

MG01**Particulars of a mortgage or charge****A fee is payable with this form.**

We will not accept this form unless you send the correct fee

Please see 'How to pay' on the last page

**What this form is for**

You may use this form to register particulars of a mortgage or charge in England and Wales or Northern Ireland

**What this form is NOT for**

You cannot use this form to register particulars of a charge for a company. To do this, please use form MG01s

THURSDAY



A158HXFT

A36

22/03/2012

#498

COMPANIES HOUSE

1**Company details**

Company number 0 5 6 4 3 8 1 4

Company name in full Air Berlin PLC

3

For official use

→ Filling in this form

Please complete in typescript or in bold black capitals

All fields are mandatory unless specified or indicated by *

2**Date of creation of charge**

Date of creation d0 d6 m0 m3 y2 y0 y1 y2

3**Description**

Please give a description of the instrument (if any) creating or evidencing the charge, e.g. 'Trust Deed', 'Debenture', 'Mortgage', or 'Legal charge'

Description

CFM Engine Warranties and Additional Allowances Assignment relating to fifty six (56) Boeing 737-800 Aircraft each equipped with two CFM Engines between (1) Air Berlin PLC ("Assignor"), (2) Etihad Airways P.J S.C ("Assignee") and (3) CFM International S.A. dated 6 March 2012 ("Deed")

4**Amount secured**

Please give us details of the amount secured by the mortgage or charge

Amount secured

Any and all moneys, 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) from time to time owing to the Lender (as defined in Panel 6) (in whatever capacities) by (a) any Obligor (as defined in Panel 6) pursuant to any Transaction Document (as defined in Panel 6) and includes any and all moneys, liabilities and obligations under the Transaction Documents and (b) the Other Borrower (as defined in Panel 6) and/or the Guarantor (as defined in Panel 6) pursuant to the Term Loan Facility (as defined in Panel 6) (if any) and any document entered into in connection therewith and includes any and all moneys, liabilities and obligations thereunder ("Secured Obligations")

Continuation page

Please use a continuation page if you need to enter more details

MG01

Particulars of a mortgage or charge

5 Mortgagee(s) or person(s) entitled to the charge (if any)

Please give the name and address of the mortgagee(s) or person(s) entitled to the charge		Continuation page Please use a continuation page if you need to enter more details
Name	Etihad Airways P.J.S.C.	
Address	PO Box 35566, New Airport Road, Abu Dhabi, United Arab Emirates	
Postcode		
Name		
Address		
Postcode		

6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged		Continuation page Please use a continuation page if you need to enter more details
Short particulars	<p>1 DEFINITIONS</p> <p>Additional Allowances means the additional allowances in respect of the Engines delivered with each Aircraft as described and subject to the conditions set forth in Schedule 3 of the Deed, and Additional Allowance means any one of them individually, as the context shall require;</p> <p>Advance Payments means each advance payment due to Boeing under Article 2.3.1 of the AGTA with respect to each of the Aircraft, including any such amounts paid prior to the date of the Boeing Consent, by or on behalf of the Assignor;</p> <p>AGTA means that certain Aircraft General Terms Agreement designated AGTA-BER, dated as of 22 December 2006, which is incorporated by reference into the Purchase Agreement;</p> <p>Aircraft means together (or, if the context so requires, one or more of) the 56 Boeing 737-800 aircraft which are the subject of the Aircraft Purchase Agreement, and references in the Deed to Aircraft No. shall be deemed to be references to each such Aircraft in the order of their respective Scheduled Delivery Months as set out in Schedule 2 of the Deed and any reference to an Aircraft in the Deed shall be deemed to include the Engines relating thereto;</p> <p>Aircraft Purchase Agreement means a certain 737 Purchase Agreement No. 3058, as amended and restated, dated as of 22 December 2006 between Air Berlin 5. LeaseLux S.a.r.l. and Boeing, as amended from time to time;</p>	

MG01

Particulars of a mortgage or charge

7

Particulars as to commission, allowance or discount (if any)

Please insert the amount or rate percent of any commission, allowance or discount paid or made either directly or indirectly by the company to any person on consideration of his

- subscribing or agreeing to subscribe, whether absolutely or conditionally, or
- procuring or agreeing to procure subscriptions, whether absolute or conditional,

for any debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered

Commission, allowance or discount Nil

8

Delivery of instrument

You must deliver the original instrument (if any) creating or evidencing the charge and these prescribed particulars to the Registrar of Companies within 21 days after the date of creation of the charge (section 860). If the property is situated and the charge was created outside the United Kingdom (UK), you must deliver the information to the Registrar within 21 days after the date on which the instrument could have been received in the UK in the normal course of post and assuming you had posted it promptly (section 870).

We will accept a verified copy of the instrument creating the charge where the property charged is situated and the charge was created outside the UK (section 866). The company or the person who has delivered the copy to the Registrar must verify it to be a correct copy and sign it. Where a body corporate gives the verification, an officer of that body must sign it. We will also accept a verified copy where section 867(2) applies (property situated in another part of UK).

9

Signature

Please sign the form here

Signature

Signature

x DCA PIPER UK LLP x

This form must be signed by a person with an interest in the registration of the charge.

MG01

Particulars of a mortgage or charge



Presenter information

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form and will establish where we return the original documents. The contact information you give will be visible to searchers of the public record.

Contact name MICHAEL TANNER

Company name DLA Piper UK LLP

Address 3 Noble Street

London

Post town

County/Region

Postcode E C 2 V 7 E E

Country

DX DX 33866 Finsbury Square

Telephone 08700 111 111



Certificate

We will send your certificate to the presenter's address if given above or to the Company's Registered Office if you have left the presenter's information blank.



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☐ The company name and number match the information held on the public Register
- ☐ You have included the original deed with this form
- ☐ You have entered the date the charge was created
- ☐ You have supplied the description of the instrument
- ☐ You have given details of the amount secured by the mortgagee or chargee
- ☐ You have given details of the mortgagee(s) or person(s) entitled to the charge
- ☐ You have entered the short particulars of all the property mortgaged or charged
- ☐ You have signed the form
- ☐ You have enclosed the correct fee



Important information

Please note that all information on this form will appear on the public record.



How to pay

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

Make cheques or postal orders payable to 'Companies House'



Where to send

You may return this form to any Companies House address, however for expediency we advise you to return it to the appropriate address below:

For companies registered in England and Wales:

The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

For companies registered in Scotland:

The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland:

The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG
DX 481 N R Belfast 1



Further information

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk

MG01 - continuation page

Particulars of a mortgage or charge

6

Short particulars of all the property mortgaged or charged

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Short particulars

Airframe means, in relation to an Aircraft, such Aircraft (excluding the Engines and the Manuals and Technical Records relating thereto), together with all Parts relating thereto;

Assigned Rights has the meaning given to it in clause 2.1 (*Grant of Security*) of the Deed;

B787 Engine GTA means the general terms agreement (or equivalent) to be entered into in connection with the Engines to be installed on the Block D Aircraft together with any amendments, modifications and supplements (including letter agreements) thereto;

B787 Engine GTA Warranties Agreement means any agreement to be entered into between, inter alios, the Lender and the B787 Engine Manufacturer in relation to, inter alia, the engine warranties and any additional allowances or credits under the B787 Engine GTA;

B787 Engine Manufacturer means the engine manufacturer that enters into the B787 Engine GTA;

Block A and B Aircraft means the forty-seven (47) Boeing 737-800 Aircraft including the Airframe, the Engines, the Parts and the Manuals and Technical Records relating thereto as more particularly described in the Detail Specification - Air Berlin (BER) - Boeing Sky Interior - 737-86J (D019A001BER38P-3 YR301-YR360) Revision B dated September 26, 2011, as amended from time to time;

Block C Aircraft means the nine (9) Boeing 737-800 Aircraft including the Airframe, the Engines, the Parts and the Manuals and Technical Records relating thereto as more particularly described in the Detail Specification - Air Berlin (BER) - Boeing Sky Interior - 737-86J (D019A001BER38P-3 YR301-YR360) Revision B dated September 26, 2011, as amended from time to time,

Block D Aircraft means the fifteen (15) Boeing 787-86J Aircraft including the Airframe, the Engines, the Parts and the Manuals and Technical Records relating thereto with such details as to be provided by the Borrower to the Lender after such specifications have been agreed upon between the Borrower and Boeing pursuant to the Boeing B787 Purchase Agreement and the Borrower and the relevant Engine Manufacturer pursuant to the B787 Engine GTA, as the case may be,

Boeing means The Boeing Company;

Boeing Assigned Rights means all of Assignor's rights and interests under the Purchase Agreements to (1) purchase and take title to the Aircraft, and (11) the benefit of the Advance Payments;

Boeing B737 Purchase Agreement means the purchase agreement number 3058 dated 22 December 2006 between AB Zehnte Flugzeugvermietungs GmbH and Boeing as novated to Air Berlin 5. LeaseLux S.à r l. pursuant to a transfer and assumption agreement effective from 31

MG01 - continuation page

Particulars of a mortgage or charge

6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

December 2007 together with any amendments, modifications and supplements (including letter agreements and exhibits) thereto;

Boeing B787 Purchase Agreement means the purchase agreement number 3237 dated 7 July 2007 between AB Zehnte Flugzeugvermietungs GmbH and Boeing as novated to Air Berlin 5. LeaseLux S.à r.l. pursuant to a transfer and assumption agreement effective from 31 December 2007 together with any amendments, modifications and supplements (including letter agreements and exhibits) thereto,

Boeing Consent means the consent to collateral assignment of the Aircraft Purchase Agreement rights dated on or about the date of the Deed between Assignee as lender, Purchaser and Boeing;

Borrower means Air Berlin 5. LeaseLux S.à r.l

Contract means a certain General Terms Agreement, with reference number No9-4057 originally entered into between CFM and Air Berlin PLC & Co. Luftverkehrs KG, as amended and restated on 10 October 2005 and transferred to Assignor on 21 December 2007, as further amended and supplemented by Letter Agreement No.8 dated 22 May 2008 (as the same may have been amended and supplemented further from time to time);

CFM means CFM International S.A;

CFMI means CFM International Inc ;

CFMI Engine Warranties and Additional Allowances Agreement means the CFMI engine warranties and additional allowances agreement dated on or about the date of the Deed between the Lender, the Guarantor and CFM in relation to the CFMI engine warranties and additional allowances;

Delivery Date means, in respect of each Aircraft, the date on which title to such Aircraft is transferred to the Purchaser (or its nominee) in its capacity as "Buyer" under the Aircraft Purchase Agreement,

Enforcement Event means the occurrence and continuance of any Event of Default,

Engine GTA Warranties Agreement means the CFMI Engine Warranties and Additional Allowances Agreement and any B787 Engine GTA Warranties Agreement and, if the context so permits, each of them,

Engine Manufacturer means:

a) in respect of the Block A and B Aircraft and the Block C Aircraft, CFMI; and

MG01 - continuation page

Particulars of a mortgage or charge

6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

b) in respect of the Block D Aircraft, the B787 Engine Manufacturer, and if the context so permits, each of them;

Engines means each of the CFM56-7B24 engines to be installed on an Aircraft prior to the Delivery Date thereof under the terms of the Aircraft Purchase Agreement; and **Engine** shall mean any of them individually;

Engine Warranties shall mean, solely in respect to the Engines, the Engine Manufacturer's warranties, each with respect to the Engines as set forth in paragraph A, B, C and D in section II of the CFM56 Product Support Plan which forms a part of the Contract and Exhibit B of the Deed;

Event of Default means any event or circumstance specified as such in the Loan Agreement or such other event or circumstance as the Assignor (as borrower) may agree in writing constitutes an Event of Default;

Guarantor means Air Berlin PLC;

Lender means Etihad Airways P.J S.C ;

Letter of Partial Reassignment means a letter in the form set out in Schedule 4 of the Deed;

Loan Agreement means the PDP financing facility agreement dated on or about the date of the Deed between Purchaser, as borrower, Assignor, as guarantor, and Assignee, as lender;

Manuals and Technical Records means , in relation to an Aircraft, the records, logs, manuals, technical data and other materials, documents and information relating to such Aircraft, pursuant to the Purchase Agreement relating to such Aircraft or as shall be required by the relevant aviation authorities;

Obligor means each of the Borrower and the Guarantor and **Obligor** means either one of them, as the context shall require;

Other Borrower means Air Berlin PLC & Co. Luftverkehrs KG,

Parts means, in relation to an Aircraft, any applicable part, instrument, appurtenance, accessory, furnishing or other item of equipment of whatever nature (other than an Engine) which may from time to time be incorporated or installed in or attached to the relevant Aircraft;

Purchase Agreement means the Boeing B737 Purchase Agreement or the Boeing B787 Purchase Agreement and, if the context so permits, both

MG01 - continuation page

Particulars of a mortgage or charge

6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

of them;

Purchase Agreements Security Assignment means the first priority security assignment relating to the Borrower's rights under the Purchase Agreements (together with the consent and agreement relating thereto);

Purchaser means Air Berlin 5 LeaseLux S.à r.l.;

Scheduled Delivery Month means, in respect of an Aircraft, the month set out opposite that Aircraft in the third column of the table in Schedule 2 of the Deed,

Security means a mortgage, charge, pledge, lien, assignment by way of security, retention of title provision or trust (for the purpose of, or which has the effect of, granting security) or other security interest securing any obligation of any person or any other agreement or arrangement in any jurisdiction having a similar effect;

Security Assignment means the security assignment relating to the Aircraft Purchase Agreement dated on or about the date of the Deed between Assignee and Purchaser, as consented to by Boeing pursuant to the Boeing Consent;

Security Deed means the security deed entered into on or about the date of the Deed between the Purchaser, the Assignor and the Assignee;

Security Document means the Purchase Agreements Security Assignment and any other document designated by the Lender and consented to by the Guarantor creating, evidencing or granting Security in favour of the Lender in respect of the obligations of any Obligor under the Transaction Documents, each in form and substance satisfactory to the Lender including any consent and agreement, notice and acknowledgement relating thereto,

Term Loan Facility means the term loan facility agreement (if any) entered into or to be entered into implementing the term sheet dated 19 December 2011 between the Airline and the Lender;

Transaction Documents means (i) the Loan Agreement, the Engine GTA Warranties Agreements, the Boeing Consent, the Security Deed and any Security Document, (ii) any other document including, without limitation, any notice, acknowledgement, consent letter, side letter, supplement, amendment or certificate executed by an Obligor pursuant to any of the foregoing on or prior to the date of the utilisation of the loan in accordance with the Loan Agreement; and (iii) any other document designated as such in writing by the Assignee and agreed to by the Assignor and **Transaction Document** means any one of them, as the context shall require;

MG01 - continuation page

Particulars of a mortgage or charge

6 Short particulars of all the property mortgaged or charged

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Short particulars

2 GRANT OF SECURITY

2.1 As security for the prompt payment, discharge and performance of the Secured Obligations, subject to the terms and conditions of the Deed, Assignor assigned, pledged and transferred, granted and charged, absolutely and unconditionally with full title guarantee by way of first priority security to Assignee, a security interest in all right, title and interest of Assignor in and to, all benefits of Assignor under, and all monies due or to become due to Assignor (present and future, actual and contingent) in, under, pursuant to and in connection with, its rights under the Engine Warranties (the **Assigned Rights**) including:

- (a) New Engine Warranty;
- (b) New Parts Warranty;
- (c) Ultimate Life Warranty;
- (d) Campaign Change Warranty.

The above referenced Assigned Rights are as set forth in Schedule 1 of the Deed.

3 CFM'S CONDITIONS

3.1 CFM shall be entitled to perform any obligations corresponding to the Assigned Rights with respect to Assignor or Assignee as provided in clause 2.1 (*Grant of Security*) of the Deed.

4 REASSIGNMENT

4.1 Without prejudice to clauses 4.2 and 4.3 of the Deed, at the cost and request of Assignor, no later than two (2) days prior to the scheduled delivery date (as may be adjusted from time to time) of an Aircraft pursuant to the Aircraft Purchase Agreement, Assignee shall execute and deliver to Assignor (for itself and onward transmission to CFM) a Letter of Partial Reassignment re-assigning the Assigned Rights and terminating its entitlement to the Additional Allowances, in each case insofar as they relate to the relevant Engines, provided that Assignor has provided the execution version of such Letter of Partial Reassignment to Assignee no later than seven (7) days (or such shorter period as Assignee may agree at its sole discretion) prior to such scheduled delivery date. Any re-assignment shall be on a without recourse or warranty basis and Assignee (at the cost of Assignor) will execute such agreements, give such notices and do such other things as Assignor may reasonably request to give effect to such reassignment.

4.2 Upon the full, final and indefeasible payment and discharge in full of the Secured Obligations, Assignee shall notify Assignor thereof in

MG01 - continuation page

Particulars of a mortgage or charge

6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

writing and, at the request and cost of Assignor, (1) re-assign all of the then remaining Assigned Rights to Assignor and terminate its entitlement to any remaining Additional Allowances by executing a Letter of Partial Reassignment in respect of all such remaining Assigned Rights and Additional Allowances in favour of Assignor and promptly deliver such executed Letter of Partial Reassignment to Assignor and CFM and (11) execute such agreements, give such notices and do such other things as Assignor may reasonably require in order to effect such reassignment

4.3 If Assignee re-assigns its Boeing Assigned Rights in relation to any Aircraft pursuant to clause 15.3 of the Security Assignment, then Assignee shall, upon the request and at the cost and expense of Assignor, (1) simultaneously re-assign the Assigned Rights in respect of those Engines that relate to such Aircraft to Assignor and terminate its entitlement to the Additional Allowances in respect of those Engines by executing a Letter of Partial Reassignment in respect of such Engines and promptly deliver such executed Letter of Partial Reassignment to Assignor and CFM and (11) execute such agreements, give such notices and do such other things as Assignor may reasonably request to give effect to such reassignment.

4.4 Upon a reassignment and release to Assignor, as provided in clause 4.1, 4.2 or 4.3 of the Deed, Assignee shall have no further right or obligation whatsoever against or towards CFM or Assignor in respect of the Assigned Rights relating to the relevant Engines or the associated Additional Allowances (provided that in the case of a reassignment under clauses 4.1 or 4.3 of the Deed, for the avoidance of doubt, the Deed will continue to remain in full force and effect in respect of the other Engines for which a Letter of Partial Reassignment has not been delivered hereunder).

4.5 Upon CFM receiving any Letter of Partial Reassignment in accordance with clause 4 of the Deed, CFM shall have no further obligation whatsoever against or towards Assignee in respect of the Assigned Rights relating to the relevant Engines or the associated Additional Allowances (provided that in the case of a reassignment under clauses 4.1 or 4.3 of the Deed, for the avoidance of doubt, the Deed will continue to remain in full force and effect in respect of the other Engines for which a Letter of Partial Reassignment has not been delivered under the Deed).

5 CONTINUING SECURITY

The security shall be a continuing security and shall not be discharged by reason of any matter (other than full payment, performance and discharge by Assignor of the Secured Obligations, as provided in the Transaction Documents and subject to any release and reassignment in accordance with clause 4.1 of the Deed) which might otherwise discharge Assignor from its obligations under the Deed, including, without limitation, any variation of or amendment to the

MG01 - continuation page

Particulars of a mortgage or charge

6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

Aircraft Purchase Agreement or the Contract or transfer (by way of novation or otherwise) of any of Assignee's rights and obligations under the Aircraft Purchase Agreement or the Contract. Any settlement or discharge between Assignee and Assignor and/or any other person shall be conditional upon no security or payment to Assignee 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, reorganization, amalgamation or other analogous event or proceedings for the time being in force.

6 POWER OF ATTORNEY

6.1 Assignor hereby irrevocably (for value and by way of security for the Secured Obligations) appoints Assignee, and any person nominated for such purpose by Assignee (**Attorney**), severally as attorney and agent of Assignor for Assignor and in its name and on its behalf and as its act and deed to execute and deliver and otherwise perfect and do any charge, mortgage, assignment, deed, assurance, agreement, conveyance, instrument, act or thing which Assignor has failed to execute or is entitled to do under the covenants, undertakings and provisions contained in the Deed or which may be required or deemed proper in the exercise of any rights or powers hereunder or otherwise for any of the purposes of the security created hereby, and to take any action and execute any instrument which such Attorney may deem necessary to accomplish the purposes of the Deed and Assignor hereby covenants with Assignee to ratify and confirm all acts or things made lawfully and properly done or executed or purportedly lawfully and properly made done or executed by such Attorney as aforesaid provided that the power hereby conferred shall be exercisable by Assignee only if an Enforcement Event has occurred and is continuing or if Assignor is in breach of the express terms of the Deed.

Assignee shall be entitled at any time and as often as it may deem expedient to delegate all or any of the rights, powers and discretions vested in it by or in connection with the Deed in such manner, upon such terms and to such persons as Assignee in its absolute discretion may think fit.

7 FURTHER ASSIGNMENT

7.1 Assignor shall not be entitled to assign or transfer all or any of its rights, benefits or obligations under the Deed without the prior written consent of Assignee and CFM.

8 FURTHER ASSURANCE

8 1 Each of the parties to the Deed agrees, at the cost and expense of Assignor, from time to time to do and perform such other and further acts and execute, acknowledge, file, register and deliver any and all such other instruments, documents, agreements, certificates, consents

MG01 - continuation page

Particulars of a mortgage or charge

6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

and assurances as may be required by law or reasonably requested of them to establish, maintain or protect the rights and remedies of the parties and to carry out the effect the intent and purpose of the Deed.

- 8.2 Assignee shall, without prejudice to its other rights and powers under the Deed, be entitled (but shall be under no obligation) at any time and as often as may be necessary after notice to Assignor, to take, at the reasonable cost of Assignor, any such action reasonably necessary for the purpose of protecting the security and security constituted by the Deed.

9 GOVERNING LAW - JURISDICTION

- 9.1 The Deed is governed by the laws of the State of New York, United States of America, including all matters of construction, validity and performance, as applicable to contracts between citizens of that state to be performed wholly within that state.

- 9.2 The courts of the State of New York or any Federal court of the United States of America, located in the Borough of Manhattan, shall have non-exclusive jurisdiction in relation to any legal action or proceedings to enforce the Deed or arising out of or in connection with it

10 RETAINED RIGHTS

- 10.1 Except in respect of the rights as expressly assigned under the Deed and subject to each party's' rights and obligations under the Deed, Assignor retains free and clear of any lien, security interest or other encumbrance, all of its right, title and interest in, to and under the Contract



CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

Pursuant to section 869(5) & (6) of the Companies Act 2006

**COMPANY NO. 5643814
CHARGE NO. 3**

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES
HEREBY CERTIFIES THAT A CFM ENGINE WARRANTIES AND
ADDITIONAL ALLOWANCES ASSIGNMENT DATED 6 MARCH
2012 AND CREATED BY AIR BERLIN PLC FOR SECURING ALL
MONIES DUE OR TO BECOME DUE FROM ANY OBLIGOR, THE
OTHER BORROWER AND/OR THE GUARANTOR TO ETIHAD
AIRWAYS P.J.S.C ON ANY ACCOUNT WHATSOEVER UNDER
THE TERMS OF THE AFOREMENTIONED INSTRUMENT
CREATING OR EVIDENCING THE CHARGE WAS REGISTERED
PURSUANT TO CHAPTER 1 PART 25 OF THE COMPANIES ACT
2006 ON THE 22 MARCH 2012

GIVEN AT COMPANIES HOUSE, CARDIFF THE 28 MARCH 2012

DX



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES