated in the Deed of Novation or granting any other accommodation or facilities to or for the account of the Depositor, the Depositor with full title guarantee for the duration of the Security Period in order to secure the full and punctual payment, performance and discharge of all of the Secured Obligations and with immediate effect as from the Effective Time hereby (i) assigns and agrees to assign absolutely by way of security all of its rights, title and interest (present and future, actual or contingent) in, to and under the Maintenance Collateral in favour of the Chargee and (ii) charges by way of first fixed charge the Maintenance Reserves Account

#### **2 FURTHER ASSURANCE**

As of and with effect from the Effective Time, the Depositor shall, at no cost to the Depositor, from time to time promptly sign, seal, execute, acknowledge, deliver, file and register all such additional documents, instruments, agreements, certificates, consents and assurances and do all such other acts and things as may be reasonably necessary or as the Chargee may reasonably request from time to time in order to perfect the Lien granted or intended to be granted by the Charge or to establish, maintain, protect or preserve the rights of the Chargee under the Charge or to enable it to obtain the full benefits of the Charge and to exercise and enforce its rights and remedies under the Charge or in respect of the Maintenance Collateral and/or the Maintenance Reserves Account

This Charge also contains a Negative Pledge

## **Schedule 2**

### **Definitions**

In this Form 395

**"Absolute Transfer"** has the meaning given to that term in Clause 21.2.1 of the Agreement

**"Agreement"** means an Amended, Restated and Novated Aircraft Lease and Purchase Agreement relating to one Airbus A340-311 aircraft with manufacturer's serial number 003 and UK Registration Mark G-VSEA between RFC Aircraft Leasing 4, LLC as Lessor and Virgair Limited as Lessee

**"Aircraft"** means the aircraft described in Schedule 1 of the Agreement (including the Airframe, each Engine, each Part and the Technical Records)

**"Airframe"** means the Aircraft together with all Parts relating thereto, but excluding the Engines and the Technical Records

**"APU"** means the auxiliary power unit installed in the Airframe at Delivery (unless replaced in accordance with the Agreement) and includes any such replacement unit

**"Aviation Authority"** means the Civil Aviation Authority of the United Kingdom and all and any of the authorities, government departments, committees or agencies which under the laws of the State of Registration shall from time to time

- (a) have control or supervision of civil aviation in that state, or
- (b) have jurisdiction over the registration, airworthiness or operation of, or other matters relating to, the Aircraft

**"Cash Collateral Charge"** means a charge over the Charged Cash entered into between the Lessor and the Lessee in substantially the form set out in Schedule 16 of the Agreement

**"Charged Cash"** has the meaning given to that term in the Cash Collateral Charge

**"Deed of Assignment of Engine Warranties"** means the deed of assignment of engine warranties (together with the recitals and schedules thereto) to be entered into between VAAL as assignor and the Lessor as assignee

**"Deed of Novation"** means the deed of novation and amendment dated 11 July 2007 between the Previous Lessor, the Lessor and the Lessee in respect of the Aircraft pursuant to which amongst other things, the Lessor assumed the rights and obligations of the Previous Lessor as "Lessor" under the Agreement

**"Delivery Date"** means 7 July 1997

**"Delivery"** means the delivery of the Aircraft by the Previous Lessor to the Lessee on the Delivery Date

**"Deposittee"** means Lloyds TSB Bank Plc, P O Box 72, Bailey Drive, Gillingham Business Park, Kent, ME8 0LS

**"Deregistration Power of Attorney"** means an irrevocable power of attorney issued or to be issued by the Operator in favour of the Lessor (or, if so directed by the Lessor, in favour of any relevant Financing Party) in the form set out in Schedule 8 of the Agreement

**"Effective Time"** shall have the meaning given to that term in the Deed of Novation

**"Engine"** means

- (a) each engine identified in Schedule 1 of the Agreement and all Parts installed in or on such engine at the occurrence of the Effective Time, or
- (b) any engine which has replaced an engine referred to in paragraph (a) or this paragraph (b), title to which has vested in the Owner in accordance with the Agreement, and
- (c) (c) in the case of (a) and (b), all substituted, renewed or replacement Parts at any time installed in or on any such engine as required or permitted under the Agreement

**"Eurocontrol Letter"** means a letter from the Operator in favour of the Lessor (or, if so directed by the Lessor, in favour of any relevant Financing Party) in the form set out in Schedule 9 of the Agreement

**"Financing Notice"** has the meaning given to that term in Clause 21 5 of the Agreement

**"Financing Parties"** means each of the persons specified in a Financing Notice served in accordance with Clause 21 5 of the Agreement (including, if the Lessor is not the Owner, the Owner) being, in each case, a person whose participation in such financing complies with the provisions of Clause 21 7 1(b) of the Agreement

**"Guarantee"** means the guarantee entered into or to be entered into by the Guarantors in favour of the Lessor (in the form set out in Schedule 12 of the Agreement) in respect of the Lessee's obligations under the Lessee Documents (including, without limitation, any guarantee issued under Clause 21 3 2(c) of the Agreement following a transfer of the Lessee's rights and obligations hereunder)

**"Guarantor"** means each of VAAL and Virgin Atlantic Limited.

**"Insurances"** means the insurance and (where applicable) reinsurance cover required to be maintained under the Agreement

**"Lessee Documents"** means each Transaction Document to which the Lessee is (or will be) a party.

**"Lessee Group Company"** means each of Virgin Atlantic Limited and its Subsidiaries

**"Lessee"** means Virgair Limited, a company incorporated in England under company number 2871331 and with its registered office at 120 Campden Hill Road, London W8 7AR

**"Lessor"** means RFC Aircraft Leasing 4, LLC, a limited liability company organised under the laws of Delaware, United States of America, whose principal place of business is at 3300 S Parker Road, Suite 500, Aurora, Colorado 80014, the United States of America

**"Lien"** means any encumbrance or security interest whatsoever, howsoever created or arising including (without prejudice to the generality of the foregoing) any right of ownership, security, mortgage, charge, encumbrance, pledge, lien, assignment, statutory rights in rem, title retention, detention, hypothecation, right of set-off, right or any agreement or arrangement having the effect of creating a security interest, other than a right of set-off arising by operation of law

**"Maintenance Collateral Charge"** means the charge over the Maintenance Reserves Account entered into between the Lessor and the Lessee in substantially the form set out in Schedule 17 of the Agreement

**"Maintenance Collateral"** means all sums of money which may now or in the future be standing in the name of the Depositor to the credit of the Maintenance Reserves Account together with all interest thereon including, without limitation, all amounts now or hereafter credited to the Maintenance Reserves Account and all proceeds of the foregoing, including all cash at any time and from time to time receivable or distributable in respect of or in exchange for any of the foregoing and interest thereon

**"Maintenance Reserves Account"** has the meaning given to that term in the Maintenance Collateral Charge

**"Maintenance Reserves Account"** means the Dollar account number 11197282 in the name of the Depositor with the Deposittee (as may be designated by the Deposittee from time to time)

**"Manufacturer"** means Airbus S A S (formerly known as Airbus G I E and as Airbus Industrie G I E ) a *société par actions simplifiées* duly created and existing under French law and whose address is 1, rond-point Maurice Bellonte, 31707 Blagnac Cedex, France

**"Operator"** means the operator of the Aircraft from time to time under the Agreement or a Permitted Sublease or, where a Permitted Sublease permits (in accordance with Clauses 9 3 3 and 9 3 4 of the Agreement) further subleasing, under any such further sublease

**"Owner"** means the Lessor or such other person as the Lessor may notify to the Lessee in a Financing Notice as being the owner of the Aircraft

**"Part"** means any part, APU, component, furnishing, appliance, module, accessory, instrument or other item of equipment (other than a complete Engine), whether or not installed on the Aircraft at any time

- (a) installed in, attached to or supplied with the Airframe or any Engine at the Effective Time, or
- (b) title to which has passed to the Owner in accordance with the Agreement,

but excludes any item title to which has ceased to vest in the Owner in accordance with the Agreement

**"Permitted Sublease"** means (a) any lease agreement entered into by the Lessee with a Permitted Sublessee in relation to the Aircraft which complies with the requirements of Clause 9 3 of the Agreement or (b) any Use Agreement which complies with the requirements of Clause 9 3 2 of the Agreement

**"Permitted Sublessee"** means (a) any Lessee Group Company incorporated in England and Wales that has all necessary permits and licences to operate the aircraft and (b) any other operator approved in writing by the Lessor for the purposes of the relevant Permitted Sublease (which approval will (i) not be unreasonably withheld or delayed by the Lessor and (ii) not be construed as approval of that Permitted Sublessee for the purposes of any subsequent sublease)

**"Previous Lessor"** means Airbus Financial Services (formerly known as Airbus Industrie Financial Services), a company incorporated in Ireland under company number 1444820 and with its registered office at 5<sup>th</sup> Floor, 6 George's Dock, IFSC, Dublin 1, Ireland

**"Redelivery Certificate"** means a certificate substantially in the form set out in Schedule 10 of the Agreement

**"Security Assignment"** means the assignment entered into or to be entered into by the Lessee and VAAL in favour of the Lessor in respect of the Insurances and any requisition proceeds substantially in the form set out in Schedule 13 of the Agreement

**"Security Period"** means the period commencing on the Effective Time and terminating on the date upon which all of the Secured Obligations have been paid and satisfied in full

**"Security Transfer"** has the meaning given to that term in Clause 21 2 1 of the Agreement

**State of Registration** means the United Kingdom or any other state or territory in which the Aircraft may, from time to time, be registered in accordance with the terms of Clause 9 3 6(b) of the Agreement

**"Subsidiary"** of a company or corporation shall be construed as a reference to any company or corporation

- (a) which is controlled, directly or indirectly, by the first-mentioned company or corporation;
- (b) more than half the issued share capital of which is beneficially owned, directly or indirectly, by the first-mentioned company or corporation,
- (c) which is a Subsidiary (under any other paragraph of this definition) of another Subsidiary (under any other paragraph of this definition) of the first-mentioned company or corporation, or
- (d) which would under relevant applicable accounting principles, be consolidated for accounting purposes with the first-mentioned company or corporation and, for these

purposes, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body

**"Supplemental Agreement"** means the agreement dated 30 May 1997 entered into between VAAL, the Lessee, the Manufacturer and the Previous Lessor pursuant to which, inter alia, the Previous Lessor agreed to take title to the Aircraft

**"Technical Records"** means all technical data, manuals, logbooks and other records, materials and documents (whether kept or to be kept in compliance with any law or regulation or any requirement for the time being of the Aviation Authority or otherwise) relating to the Aircraft or any part thereof (which shall be maintained in the English language or, if required to be maintained in any other language, shall be accompanied by a certified English translation and all additions to and covenants or revisions to or replacements for the same from time to time including, without limitation the documents specified in Part 3 of Schedule 1 of the Agreement)

**"Transaction Documents"** means each of the Agreement, the Deed of Novation, the Supplemental Agreement, the Deed of Assignment of Engine Warranties, the Cash Collateral Charge, the Maintenance Collateral Charge, each Guarantee, the Security Assignment, the Eurocontrol Letter, the Deregistration Power of Attorney, the Redelivery Certificate, each Permitted Sublease, each Transfer Acknowledgement and any other document entered into by the Lessee or any Guarantor in connection with an Absolute Transfer or a Security Transfer, any other document which the Lessor and the Lessee may from time to time designate as a Transaction Document for the purposes of the Agreement and any agreement from time to time entered into by the Lessee or any Guarantor which amends or supplements any Transaction Document

**"Transfer Acknowledgement"** means any acknowledgement entered into from time to time by the Lessee or any Guarantor of any permitted assignment by the Lessor of its rights hereunder or under any Guarantee

**"Use Agreement"** means any use agreement entered into or to be entered into between the Lessee and VAAL in substantially the form set out in Schedule 14 of the Agreement

**"VAAL"** means Virgin Atlantic Airways Limited, a company incorporated and existing under the laws of England



FILE COPY



## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

Pursuant to section 401(2) of the Companies Act 1985

COMPANY No 02871331

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A MAINTENANCE COLLATERAL CHARGE DATED THE 12th JULY 2007 AND CREATED BY VIRGAIR LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO RFC AIRCRAFT LEASING 4,LLC ON ANY ACCOUNT WHATSOEVER UNDER THE TERMS OF THE AFOREMENTIONED INSTRUMENT CREATING OR EVIDENCING THE CHARGE WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 30th JULY 2007

GIVEN AT COMPANIES HOUSE, CARDIFF THE 6th AUGUST 2007



*Companies House*

— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES