

MR01

Particulars of a charge

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A fee is payable with this form  
Please see 'How to pay' on the  
last page

You can use the WebFiling  
Please go to www.companies

☒ **What this form is for**  
You may use this form to register  
a charge created or evidenced by  
an instrument

☒ **What this form is NOT for**  
You may not use this form to  
register a charge where there  
is an instrument Use form MR08

RCS 20/12/2013 #209  
COMPANIES HOUSE  
\*R2NLKK3L\*  
LD2 07/01/2014 #63  
COMPANIES HOUSE  
\*L2Z2M08H\*  
LD2 20/12/2013 #113  
COMPANIES HOUSE  
\*L2NMGW3N\*

This form must be delivered to the Registrar for registration within  
21 days beginning with the day after the date of creation of the charge. If  
delivered outside of the 21 days it will be rejected unless it is accompanied by a  
court order extending the time for delivery

☒ You must enclose a certified copy of the instrument with this form. This will be  
scanned and placed on the public record

**1** Company details

Company number 0 2 7 6 9 7 6 8

Company name in full FLYBE LIMITED

308 For official use

→ Filing in this form  
Please complete in typescript or in  
bold black capitals

All fields are mandatory unless  
specified or indicated by \*

**2** Charge creation date

Charge creation date 1 9 1 2 2 0 1 3

**3** Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees  
entitled to the charge

Name UT FINANCE CORPORATION

Name

Name

Name

If there are more than four names, please supply any four of these names then  
tick the statement below

☐ I confirm that there are more than four persons, security agents or  
trustees entitled to the charge

# MRO1

## Particulars of a charge

<b>4</b>	<b>Description</b>	
	Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security	Continuation page Please use a continuation page if you need to enter more details
Description	<p>One (1) aircraft, which means together the airframe, the engines, the parts and the aircraft documents, as defined below</p> <p>Airframe means the Embraer E170-200 airframe bearing manufacturer's serial number 17000359, including all parts relating to such airframe</p> <p>Engines mean two (2) General Electric CF34-8E5 engines bearing manufacturer's serial numbers 193942 and 193943 (in each case whether or not intalled on the airframe and so long as title to such engine is vested in Flybe Limited) and any other engine relating to the airframe (whether or not installed) in respect of which title is vested in Flybe Limited, including in each case all parts relating to such engine</p> <p>Aircraft documents means the documents, data and records relating to the aircraft and all additions, replacements and revisions from time to time made to any of the foregoing</p> <p>Parts means any part, appliance, accessory, instrument, navigational and communications equipment, furnishing, module, component or other item of equipment incorporated or installed in or attached to the airframe or any engine to which title is vested in Flybe Limited</p>	
<b>5</b>	<b>Fixed charge or fixed security</b>	
	<p>Does the instrument include a fixed charge or fixed security over any tangible or intangible (or in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box</p> <p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	
<b>6</b>	<b>Floating charge</b>	
	<p>Is the instrument expressed to contain a floating charge? Please tick the appropriate box</p> <p><input type="checkbox"/> Yes Continue</p> <p><input checked="" type="checkbox"/> No Go to <b>Section 7</b></p> <p>Is the floating charge expressed to cover all the property and undertaking of the company?</p> <p><input type="checkbox"/> Yes</p>	
<b>7</b>	<b>Negative Pledge</b>	
	<p>Do any of the terms of the charge prohibit or restrict the chargor from creating any further security that will rank equally with or ahead of the charge? Please tick the appropriate box</p> <p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>	

MR01

Particulars of a charge

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**Trustee statement <sup>①</sup>**

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

<sup>①</sup> This statement may be filed after the registration of the charge (use form MR06)

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**Signature**

Please sign the form here

Signature

Signature

X

Clark Ricketts LLP

X

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

# MRO1

## Particulars of a charge



### Presenter information

We will send the certificate to the address entered below. All details given here will be available on the public record. You do not have to show any details here but, if none are given, we will send the certificate to the company's Registered Office address.

Contact name Robert Ricketts

Company name Clark Ricketts LLP

Address Waterman House, 41 Kingsway

Post town London

County/Region

Postcode WC2B 6TP

Country England

DX

Telephone 020 7240 6767



### 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 a certified copy of the instrument with this form
- ☐ You have entered the date on which the charge was created
- ☐ You have shown the names of persons entitled to the charge
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☐ You have given a description in Section 4, if appropriate
- ☐ You have signed the form
- ☐ You have enclosed the correct fee
- ☐ Please do not send the original instrument, it must be a certified copy



### 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 filed on paper.

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 NR Belfast 1



### Further information

For further information, please see the guidance notes on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto: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](http://www.companieshouse.gov.uk)



**FILE COPY**

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

Company number: 2769768

Charge code: 0276 9768 0308

The Registrar of Companies for England and Wales hereby certifies that a charge dated 19th December 2013 and created by FLYBE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th December 2013.

Given at Companies House, Cardiff on 10th January 2014



**Companies House**



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

**EXECUTION VERSION**

DATED December 19, 2013

**FLYBE LIMITED**  
as Owner

and

**UT FINANCE CORPORATION**  
as Security Trustee

*Certified true*

*Copy of the original*

*Clark Ricketts LLP*

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**AIRCRAFT MORTGAGE**  
relating to  
one Embraer E170-200 Aircraft  
with Manufacturer's Serial No 17000359  
UK Registration Mark G-FBJK

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**THIS AIRCRAFT MORTGAGE** is made on

December 19, 2013

**BETWEEN:**

- (1) **FLYBE LIMITED**, a company incorporated under the laws of England and Wales whose registered number is 2769768 and whose principal office is at Jack Walker House, Exeter International Airport, Exeter, Devon EX5 2HL England (the "**Owner**"); and
- (2) **UT FINANCE CORPORATION** organised under the laws of the State of Delaware having its office at 400 Main Street, Mailstop 133-54, East Hartford, CT 06108, U S A (the "**Security Trustee**" acting on behalf of itself and the Beneficiaries)

**WHEREAS:**

- (A) Pursuant to the Aircraft Facility Agreement, the Original Lender has agreed to provide a loan facility to the Owner to finance the acquisition of the Aircraft (the "**Aircraft Facility Agreement**")
- (B) The Owner has agreed to enter into this Mortgage as security, *inter alia*, for its obligations to the Lenders under the Aircraft Facility Agreement and its obligations hereunder

**NOW THIS MORTGAGE WITNESSETH AND IT IS HEREBY AGREED** as follows

**1. Definitions and Interpretation**

**1.1** In this Mortgage (including its recitals)

"**Aircraft**" means, together, the Airframe, the Engines, the Parts and the Aircraft Documents

"**Aircraft Documents**" has the documents, data and records relating to the Aircraft and all additions, replacements and revisions from time to time made to any of the foregoing.

"**Aircraft Facility Agreement**" means the aircraft facility agreement relating to the Aircraft dated the same date hereof made between, *inter alia*, the Owner, UT Finance Corporation as Original Lender and Agent and as Security Trustee (as such terms are defined wherein),

"**Airframe**" means the Embraer E170-200 airframe bearing manufacturer's serial number 17000359, including all Parts relating to such airframe but excluding the Engines or any engines from time to time installed thereon

"**Assignment of Insurances**" means the assignment of insurances relating to the Aircraft dated the same date hereof made between the Owner and the Security Trustee



**"Beneficiaries"** and **"Beneficiary"** means all, or as the case may require, any of the Lenders, the Agent and the Security Trustee,

**"Enforcement Event"** means an Event of Default which has resulted in the Agent serving notice on the Owner pursuant to clause 21.2 of the Aircraft Facility Agreement,

**"Engines"** means, together, (a) the two (2) General Electric CF34-8E5 engines manufactured by the Engine Manufacturer bearing manufacturer's serial numbers 193942 and 193943 (in each case whether or not installed on the Airframe and for so long as title to such engine is vested in the Owner) and (b) any other engine relating to the Airframe (whether or not installed) in respect of which title is vested in the Owner, including in each case all Parts relating to such engine (each, an **Engine**)

**"Existing Aircraft Financing"** means any subsisting aircraft financings between the Security Trustee in its role as original lender or agent and any Subsidiary of the Guarantor in relation to any Bombardier 8 series Q400 aircraft

**"Expenses"** means all out-of-pocket expenses and fees (including legal fees) incurred by the Security Trustee in the performance of its role as mortgagee under this Mortgage, the payment or reimbursement of which the Owner is liable under any of the Finance Documents,

**"Losses"** means any loss, liability, action claim, proceeding, judgment, penalty, fine, damages, fee, cost, expense or other sanctions,

**"Mortgaged Property"** means all the property from time to time assigned or charged to the Security Trustee pursuant to Clause 3.1 by way of security for the Secured Obligations under this Mortgage and includes any part of the same,

**"Parts"** means any part, appliance, accessory, instrument, navigational and communications equipment, furnishing, module, component or other item of equipment of whatever nature (other than complete Engines or engines) that may from time to time be incorporated or installed in or attached to the Airframe or any Engine, title to which is vested in the Owner

**"Receiver"** means any receiver and/or manager of all or any part of the Mortgaged Property appointed pursuant to Clause 6.5 (and includes any joint receiver),

**"Secured Obligations"** means (a) all monies, liabilities and obligations of the Owner or any Subsidiary of the Guarantor, as the case may be, which are now or at any time hereafter may be due, owing, payable or incurred to any of the Beneficiaries or expressed to be due, owing, payable or incurred to any of the Beneficiaries in any currency, actually or contingently, solely or jointly and/or severally with another or others, as principal or surety, on any account

whatsoever pursuant to any of the Aircraft Facility Agreement, any Existing Aircraft Financings or any Security Document or Clause 5.1 of this Mortgage, or as a consequence of any breach, non-performance, disclaimer or repudiation by the Owner or any Subsidiary of the Guarantor, as the case may be (or by any liquidator, receiver, administrative receiver, administrator or any similar officer of the Owner or any Subsidiary of the Guarantor, as the case may be), of any of its obligations due or owing to any of the Beneficiaries under any of the Aircraft Facility Agreement, Existing Aircraft Financing or any Security Document or Clause 5.1 of this Mortgage and (b) all Expenses incurred by the Security Trustee,

**"Security Assignment"** means the security assignment relating to the Aircraft dated the same date hereof made between the Owner and the Security Trustee,

**"Security Interest"** means any mortgage, charge, pledge, lien, encumbrance, assignment, hypothecation, right of set-off or any other agreement or arrangement having the effect of conferring security,

**"Security Period"** means the period commencing on the date hereof and terminating upon the date upon which the Security Trustee releases the mortgages and charges created by this Mortgage in accordance with Clause 3.6

- 1.2 In this Mortgage, terms and expressions defined in the Aircraft Facility Agreement shall have the same meanings and construction when used herein
- 1.3 In this Mortgage, unless otherwise provided or the context otherwise requires.
- (A) references to Clauses are to be construed as references to the Clauses of this Mortgage,
  - (B) references to any deed, instrument, certificate, agreement or contract (including this Mortgage) or a provision thereof shall be construed as a reference to that deed, instrument, certificate, agreement or contract or provision as from time to time varied, novated, amended, supplemented or replaced,
  - (C) words importing the plural shall include the singular and vice versa,
  - (D) references to a person shall be construed as including, without limitation, references to an individual, firm, company, corporation, unincorporated body of persons, or any state or agency thereof,
  - (E) references to any statute or statutory provision include any statute or statutory provision which amends, extends, consolidates or replaces the same, or which has been amended, extended, consolidated or replaced by the same, and shall include any orders, regulations,

instruments or other subordinate legislation made under the relevant statute,

(F) references in this Mortgage to any certificate or notice shall be construed as a reference to such certificate or notice together with any accompany documents referred to therein, and

(G) references in this Mortgage to any person includes any permitted assignee, permitted transferee or successor in title of such person

## **2. Certificates**

A certificate of the Security Trustee setting forth the amount of any of the Secured Obligations shall be conclusive evidence of such amount against the Owner in the absence of manifest error

## **3. Security**

3 1 By way of security for the payment, discharge and performance of the Secured Obligations, whether now in existence or hereafter arising, the Owner hereby agrees to mortgage and grant a security interest in, to and in favor of the Security Trustee all its rights, title and interest present and future in and to the Aircraft

3 2 Any item of equipment at any time removed from the Aircraft shall remain subject to the security created by this Mortgage until such time as a replacement or substitute, title to which is vested in the Owner, free of liens (other than Permitted Liens), shall have been installed in the Aircraft and shall have become subject to the security created by this Mortgage pursuant to Clause 3 3

3 3 Upon installation on the Aircraft, any replacement or substitute item of equipment, title to which is vested in the Owner, shall thereupon and without further act, become subject to the security created by this Mortgage for all purposes as though it had been originally installed in or attached to the Aircraft and, subject thereto and to Clause 3 2, the item of equipment replaced or substituted shall be released from the security created by this Mortgage

3 4 Any Engine which at any time is not installed on the Aircraft shall remain subject to the security created by this Mortgage until such time as a replacement engine shall have been substituted therefor and shall have become subject to the security created by this Mortgage

3 5 Any replacement engine shall, without further act, become subject to the security created by this Mortgage for all purposes as though it had originally been an Engine upon either

(A) the acquisition by the Owner of the replacement engine in substitution for an Engine, or

- (B) the execution by the Owner of a supplemental deed to this Mortgage in form and substance satisfactory to the Security Trustee by virtue of which the definition herein of Mortgaged Property is amended to include such replacement engine,

whereupon the replacement engine shall form part of the Mortgaged Property and the Engine so substituted shall be released from the security created by this Mortgage

- 3.6 The Security Trustee shall release the Security Interest created by this Mortgage and reassign any Mortgaged Property hereby assigned on the payment or other satisfaction in full of the Secured Obligations to the satisfaction of the Security Trustee

#### **4. Quiet Enjoyment**

The Security Trustee hereby covenants with the Owner that it will not interfere with the quiet use, possession and enjoyment of the Aircraft during the Security Period

#### **5. Covenants**

- 5.1 The Owner hereby represents and undertakes with the Security Trustee that throughout the Security Period

- (A) the Owner shall duly and punctually perform or procure the performance of the Secured Obligations,
- (B) it is the legal and beneficial owner of the Aircraft and it will not, throughout the Security Period, sell or otherwise dispose of its interest in the Aircraft or knowingly create any liens (other than a Permitted Lien) over the Mortgaged Property or any of it,
- (C) the Owner will promptly inform the Security Trustee of any occurrence of which it becomes aware which might materially and adversely affect its ability to perform its obligations under this Mortgage,
- (D) the Mortgage shall be registered against the Aircraft on the Register of Aircraft Mortgages maintained by the CAA and on the register of charges maintained by the Registrar of Companies in respect of the Owner, and
- (E) If the state in which the Owner is situated or the State of registry becomes a Contracting State for the purposes of the Cape Town Convention, the parties will do or cause to be done any and all acts which may be required by either of them to register, perfect, protect or preserve any international interests of the Security Trustee or the Owner with respect to aircraft objects to which the Transaction Documents relate

In this Clause 5 1(E) the following terms have the following meanings

- (i) the expressions "aircraft object", "international interest", "state" and "State of registry" have the respective meanings accorded to them in the Convention and Protocol, and
- (ii) "state in which the Owner is situated" shall be construed in accordance with the expression "state in which the debtor is situated" as set out in Article 4 of the Convention

- 5 2 The cost of any action taken by the Security Trustee or the Owner under Clause 5 1(E) for the purposes of the registration, perfection, protection or preservation of the international interests of the Security Trustee or the Owner in the state in which the Owner is situated or the State of registry shall be borne by the Owner
- 5 3 The Aircraft Documents shall be subject to the mortgages and charges created hereby.
- 5 4 The Owner further represents and warrants to the Security Trustee that on the date of this Mortgage
  - (A) it is a corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation,
  - (B) it has the power to own its assets and carry on its business as it is being conducted,
  - (C) this Mortgage constitutes its legal, valid, binding and enforceable obligations (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditor's rights generally and subject, as to enforceability, to equitable principles of general application),
  - (D) the entry into and performance by it of, and the transactions contemplated by, this Mortgage do not and will not conflict with
    - (i) any law or regulation applicable to it,
    - (ii) its constitutional documents, or
    - (iii) any agreement or instrument binding upon it or any of its assets,
  - (E) it has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Mortgage and the transactions contemplated by this Mortgage,
  - (F) all authorisations required or desirable

- (i) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Mortgage, and
- (ii) to make this Mortgage admissible in evidence in its jurisdiction of incorporation,

have been obtained or effected and are in full force and effect,

- (G) its obligations under this Mortgage are (or will be when entered into) its direct, general and unconditional obligations and rank (or will rank when entered into) at least *par passu* in all respects with all its other present and future unsecured and unsubordinated obligations (including contingent obligations) with the exception of obligations mandatorily preferred by applicable law and not by contract,
- (H) this Mortgage shall, when entered into, create the liens over the Aircraft that it purports to create (subject to all requisite filings and registrations being made),
- (I) as at the date hereof, there are no liens existing over the Aircraft other than Permitted Liens, and
- (J) no Event of Default has occurred and is continuing

#### **6. Powers of the Security Trustee and a Receiver**

- 6 1 The Security Trustee shall, without prejudice to its other rights, powers and remedies under this Mortgage, be entitled (but not bound) at any time and as often as may be necessary to take any such action as it may, in its discretion, think fit for the purpose of protecting or maintaining the security created by this Mortgage
- 6 2 The Security Trustee shall be entitled at any time and as often as may be expedient to delegate all or any of the powers and discretions vested in it by this Mortgage (including the power vested in it by virtue of Clause 11) in such manner upon such terms, and to such persons as the Security Trustee, in its absolute discretion, may think fit
- 6 3 Any Losses or Expenses suffered or incurred by the Security Trustee in connection with the exercise of any of its rights, powers and remedies under this Mortgage (and not recovered under any other provision of the Transaction Documents) shall, save where the same have been suffered or incurred or have arisen as a result of gross negligence or wilful misconduct on the part of the Security Trustee or any delegate of the Security Trustee as contemplated by Clause 6 1, be charged on the Mortgaged Property.
- 6 4 The security created by this Mortgage shall become immediately enforceable upon the occurrence of an Enforcement Event, whereupon the Security Trustee shall become entitled, as and when it may see fit and without further

notice, to exercise in relation to the Mortgaged Property all or any of the rights, powers and remedies conferred upon mortgagees, assignees and chargees by any relevant law (including any rights and remedies available to a secured party under the UCC or, to the extent it is applicable, the Cape Town Convention) and/or conferred on the Security Trustee by virtue of this Mortgage, and in particular (but without limiting the generality of the foregoing)

- (A) to take possession of the Mortgaged Property and for this purpose to enter upon any premises where the same may be located,
- (B) to require the Owner to assemble the Airframe, Engines and all Manuals and Technical Records and to deliver them to a location selection by the Owner,
- (C) to settle, discharge, compound, release or compromise any claims whatsoever in connection with the Aircraft or any other Mortgaged Property or in any way relating to the security created by this Mortgage,
- (D) to bring, take, defend, compromise, submit to arbitration or discontinue any actions, suits or proceedings whatsoever, civil or criminal, in relation to the Aircraft or any other Mortgaged Property,
- (E) to repair and keep in repair the Aircraft, to carry out necessary maintenance work and modifications and generally maintain, preserve and protect the Aircraft and keep the same free from any lien,
- (F) to arrange for the Aircraft to be insured against loss and damage and in respect of third party, passenger and property damage liability, in such sums, with such insurers, and on such terms as the Security Trustee, in its absolute discretion, deems expedient,
- (G) to lease or charter or place in safekeeping the Aircraft, for such periods, at such rents and generally in such manner and upon such conditions as the Security Trustee, in its absolute discretion, deems expedient,
- (H) to sell and give good title to the Aircraft or any other Mortgaged Property, with or without prior notice to the Owner with or without the benefit of any lease or charter, by public auction or private contract, at such place and upon such terms as the Security Trustee, in its absolute discretion, may determine, with power to postpone any such sale and without being answerable for any loss occasioned by such sale or resulting from the postponement thereof;
- (I) to the extent applicable, upon giving the Owner at least ten (10) Business Days prior written notice of the date fixed for any public sale, lease or other disposition of the Aircraft or of the Airframe or of any Engine or of the date on or after which the execution of any contract providing for any private sale, lease or other disposition will occur, to

immediately, directly or by such agent as it may appoint, without demand of performance or the institution of legal proceedings and whether or not having taken possession, and (to the extent permitted by applicable laws), sell at public or private sale or otherwise dispose of the whole, or from time to time any part, of the Aircraft or of the Airframe or of any Engine, and the Owner hereby agrees that a notice received at least ten (10) Business Days before the time of any intended public sale, or of the time after which any private sale or other disposition of the Aircraft, Airframe or Engine, as the case may be, is to be made, shall be reasonable notice of such sale or other disposition,

- (J) in relation to any of the foregoing, to do all acts and things incidental or conducive thereto and in particular to enter into such arrangements respecting the Aircraft, its repair, insurance and employment in all respects as if the Security Trustee was the owner of the Aircraft but without being responsible for any loss thereby incurred

6 5 The Owner hereby consents to the exercise by the Security Trustee of the remedies granted herein and, to the extent it is applicable, in the Cape Town Convention The Owner acknowledges and agrees that the Security Trustee may exercise such of the foregoing remedies as it shall determine in its sole discretion and none of the foregoing remedies is manifestly unreasonable

6 6 At any time after the security created by this Mortgage has become enforceable, the Security Trustee shall be entitled (but not bound) by writing, under seal or under the hand of any of its officers, attorneys or substitute attorneys, to appoint any person to be Receiver of the Mortgaged Property or any part thereof (with power to authorise any joint receiver to exercise any power independently of any other joint receiver) and may from time to time fix his remuneration, and may remove any Receiver so appointed and appoint another or others in his place Any Receiver so appointed shall be the agent of the Owner and the Owner shall be solely responsible for his acts or defaults and for his remuneration

6 7 Any Receiver appointed pursuant to this Mortgage shall have all the powers

- (A) on behalf of, and at the cost of, the Owner (notwithstanding any liquidation of the Owner), to do or omit to do anything which the Owner could do or omit to do in relation to the Mortgaged Property or any part thereof, and in particular, but without prejudice to the generality of the foregoing, any such Receiver may exercise all the powers and discretions conferred on the Security Trustee by this Mortgage (subject, in the case of any sale of the Aircraft, to the provisions of Clause 6 4(H),

- (B) (i) to do all other acts and things which the Receiver considers necessary or expedient for the realisation of the Mortgaged Property, and



- (ii) to concur in the doing of anything which the Receiver has the right to do and to do any of those things jointly with any other person

- 6 8 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 the Receiver in accordance with the current practice of his firm
- 6 9 Neither the Security Trustee nor any Receiver shall be liable as mortgagees in possession in respect of the Mortgaged Property to account or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever in connection therewith for which a mortgagee in possession may be liable as such and, if and whenever the Security Trustee or any Receiver enter into possession of the Mortgaged Property, they shall be entitled, at any time thereafter which they think fit, to go out of such possession
- 6 10 Any Receiver may be appointed Receiver of all the Mortgaged Property or Receiver of such part of the Mortgaged Property as may be specified in the appointment. In the latter case, the rights conferred upon a Receiver by Clause 6 7 shall have the effect as though every reference in that Clause to the "Mortgaged Property" were a reference to the part of such Mortgaged Property so specified or any part thereof.
- 6 11 In relation to any sale of the Aircraft or other Mortgaged Property by the Security Trustee pursuant to Clause 6 4(H) or by any Receiver, the purchaser shall not be bound to see or enquire whether the power of sale of the Security Trustee or the Receiver has arisen in the manner provided for in this Mortgage, and the sale shall be deemed to be within the power of the Security Trustee (or the Receiver, as the case may be) and the receipt of the Security Trustee, (or the Receiver, as the case may be) for the purchase money shall effectively discharge the purchaser who shall not be concerned with the manner of application of the proceeds of sale or be in any way answerable therefor

## **7. Redemption of Prior Mortgages**

The Security Trustee may, at any time after the security created by this Mortgage has become enforceable, redeem any prior Security Interest over or against the Mortgaged Property or any part thereof or procure the transfer to itself and may settle and pass the accounts of the prior mortgagee, chargee or encumbrancer. Any accounts so settled and passed shall be conclusive and binding on the Owner. All principal moneys, interest, costs, charges and expenses of and incidental to such redemption and transfer shall be paid by the Owner to the Security Trustee on demand.

## **8. Application of Moneys**

All moneys arising from any sale, calling in, collection or conversion of the Mortgaged Property under this Mortgage shall be applied by the Security Trustee in the following order

- (i) first, in or towards payment of any unpaid fees, costs and expenses of and incidental to the appointment of any Receiver and the exercise of his rights, including but without limitation all remuneration and outgoings paid by him,
- (ii) secondly, in or towards payment of any unpaid fees, costs and expenses of the Security Trustee incurred as a result of the exercise of its rights under and in connection with this Mortgage, including but without limitation any amounts recoverable pursuant to Clause 6 3 or 7,
- (iii) thirdly, in or towards payment to the Beneficiaries in accordance with clause 28 5 of the Aircraft Facility Agreement, and
- (iv) fourthly, in payment of the surplus (if any) to the Owner or any other person entitled thereto

## **9. Continuing Security and Remedies Cumulative**

It is hereby declared and agreed that

- (A) the security created by the Owner pursuant to this Mortgage shall be a continuing security for the payment of the Secured Obligations and accordingly the security so created shall not be satisfied by any intermediate payment or satisfaction of any part of the Secured Obligations,
- (B) the security so created shall be in addition to and shall not in any way prejudice or affect the security created by any deposit of documents, or any guarantee, lien, bill, note, mortgage or other security now or hereafter held by any of the Beneficiaries or by any other person on behalf of or in trust for any of the Beneficiaries or any right or remedy of any of the Beneficiaries or such person thereunder, and shall not be in any way prejudiced or affected thereby or by the invalidity or unenforceability thereof, or by any of the Beneficiaries or any person holding any security on behalf of or in trust for any of the Beneficiaries releasing, modifying or refraining from perfecting or enforcing any of the same or granting time or indulgence or compounding with any person liable,
- (C) the Security Trustee need not before exercising any of the rights conferred upon it by this Mortgage or by law

- (i) take action or obtain judgment against the Owner or any other person in any court,
  - (ii) make or file any claim or proof in a winding-up or liquidation of the Owner or of any other person, or
  - (iii) enforce or seek to enforce the recovery of the monies and liabilities hereby secured or any other security,
- (D) all the rights, remedies and powers vested in the Security Trustee by this Mortgage may be exercised from time to time and as often as the Security Trustee may deem expedient,
- (E) if the Security Trustee receives or is deemed to be affected by notice, whether actual or constructive, of any subsequent charge or other interest affecting any part of the Mortgaged Property and/or the proceeds of sale thereof any of the Beneficiaries may open a new account or accounts for the Owner. If any Beneficiary does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice and, as from that time, all payments made to, or for the account, of such Beneficiary shall be credited, or be treated as having been credited, to the new account and shall not operate to reduce the amount for which this Mortgage is security

#### **10. Time and Indulgence**

The security constituted hereby shall not be prejudiced if any of the Beneficiaries and/or any person holding security on behalf of or in trust for the Beneficiaries (in this Clause "**Relevant Persons**") shall

- (A) terminate or amend any of the Finance Documents in any manner whatsoever, subject always to the terms of the Finance Documents,
- (B) grant to any party to any of the Finance Documents or to any other person any time or indulgence,
- (C) deal with, exchange, renew, vary, release, modify or abstain from perfecting or enforcing any securities, guarantees or rights which any of the Relevant Persons may now or hereafter have from or against any party to any of the Transaction Documents or any other person in respect of the obligations of such parties or such other person under the Finance Documents,
- (D) compound with, discharge or vary the liability of any party to any of the Finance Documents or any other person or guarantor to any of the Relevant Persons or concur in, accept or vary any compromise, arrangement or settlement with any party to the Finance Documents

any other person or concur in or vary any deed of arrangement or deed of assignment for the benefit of creditors,

- (E) omit to prove or maintain any right of proof for or to claim or enforce payment of any dividend or composition against any of the parties to any of the Finance Documents,
- (F) take or omit to take any security from any of the parties to any of the Finance Documents or any other person in respect of the obligations of such parties or such other person under the Finance Documents whether contemporaneously with this Mortgage or otherwise,

Provided in each case that this Clause 10 shall not constitute an authority to any of the Relevant Persons to do any of the foregoing.

## **11. Attorney**

- 11 1 By way of security, the Owner hereby irrevocably appoints the Security Trustee and any Receiver, jointly and also severally, to be its attorney (with full powers of delegation and substitution) generally for and in its name and on its behalf and as the act and deed or otherwise of the Owner to execute, seal and deliver and otherwise perfect and do all such deeds, assurances, agreements, instruments, acts and things which may be required for the full exercise of all or any of the rights, powers or remedies hereby conferred, or which may be deemed proper in or in connection with all or any of the purposes aforesaid. The Security Trustee shall not be entitled to exercise the authority conferred on it by this Clause 11 1 unless an Enforcement Event has occurred. The Owner ratifies and confirms and agrees to ratify and confirm any deed, assurance, agreement, instrument, act or thing which the Security Trustee or the Receiver may execute or do pursuant thereto.
- 11 2 The exercise of such power by or on behalf of the Security Trustee or any Receiver shall not put any person dealing with the Security Trustee or the Receiver upon any enquiry as to whether the security created by this Mortgage has become enforceable, nor shall such person be in any way affected by notice that the security so created has not become so enforceable, and the exercise by the Security Trustee or the Receiver of such power shall be conclusive evidence of its or his rights to exercise the same.

## **12. Extent of the Security Trustee's and any Receiver's Liability**

It is further agreed and declared that

- (A) notwithstanding the mortgage and charges hereinbefore contained the Security Trustee shall not be obliged to make any enquiry as to the nature or sufficiency of any payment received by it under this Mortgage or to make any claim or take any other action to collect any moneys or to enforce any rights and benefits hereby mortgaged or charged to the

Security Trustee or to which the Security Trustee may at any time be entitled hereunder,

- (B) neither the Security Trustee nor any Receiver shall be liable in respect of any loss or damage which arises out of the exercise, or the attempted or purported exercise of, or the failure to exercise any of their respective powers unless such loss or damage is caused by its or his gross negligence or wilful default,
- (C) the Security Trustee or any Receiver shall not be in any way liable or responsible to the Owner for any loss or damage arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate appointed by either of them pursuant to Clause 6.1, and
- (D) the Security Trustee has entered into this Mortgage not in its individual capacity but solely as Security Trustee under the Aircraft Facility Agreement and, in connection with the exercise by it of its rights, powers, discretions and duties under this Mortgage, it shall be entitled to the protections and exclusions from liability provided to it under clause 25 of the Aircraft Facility Agreement

### **13. Further Assurance**

The Owner further undertakes from time to time to execute, sign, perfect, do and (if required) register every such further assistance, document, act or thing as, in the opinion of the Security Trustee or any Receiver, may be necessary or desirable to establish, maintain, perfect, preserve and/or protect the rights of the Security Trustee under or in relation to this Mortgage, each Security Interest created (or intended to be created) by this Mortgage and/or the priority (or intended priority) of each such Security Interest, including, without limitation, the filing against the Owner in the appropriate jurisdiction (which for purposes hereof shall initially be Washington, D C.) of a UCC-1 financing statement covering the Aircraft and the filing of a UCC-3 continuation statement within six (6) months prior to the end of each five (5)-year period after the filing of such UCC-1 financing statement

### **14. Rights Cumulative, Waivers**

The rights of the Security Trustee under this Mortgage are cumulative, may be exercised as often as it considers appropriate and are in addition to its rights under the general law. The rights of the Security Trustee under this Mortgage (whether arising pursuant hereto or under the general law) shall not be capable of being waived or varied otherwise than by an express waiver or variation in writing, and, in particular, any failure to exercise, or any delay in exercising, any of such rights shall not operate as a waiver or variation of that or any other such right, any defective or partial exercise of any of such rights shall not preclude any other or further exercise of that or any other such right, and no act or course of conduct or negotiation on the Security Trustee's part,

or on its behalf, shall in any way preclude it from exercising any such right or constitute a suspension or any variation of any such right

**15. Set-Off**

15 1 The Owner shall not be entitled to set-off or withhold from any sum or sums expressed in this Mortgage to be payable to the Security Trustee or which form part of the Mortgaged Property any amount due and payable to the Owner by the Security Trustee or any other person

15 2 Any of the Beneficiaries may set off any matured obligation due from the Owner under this Mortgage or any of the other Finance Documents (to the extent beneficially owned by that Beneficiary) against any matured obligation owed by that Beneficiary to the Owner, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Beneficiary may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off

**16. Notices**

16 1 Any communication to be made under or in connection with this Mortgage shall be made in writing and, unless otherwise stated, may be made by fax or letter

16 2 The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each party for any communication or document to be made or delivered under or in connection with this Mortgage is

(A) in the case of the Owner, that identified with its name below

Flybe Limited  
Jack Walker House, Exeter International Airport,  
Exeter, Devon,  
EX5 2HL  
England

Fax +44 (0) 1392 266 772  
Attention Company Secretary

(B) in the case of the Security Trustee, that identified with its name below

UT Finance Corporation  
400 Main Street, Mailstop 133-54  
East Hartford  
CT06108  
USA

Fax +1 860 557 9946

Attention President

or any substitute address, fax number or department or officer as each party may notify the other by not less than five Business Days' notice

16 3 Any communication or document made or delivered by one party to the other under or in connection with this Mortgage will only be effective

(i) if by way of fax, when received in legible form, or

(ii) if by way of letter, when it has been left at the relevant address,

and, if a particular department or officer is specified as part of its address details provided under Clause 16 2, if addressed to that department or officer

16 4 (A) Any communication may be made by electronic mail or other electronic means, if the parties

(i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;

(ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means, and

(iii) notify each other of any change to their address or any other such information supplied by them

(B) Any electronic communication made between the parties will be effective only when actually received in readable form

16 5 (A) Any notice given under or in connection with this Mortgage must be in English

(B) All other documents provided under or in connection with this Mortgage must be

(i) in English, or

(ii) if not in English, and if so required by the other party, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document

## 17. Assignment

17 1 Save as provided in Clause 17 2, the Owner shall not assign or transfer any of its rights or obligations hereunder without the prior written consent of the Security Trustee, but the Security Trustee may assign or transfer any of its

rights or obligations hereunder with the consent of the Owner, such consent not to be unreasonably withheld or delayed

- 17 2 The Security Trustee may assign and transfer all of its respective rights and obligations hereunder to a replacement Security Trustee appointed in accordance with the terms of the Aircraft Facility Agreement. Upon such assignment and transfer taking effect, the replacement Security Trustee shall be and be deemed to be acting as agent and trustee for each of the Beneficiaries for the purposes of this Mortgage in place of the former Security Trustee

**18. Counterparts**

This Mortgage may be executed in any number of counterparts, and by the parties on separate counterparts, but shall not be effective until each party has executed at least one counterpart. Each counterpart shall constitute an original of this Mortgage, but the counterparts shall together constitute but one and the same instrument.

**19. Governing Law; Submission to Jurisdiction; Waiver of Jury Trial**

- 19 1 THIS MORTGAGE SHALL IN ALL RESPECTS, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS ENTERED INTO IN THAT STATE BETWEEN CITIZENS OF THAT STATE AND TO BE PERFORMED WHOLLY WITHIN THAT STATE WITHOUT REFERENCE TO ANY RULES GOVERNING CONFLICTS OF LAWS (OTHER THAN IN SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK)
- 19 2 Each of the Parties irrevocably agrees that the Supreme Court of the State of New York, New York County, or the United States District Court for the Southern District of New York shall have non-exclusive jurisdiction to hear and determine any suit, action or proceeding ("Proceedings"), and to settle any disputes, which may arise out of or in connection with this Mortgage and for such purpose irrevocably submits to the jurisdiction of such courts
- 19 3 The Owner further agrees, to the fullest extent permitted by applicable laws, that final judgment against it in any Proceeding referred to herein as evidenced by a certified or exemplified copy of such judgment shall be conclusive evidence of the fact and amount of its obligations and liabilities
- 19 4 The Owner hereby irrevocably and unconditionally waives, to the fullest extent permitted by applicable laws, any objection which it may now or hereafter have to the laying of venue of any Proceeding arising out of or in connection with this Mortgage brought in any of the aforesaid courts, and hereby further irrevocably and unconditionally waives and agrees not to plead or claim that



any such Proceeding brought in any such court has been brought in an inconvenient forum

- 19.5 The Owner agrees that the process by which any Proceedings are begun may be served on it by being delivered to Corporation Service Company, 1180 Avenue of the Americas, Suite 210, New York, New York 10036-2721. If the process agent appointed by the Owner ceases to act or to be appointed as the Owner's process agent, the Owner will promptly appoint a replacement process agent in the State of New York acceptable to the Security Trustee and notify the Security Trustee in writing thereof. Failing any such appointment by the Owner, the Owner hereby by way of security irrevocably appoints the Security Trustee as its attorney to appoint another such process agent on its behalf. Nothing contained in this Mortgage shall affect the right to serve process in any other manner permitted by law.
- 19.6 The submission by the Parties to the jurisdiction mentioned in clause 19.2 shall not (and shall not be construed so as to) limit the right of either Party to take Proceedings against the other in any other court of competent jurisdiction nor shall the taking of Proceedings in any one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction, whether concurrently or not, if and to the extent permitted by applicable law.
- 19.7 The Owner hereby consents generally following an Event of Default which is continuing, in respect of any Proceedings arising out of or in connection with this Mortgage to the giving of any relief or the issue of any process in connection with such Proceedings including, without limitation, the making, enforcement or execution against any property whatsoever (irrespective of its use or intended use) of any order or judgment which may be made or given in such Proceedings.
- 19.8 To the extent that the Owner may in any jurisdiction claim for itself or its assets immunity from suit, execution, attachment (whether in aid of execution or judgment or otherwise) or other legal process and to the extent that in any such jurisdiction there may be attributed to itself or its assets such immunity (whether or not claimed), the Owner hereby irrevocably agrees not to claim and hereby irrevocably waives such immunity to the full extent permitted by the laws of such jurisdiction.
- 19.9 EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS MORTGAGE OR THE TRANSACTIONS CONTEMPLATED HEREBY.

## **20. Delivery**

The Parties hereby confirm that this Mortgage has been delivered by the Parties on the date stated at the beginning of this Mortgage in the offices of

Holland & Knight LLP, 31 West 52nd Street, New York, NY, United States of America

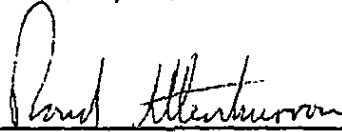
**21. Third Party Rights**

Unless expressly provided to the contrary in this Mortgage and without prejudice to the interests of the beneficiaries in the Aircraft, no person other than the Owner and the Security Trustee has any right to enforce or to enjoy the benefit of any term of this Mortgage

[signature page follows]

**IN WITNESS** whereof each of the Owner and the Security Trustee has caused this Mortgage to be executed and this Mortgage is intended to be and is hereby delivered by the Owner and the Security Trustee the day and year first before written

**FLYBE LIMITED, as Owner**

By.   
Name  
Title      **David Attenburrow**  
                 **Director of Aircraft Acquisition & Financing**

**UT FINANCE CORPORATION, as Security Trustee**


By \_\_\_\_\_  
Name.  
Title

**IN WITNESS** whereof each of the Owner and the Security Trustee has caused this Mortgage to be executed and this Mortgage is intended to be and is hereby delivered by the Owner and the Security Trustee the day and year first before written.

**FLYBE LIMITED, as Owner**

By \_\_\_\_\_  
Name:  
Title

**UT FINANCE CORPORATION, as Security Trustee**

By.  \_\_\_\_\_  
Name  
Title  
F. SCOTT WILSON  
VICE PRESIDENT