



Registration of a Charge

Company name: **VIRGIN ATLANTIC AIRWAYS LIMITED**

Company number: **01600117**



X7Y5ZAIB

Received for Electronic Filing: **29/01/2019**

Details of Charge

Date of creation: **28/01/2019**

Charge code: **0160 0117 0176**

Persons entitled: **ALTERNA AIRCRAFT XI LLC**

Brief description:

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

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: **BIRD & BIRD LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 1600117

Charge code: 0160 0117 0176

The Registrar of Companies for England and Wales hereby certifies that a charge dated 28th January 2019 and created by VIRGIN ATLANTIC AIRWAYS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 29th January 2019 .

Given at Companies House, Cardiff on 30th January 2019

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

28 January

2019

(1) VIRGIN ATLANTIC AIRWAYS LIMITED
as Assignor

- and -

(2) ALTERNA AIRCRAFT XI LLC
as Assignee

**ASSIGNMENT OF
INSURANCES**

relating to

One Airbus A330-223 Aircraft with
manufacturer's serial number 476
registration mark G-VWND

CONTENTS

1.	DEFINITIONS.....	1
2.	ASSIGNMENT AND CHARGE.....	2
3.	REPRESENTATIONS AND WARRANTIES.....	2
4.	AUTHORISATION.....	3
5.	COVENANTS	3
6.	POWERS OF THE ASSIGNEE AND APPLICATION OF MONEYS	3
7.	FURTHER ASSURANCE.....	3
8.	SUCCESSORS IN TITLE	3
9.	CONTINUING SECURITY.....	4
10.	THE ASSIGNOR TO PERFORM, PROTECTION OF THE ASSIGNEE	5
11.	MISCELLANEOUS	6
12.	NOTICES.....	6
13.	ASSIGNMENT.....	7
14.	AMENDMENTS AND WAIVERS	7
15.	SEVERABILITY.....	7
16.	EXECUTION AS A DEED.....	7
17.	COUNTERPARTS	7
18.	LAW AND JURISDICTION.....	7
19.	THIRD PARTIES	7
	SCHEDULE 1.....	8
	Notice of Assignment of Insurances	8
	SCHEDULE 2.....	10
	Notice and Acknowledgement of Assignment of Requisition Proceeds	10
	Acknowledgement	12

THIS DEED OF ASSIGNMENT (this "**Deed**") is made on 28 January 2019

BETWEEN

- (1) **Virgin Atlantic Airways Limited**, a company incorporated in England and Wales and having its registered office at The VHQ, Fleming Way, Crawley, RH10 9DF, England (the "**Assignor**"); and
- (2) **Alterna Aircraft XI LLC**, a limited liability company formed under the laws of the State of Delaware whose principal place of business is at 15 River Road, Suite 320, Wilton, CT 06897, USA (the "**Assignee**").

BACKGROUND

- A The Assignee and the Assignor entered into the Lease (as defined below) under which the Assignee agreed to lease the Aircraft (as defined below) to the Assignor.
- B The Assignor has agreed to assign to the Assignee, the Assignor's right, title and interest in and to the Assigned Property (as defined below) as security for the Assignor's obligations under the Lease.
- C The Assignor and the Assignee intend this Assignment to take effect as a deed.

NOW THIS DEED WITNESSES as follows:

1. DEFINITIONS

In this Deed, unless the context otherwise requires, words and expressions defined in the Lease shall have the same meanings when used herein and the following words and expressions have the meanings respectively set opposite them:

"Aircraft" means the Airbus A330-223 aircraft with MSN 476 as more particularly described in the Lease;

"Assigned Property" means the property assigned and/or charged to the Assignee pursuant to clause 2.1;

"Insurance Proceeds" means all proceeds of claims under the Insurances and all other amounts payable to the Assignor under or in respect of the Insurances;

"Insurances" means the benefit of all policies and contracts of insurance and reinsurance (except third party liability policies) which are required in accordance with clause 13 of the Lease from time to time in existence in respect of or relating to the Aircraft or any part thereof and any spare parts (other than any policies of insurance or reinsurance in respect of aircraft third party, passenger, baggage, cargo and mail and airline general third party liability), including all claims of whatsoever nature thereunder;

"Lease" means the aircraft lease agreement dated 14 December 2017 between the Assignor (as lessee) and the Assignee (as lessor) as amended from time to time including pursuant to the Novation Agreement;

"Novation Agreement" means the aircraft lease novation and amendment deed in relation to the Aircraft dated on or about the date hereof between the Prior Lessor (as existing lessor), the Assignee (as new lessor) and the Assignor (as lessee);

"Prior Lessor" means MDAC 3 Pte. Ltd., a private limited company incorporated under the laws of Singapore with the company registration number 201025711G and having its registered office at 50 Raffles Place, #32-01 Singapore Land Tower, Singapore;

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

"Requisition Compensation" means any proceeds of requisition (whether for title, use, hire or otherwise), confiscation, nationalisation, sequestration, detention, forfeiture or any compulsory acquisition whatsoever or seizure of the Aircraft or any part thereof;

"Secured Obligations" means all moneys, liabilities and obligations 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 Assignor to the Assignee under the Lease; and

"Security Interest" means a mortgage, charge, pledge, lien or other security interest securing any obligations of any person or any other agreement or arrangement having a similar effect.

2. ASSIGNMENT AND CHARGE

2.1 In order to secure the full and punctual payment, performance and discharge of all of the Secured Obligations, the Assignor hereby assigns and to the extent not assigned hereunder, charges to the Assignee with full title guarantee by way of first assignment by way of security and charge all of its present and future rights, title and interest in, under and to:

- (a) the Insurance Proceeds; and
- (b) all of the Assignor's right, title and interest, present and future, in and to the Requisition Compensation.

2.2 For the avoidance of doubt, this Deed does not constitute an assignment of any policy or contract of insurance or reinsurance but only an assignment of the benefits, rights, title, interest and proceeds thereunder insofar as the same relate to the Aircraft.

2.3 Subject to the terms of this Deed, upon all of the Secured Obligations being discharged in full, the Assigned Property shall at the request of the Assignor be reassigned to the Assignor without recourse to or warranty by the Assignee other than a warranty that such property shall be free of any Security Interest created by the Assignee and the Assignee shall execute such documents as the Assignor may reasonably require to effect or confirm such reassignment.

3. REPRESENTATIONS AND WARRANTIES

3.1 The Assignor hereby represents and warrants to the Assignee that, other than the security hereby constituted, the Assignor has not created any Security Interest in or over the Insurances.

3.2 The representation and warranty contained in clause 3.1 will survive the execution of this Deed.

4. AUTHORISATION

- 4.1 The Assignor authorises the Assignee immediately following execution of this Deed, to give notice of this Deed and the assignment herein contained to each insurance and reinsurance broker through which any of the current Insurances are from time to time effected and maintained or, in the event that all or any of the current Insurances are not effected through a broker, to the insurers or re-insurers and in addition promptly upon notification of any change in such insurance or reinsurance brokers, or the identity of the insurers or re-insurers, as the case may be, give such notice to the new, replacement or additional brokers or insurers or re-insurers, each such notice to be in the form of Schedule 1 hereto.
- 4.2 The Assignor hereby undertakes to give notice of the assignment specified in clause 2.1.(b) in respect of the Requisition Compensation to any person reasonably requested by the Assignee upon any requisition (whether for title, use, hire or otherwise), confiscation, nationalisation, sequestration, detention, forfeiture or any compulsory acquisition whatsoever or seizure of the Aircraft or any part therefore, and to deliver to the Assignee a copy of any such notice.

5. COVENANTS

The Assignor covenants not to assign, pledge or charge, or create or permit to subsist any Security Interest on or over, its right, title and interest in and to the Assigned Property or any proceeds thereof other than the security specified in clause 2.1.

6. POWERS OF THE ASSIGNEE AND APPLICATION OF MONEYS

- 6.1 The Assignee shall have all the rights, powers and remedies conferred upon assignees by any relevant law and/or conferred on the Assignee by virtue of this Deed.
- 6.2 The security created by this Deed shall immediately become enforceable upon the occurrence of an Event of Default (which is continuing) and after the Assignee has served notice of termination under the Lease (and each law that imposes any other pre-conditions to such enforceability but that may be disapplied is hereby disapplied) whereupon the Assignee shall become entitled to apply all moneys received by it pursuant to this Deed in or towards discharge of the Secured Obligations and any balance remaining shall be paid promptly to the Assignor.

7. FURTHER ASSURANCE

The Assignor covenants that it will promptly on reasonable request by the Assignee do all such things and duly execute, sign, perfect, deliver and (if required) register, in each case at the cost of the Assignee, every such further document as in the opinion of the Assignee (acting reasonably) may be required for the purpose of carrying out the intent and purpose of this Deed and to ensure that the Assignee obtains the full benefit of this Deed and of the rights and powers herein granted.

8. SUCCESSORS IN TITLE

The obligations on the part of the Assignor contained herein shall bind it and its successors and shall inure to the benefit of the Assignee and its successors and permitted assigns.

9. CONTINUING SECURITY

- 9.1 The security created by this Deed shall be held by the Assignee as a continuing security, notwithstanding any settlement of account or other matter whatsoever and shall remain in full force and effect until the payment in full of the Secured Obligations.
- 9.2 The security so created:
- (a) shall not be set aside by any intermediate payment or satisfaction of any part of the amount hereby secured; and
 - (b) shall be in addition to, and shall not in any way be prejudiced or affected by, any collateral or other security now or hereafter held by the Assignee for all or any part of the Secured Obligations.
- 9.3 Neither the security hereby granted nor the rights, powers and remedies conferred on the Assignee by this Deed or by law shall be discharged, impaired or otherwise affected by any of the following events or circumstances (regardless of whether such events or circumstances occur with or without the knowledge or consent of the Assignor):
- (a) any invalidity, irregularity, unenforceability, imperfection or avoidance of or any defect in any security granted by, or the obligations of the Assignor in relation to the property assigned hereunder, this Deed, the Lease or any of them; or
 - (b) any time, forbearance or other indulgence given or agreed to be given by the Assignee to or with the Assignor in respect of any of its obligations in relation to the property assigned hereunder, this Deed, the Lease or other document or any of them; or
 - (c) any amendment to or variation of any of this Deed, the Lease or any other document;
 - (d) any release, renewal, exchange or realisation of any security or obligation granted or provided under or by virtue of any of the property assigned hereunder, this Deed, the Lease or any other document or the provision by the Assignee at any time of any further security for the Secured Obligations;
 - (e) any legal limitation, disability or incapacity relating to the Assignor;
 - (f) any change in the name, constitution or otherwise of the Assignor or the merger of the Assignor with any other corporate entity; or
 - (g) the liquidation, bankruptcy or dissolution (or proceedings analogous thereto) of the Assignor or the appointment of a receiver or administrative receiver or administrator or liquidator or provisional liquidator or trustee or similar officer of any of the assets of the Assignor or the occurrence of any circumstances whatsoever affecting the liability of the Assignor to discharge the Secured Obligations; or
 - (h) any challenge, dispute or avoidance by any liquidator of the Assignor in respect of any claim by the Assignor by right of subrogation in any such liquidation; or
 - (i) any failure on the part of the Assignee (whether intentional or not) to take or perfect or enforce any security agreed to be taken under or in relation to any of the property assigned hereunder, this Deed, the Lease or any other document; or

- (j) any other act, event or omission which but for this provision might impair or discharge the Assignor's liability hereunder or constitute a legal or equitable discharge of any of the Assignor's obligations under this Deed.
- 9.4 At any time on or after the security created by this Deed becomes enforceable in accordance with clause 6.2 the Assignee may, without further notice, as set out in clause 6.1, exercise in respect of the property assigned hereunder all powers conferred upon mortgagees at law as hereby varied or extended and may:
- (a) exercise (to the exclusion of the Assignor) any and all rights of the Assignor in respect of the Assigned Property;
 - (b) collect, receive or compromise, give a good discharge for any and all monies for claims for monies due and to become due for the time being comprised in the Assigned Property; and
 - (c) otherwise put into force and effect all rights, powers and remedies available to it, at law or otherwise as assignee of the Assigned Property.
- 9.5 At any time on or after the occurrence of an Event of Default which is continuing and after notice of termination has been served by the Assignee under the Lease, or, if requested by the Assignor, the Assignee may, by instrument in writing, appoint any person to be a Receiver of all or any part of the Assigned Property. Where more than one Receiver is appointed, each joint Receiver shall have power to act severally, independently of any other joint Receivers, except to the extent that the Assignee may specify to the contrary in the appointment. The Assignee may remove any Receiver and appoint another in his place.
- 9.6 Any Receiver shall be the agent of the Assignor, and the Assignor shall be solely responsible for his acts or defaults and for his remuneration.
- 9.7 Any Receiver shall have the power to do or omit to do on behalf of the Assignor anything which the Assignor itself could do or omit to do in relation to the property assigned hereunder if the Receiver had not been appointed, notwithstanding the liquidation of the Assignor. In particular (but without limitation), any Receiver shall have the powers conferred from time to time on receivers by law (in the case of powers conferred by any statute, free from any restrictions on the exercise of such powers contained in that statute but which may lawfully be disapplied).
- 9.8 The Assignee may from time to time determine the remuneration of any Receiver (which shall not exceed the reasonable remuneration for his services) without reference to any statutorily prescribed method of determining his remuneration that would otherwise apply. Subject to the foregoing provisions, any Receiver shall be entitled to remuneration appropriate to the work and responsibilities involved upon the basis of charging from time to time adopted by any Receiver in accordance with the current practice of his firm.

10. THE ASSIGNOR TO PERFORM, PROTECTION OF THE ASSIGNEE

- 10.1 Notwithstanding anything herein contained to the contrary the Assignor shall remain liable in respect of the Assigned Property to perform all the obligations assumed by it thereunder and the Assignee shall not be under any obligation or liability in respect of the Assigned Property by reason of this Deed or anything arising there from nor shall the Assignee be required to assume or be under any obligations in any manner to perform or fulfil any obligation of the Assignor under or pursuant to any of the Assigned Property or make any payment thereunder, or to enforce against any insurer or reinsurer any term or condition of the property assigned

hereunder or to make enquiries as to the nature or sufficiency of any payment received by the Assignee by virtue of this Deed.

- 10.2 It is further agreed that notwithstanding the assignments and charges hereinbefore contained:
- (a) the Assignee shall not be obliged to make any enquiry as to the nature or sufficiency of any payment made under any of the Assigned Property or to make any claim or take any other action to collect any monies or to enforce any rights and benefits hereby assigned or to which the Assignee may at any time be entitled hereunder;
 - (b) in the event of any circumstances whereby further performance in respect of any of the Assigned Property becomes impossible, unlawful, or is otherwise frustrated, any monies paid to the Assignee under this Deed shall not be recoverable;
 - (c) the Assignee shall act reasonably and in good faith in the exercise of its powers hereunder.

11. MISCELLANEOUS

- 11.1 All obligations of the Assignor under this Deed shall constitute conditions, the time for the performance of which shall be of the essence.
- 11.2 No failure or delay on the part of the Assignee to exercise any power, right or remedy shall operate as a waiver thereof nor shall any single or any partial exercise or waiver of any power, right or remedy preclude its further exercise or the exercise of any other power, right or remedy. No waiver by the Assignee shall be effective unless it is in writing. The rights and remedies herein provided are cumulative and are not exclusive of any rights or remedies provided by law.
- 11.3 Any liability or power which may be exercised or any determination which may be made under this Deed by the Assignee may unless expressly provided otherwise in this Deed be exercised or made in its reasonable discretion.
- 11.4 The rights of the Assignee shall survive any termination of this Deed for any reason whatsoever and such termination shall not affect the rights of the Assignee to recover any sums due on or before termination or as a consequence thereof or the right to recover damages for breach of this Deed.
- 11.5 Any release, discharge or settlement between the Assignor and the Assignee in terms of this Deed shall be conditional upon no security, disposition or payment to the Assignee by the Assignor or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to bankruptcy, liquidation, administration or insolvency or for any other reason whatsoever and if such condition shall not be fulfilled the Assignee shall be entitled to enforce the charge hereby created subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made.
- 11.6 The Assignee shall not be obliged to resort to any other means of payment now or hereafter held by or available to it before enforcing the Deed.

12. NOTICES

Save as otherwise expressly provided in this Deed, every notice, request, demand or other communication under this Deed shall be given in the same manner as is provided in clause 23 of the Lease.

13. ASSIGNMENT

The Assignor may not assign any of its rights under this Deed. The Assignee may assign or transfer all or any part of its rights under this Deed.

14. AMENDMENTS AND WAIVERS

No term or provision of this Deed may be changed, waived, discharged or terminated except by written agreement signed by the parties hereto.

15. SEVERABILITY

If at any time any provision hereof is or becomes invalid, illegal or unenforceable in respect of the laws of any jurisdiction the validity, legality or enforceability in respect of the remaining provisions hereof shall not in any way be affected or impaired thereby and such invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of such provision in any other jurisdiction.

16. EXECUTION AS A DEED

Each of the parties to this Deed intends it to be a deed, and the Assignor agrees to execute and deliver it as a deed. The signature or sealing of this Deed by or on behalf of a party shall constitute an authority to the solicitors or an agent or employee of the solicitors, acting for that party in connection with this document, to deliver it as a deed on behalf of that party.

17. COUNTERPARTS

This Deed may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of an executed counterpart signature page of this Deed by email (PDF) or facsimile shall be as effective as delivery of a manually executed counterpart of this Deed. In relation to each counterpart, upon confirmation by or on behalf of the signatory that the signatory authorises the attachment of such counterpart signature page to the final text of this Deed, such signature page shall take effect together with such final text as a complete authoritative counterpart. Any party delivering an executed counterpart of this Deed by email (PDF) or facsimile shall also deliver an originally executed counterpart; however, the failure of any party to deliver an originally executed counterpart of this Deed shall not affect the validity or effectiveness of this Deed.

18. LAW AND JURISDICTION

18.1 This Deed and any non-contractual obligations arising out of or in connection with this Deed shall be governed by, and shall be construed in accordance with, English law.

18.2 Clause 24 of the Lease shall be incorporated into this Deed, *mutatis mutandis*.

19. THIRD PARTIES

No term of this Deed is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Deed.

IN WITNESS whereof this Deed has been executed as a deed the day and year first before written.

SCHEDULE 1

Notice of Assignment of Insurances

To:

From: **Virgin Atlantic Airways Limited (the "Lessee")**
Alterna Aircraft XI LLC (the "Assignee")

Dear Sirs,

ONE AIRBUS A330-223 AIRCRAFT MSN 476 (THE "AIRCRAFT")

1. We hereby give you notice that by an assignment of insurances dated _____ (the "**Assignment of Insurances**") the Lessee assigned and agreed to assign by way of first priority legal assignment and charged by way of first fixed charge to the Assignee, all of its right, title and interest in and to all the benefits of, and all claims under, and the right to make all claims under the Insurances (as defined in the Assignment of Insurances a copy of which is attached hereto) (other than in respect of liability insurance).
2. Unless otherwise defined herein, terms defined in the Assignment of Insurances (including definitions incorporated therein by reference to another document) shall have the same meaning when used herein.
3. Until you are notified to the contrary by the Assignee you should continue to deal with the Lessee in respect of all matters relating to the making and settlement of claims under the reinsurances (if any) as though such assignment had not been made.
4. The instructions in this notice may not be varied without the prior written consent of the Assignee.

Yours faithfully,

Signed on behalf of _____)
VIRGIN ATLANTIC AIRWAYS LIMITED _____)

By

Name

Title

Signed on behalf of)
ALTERNA AIRCRAFT XI LLC)

By

Name

Title

SCHEDULE 2

Notice and Acknowledgement of Assignment of Requisition Proceeds

To:

From: **Virgin Atlantic Airways Limited (the "Lessee")**
Alterna Aircraft XI LLC (the "Assignee")

Dear Sirs,

ONE AIRBUS A330-223 AIRCRAFT MSN 476 (THE "AIRCRAFT")

1. We hereby give you notice that by an assignment of insurances dated _____ (the "**Assignment of Insurances**") the Lessee assigned and agreed to assign by way of first priority legal assignment and charged by way of first fixed charge to the Assignee, all of its right, title and interest in and to any monies or other compensation receivable from any government (whether civil, military or de facto) or public or local authority in relation to the Aircraft or any part thereof in the event of its requisition for title, confiscation, restraint, detention, forfeiture or compulsory acquisition or seizure or requisition for hire by or under the order of any such government or public or local authority (the "**Requisition Proceeds**").
2. Unless otherwise defined herein, terms defined in the Assignment of Insurances (including definitions incorporated therein by reference to another document) shall have the same meaning when used herein.
3. Henceforth upon notice from the Assignee that an Event of Default has occurred and is continuing, which notice shall be conclusive for these purposes, all monies that may be payable by you in relation to the Aircraft shall be paid to such account as the Assignee may direct.
4. This notice and the instructions contained herein cannot be amended or modified without the express written consent of the Assignee.
5. Please acknowledge receipt of this notice and undertake to make payment as aforesaid by signing and returning to the Assignee with a copy to the Lessee the enclosed acknowledgement of assignment and charge.

Yours faithfully,

Signed on behalf of _____)
VIRGIN ATLANTIC AIRWAYS LIMITED _____)

By

Name

Title

Signed on behalf of)
ALTERNA AIRCRAFT XI LLC)

By

Name

Title

Acknowledgement

To: **Virgin Atlantic Airways Limited (the "Lessee")**
Alterna Aircraft XI LLC (the "Assignee")

ONE AIRBUS A330-223 AIRCRAFT MSN 476 (THE "AIRCRAFT")

We acknowledge receipt of this notice together with a copy of the Assignment.

Dated

Signed on behalf of)
)
)


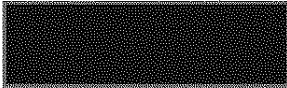
By

Name

Title

Execution Page to the Assignment of Insurances MSN 476

Executed as a deed by
VIRGIN ATLANTIC AIRWAYS LIMITED
acting by ~~two directors~~ or one director
and the Company Secretary

)
)
)
)
Director 

~~Director~~/Secretary

Execution Page to the Assignment of Insurances MSN 476

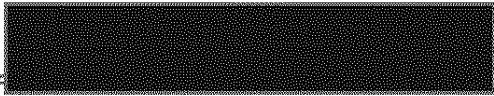
SIGNED and DELIVERED as a DEED by

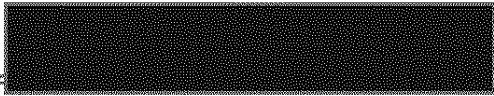
as duly appointed attorney for and on behalf of

ALTERNA AIRCRAFT XI LLC

Attorney: 

Name: Mark Sadron

In the presence of: 

Witness signature: 

Witness name: Eric Press

Witness address: 