



**Registration of a Charge**

Company Name: **AVATION PLC**

Company Number: **05872328**



Received for filing in Electronic Format on the: **24/10/2023**

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**Details of Charge**

Date of creation: **23/10/2023**

Charge code: **0587 2328 0014**

Persons entitled: **INVESTEC BANK PLC, 30 GRESHAM STREET, LONDON, ENGLAND, EC2V 7QP, AS SECURITY TRUSTEE (AS SECURITY AGENT AND TRUSTEE FOR THE SECURED PARTIES)**

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: **CLIFFORD CHANCE LLP**



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

Company number: 5872328

Charge code: 0587 2328 0014

The Registrar of Companies for England and Wales hereby certifies that a charge dated 23rd October 2023 and created by AVATION PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 24th October 2023 .

Given at Companies House, Cardiff on 27th October 2023

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**

**SHARE MORTGAGE**  
**IN RESPECT OF SHARES HELD IN CAPITAL MSN 4033 II LIMITED**

**BETWEEN:**

**AVATION PLC**  
**(AS MORTGAGOR)**

**AND**

**INVESTEC BANK PLC**  
**(AS SECURITY TRUSTEE)**

**DATED** 23 October **2023**

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THIS MORTGAGE is made on 23 October 2023.

**BETWEEN**

- (1) **AVATION PLC**, a public limited company incorporated under the laws of England and Wales and having its registered address at 5 Fleet Place, London, England, EC4M (the "**Mortgagor**"); and
- (2) **INVESTEC BANK PLC**, in its capacity as security agent and trustee for the Secured Parties (in such capacity together with its successors and permitted assigns the "**Security Trustee**") and such expression shall include any successor trustee or trustees of the trust under which the security hereby constituted is held.

**RECITALS**

- (A) The Mortgagor is the legal and beneficial owner of one (1) ordinary share of €1.00 (one euro) in the capital of the Company.
- (B) The authorised share capital of the Company is €100.00 divided into 100 ordinary shares of €1.00 each, of which 1 ordinary share is issued to the Mortgagor at the date hereof and is fully paid.
- (C) It is a condition to the availability of finance to the Company under the Facility Agreement that the Mortgagor enter into this Mortgage.

**NOW IT IS AGREED** as follows:

**1 DEFINITIONS AND INTERPRETATION**

- 1.1 In this Mortgage, unless the context otherwise requires, words and expressions defined in Part A (*Definitions*) of Appendix A - Master Definitions Schedule shall bear the same meaning when used herein (whether defined expressly therein or by reference to another document).
- 1.2 The rules of interpretation set out in Part B (*Interpretation*) of Appendix A - Master Definitions Schedule shall apply to the interpretation and construction of this Mortgage, mutatis mutandis.
- 1.3 The Mortgagor and the Security Trustee have participated jointly in the negotiating and drafting of this Mortgage. In the event that an ambiguity or question of intent or interpretation arises this Mortgage shall be construed as if drafted jointly by the Mortgagor and the Security Trustee and no presumption or burden of proof shall arise favouring or disfavouring the Mortgagor or the Security Trustee by virtue of the authorship of any of the provisions of this Mortgage.
- 1.4 In this Mortgage, the "**Mortgagor**", the "**Security Trustee**", or any other "**Secured Party**" includes any assignee, transferee or successor in title to the "**Mortgagor**", the "**Security Trustee**", or any other "**Secured Party**" as the context may require. Any reference in this Mortgage to any agreement (including this Mortgage) or instrument shall include such agreement or instrument as it may from time to time be amended, supplemented, novated varied or substituted (and so that any

reference to this Mortgage shall include, unless the context otherwise requires, any agreement or document expressed to be supplemental hereto or expressed to be collateral herewith or which is otherwise entered into pursuant to or in accordance with the provisions hereof).

1.5 In this Mortgage, unless the context requires otherwise:

"**Act**" means the Land and Conveyancing Law Reform Act 2009;

"**Agent**" means the Security Trustee, acting in its capacity as agent of the Lenders;

"**Appendix A - Master Definitions Schedule**" means the master definitions schedule appended to the Proceeds Agreement;

"**Collateral Rights**" means all rights, powers and remedies of the Security Trustee provided by or pursuant to this Mortgage;

"**Company**" means **CAPITAL MSN 4033 II LIMITED**, a private company limited by shares incorporated in Ireland with company number 615513 and having its registered office is at 32 Molesworth Street, Dublin 2, D02 Y512, Ireland;

"**Crystallisation Event**" means the occurrence of a Loan Event of Default or an Enforcement Event;

"**Enforcement Event**" means either:

- (a) the occurrence of an Acceleration Event specified in sub-clause 8.5.1 of the Facility Agreement following which the relevant Loan has been accelerated in accordance with sub-clause 8.5.2 of the Facility Agreement; or
- (b) a Loan Event of Default has occurred and is continuing following which the relevant Loan has been accelerated in accordance with sub-clause 21.17 (*Acceleration*) of the Facility Agreement;

"**Facility Agreement**" means the facility agreement dated on or about the date hereof and entered into between Avation Eastern Fleet II Pte. Ltd. as representative borrower (the "**Borrower**"), the Security Trustee as security trustee, the Agent as agent and the financial institutions named therein as lenders (the "**Lenders**") and acceded to by the Company on or about the date of this Mortgage;

"**Gross Negligence**" means in relation to any person any intentional or conscious action, omission or decision of such person which is taken with deliberate and reckless disregard for the consequences of such action, omission or decision;

"**Loan Event of Default**" means any event or circumstance specified as such in clause 21 (*Loan Events of Default*) of the Facility Agreement;

"**Mortgage**" means this Share Mortgage;

"**Proceeds Agreement**" means the proceeds agreement dated or about the date hereof between the Mortgagor, Avation Group (S) Pte. Ltd. and Avation Eastern Fleet Pte. Ltd. as borrower parents, the Borrower as representative borrower, the Security Trustee as security trustee, the Agent as agent, the Lenders and Avation Group (S) Pte. Ltd. as lease manager and acceded to by the Company on or about the date of this Mortgage;

**"Receiver"** has the meaning given to it in Clause 8 (Receiver);

**"Secured Obligations"** means 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 any of the Secured Parties by any Obligor pursuant to or in connection with any Finance Document;

**"Security Interest"** means any mortgage, charge, pledge, lien, hypothecation, lease, title retention, assignment, trust arrangement, right of possession or detention or security interest of any kind, howsoever created or arising; and

**"Shares"** means the one (1) ordinary share of €1.00 and all other shares in the capital of the Company which the Mortgagor may now or hereafter hold or beneficially own or in respect of which it may now or hereafter have any rights, including in each case all proceeds of sale thereof and all dividends, interest or other distributions hereafter declared, made, paid or payable in respect of the same and all allotments, accretions, offers, rights, benefits and advantages whatsoever at any time accruing, offered or arising in respect of or incidental to the same and all stocks, shares, rights, money or property accruing thereto or offered at any time by way of conversion, redemption, bonus, preference, option, capital redemption or otherwise in respect thereof.

## **2 ACKNOWLEDGMENT OF AMOUNT SECURED AND COVENANT TO PAY**

2.1 The Mortgagor hereby acknowledges to the Security Trustee that the amount secured by this Mortgage and in respect of which this Mortgage and the security hereby created is enforceable is the full amount of the Secured Obligations and the Mortgagor hereby covenants with the Security Trustee that the property hereby mortgaged is so mortgaged for the full payment, performance and discharge of the Secured Obligations.

2.2 The Mortgagor shall duly and punctually pay and discharge the Secured Obligations in the manner provided for in the Finance Documents.

## **3 SECURITY OVER SHARES**

3.1 The Mortgagor, as legal and beneficial owner, for the purpose of securing the due and punctual payment, performance and discharge in full of the Secured Obligations hereby absolutely, irrevocably and unconditionally mortgages to the Security Trustee as a continuing security by way of first priority equitable mortgage, all of its rights, title, benefit and interest whatsoever, present and future, actual and contingent, in, to and/or in respect of the Shares, but so that the Security Trustee shall not in any circumstances incur any liability whatsoever in respect of any calls, instalments or otherwise in connection with such Shares.

3.2 Forthwith upon the execution and delivery of this Mortgage, the Mortgagor shall

3.2.1 deposit with the Security Trustee (or such person as the Security Trustee shall specify) all certificates or other documents representing or evidencing ownership of the Shares;

3.2.2 procure that the Company provides to the Security Trustee a certified copy of the share register of the Company;



- 3.2.3 provide to the Security Trustee the share transfer form(s) in respect of the Shares duly executed in blank by or on behalf of the Mortgagor and/or its nominee(s) but omitting the name of the transferee and the date together with a letter of authority in respect of such share transfer form each substantially in the form set out in Part 1 and Part 2 of Schedule 1;
- 3.2.4 provide to the Security Trustee an irrevocable proxy in respect of the Shares executed by the Mortgagor in favour of the Security Trustee in the form set out in Schedule 2 and the irrevocable appointment in the form set out in Schedule 3;
- 3.2.5 provide to the Security Trustee letters of resignation of the director and secretary to the Company and letters of authority each substantially in the form set out in Part 1 and Part 2 of Schedule 4; and
- 3.2.6 provide to the Security Trustee a dividend mandate executed by the Mortgagor in the form set out in Part 1 of Schedule 5 (Form of Dividend Mandate) together with a letter of undertaking from the Company in the form set out in Part 2 Schedule 5 (Form of Letter of Undertaking).

#### **4 COVENANTS**

- 4.1 The Mortgagor hereby covenants with the Security Trustee that during the continuance of this security and until the Secured Obligations are discharged in full:
  - 4.1.1 it will remain the registered and the sole legal and beneficial owner of the Shares and that it will not permit any other person other than the Security Trustee (or such person as may be specified for this purpose in writing by the Security Trustee) to be registered as holder of the Shares or any part thereof;
  - 4.1.2 except for this Mortgage, the Shares will, at all times, continue to be, free and clear of any Security Interest and the Mortgagor will not create or purport to create or permit to arise or subsist any Security Interest on or over the Shares or any part thereof or interest therein;
  - 4.1.3 except as permitted in this Mortgage, it will not sell, transfer or otherwise dispose of the Shares or any part thereof or interest therein or attempt or agree to do so;
  - 4.1.4 it will not do or cause or permit to be done anything which may reasonably be expected in any way to depreciate, jeopardise or otherwise prejudice the value to the Security Trustee of the Security hereby created;
  - 4.1.5 it will not permit or authorise the issue of any further shares or other securities in the Company or permit any share splits or share consolidations without the written consent of the Security Trustee, and provided that such shares or securities become subject to the security created under this Mortgage;
  - 4.1.6 it will, and will procure that its nominee(s) will:

- (A) (to the extent that it has not already done so pursuant to its obligations under Clause 3.2), duly complete, execute and deliver, and deposit with the Security Trustee and permit the Security Trustee to hold and retain, all transfers, renunciations, proxies, mandates, assignments, deeds and other documents, and do or permit to be done all acts or things, as are necessary or as the Security Trustee may from time to time request in order for the Security Trustee:
  - (1) to be able to exercise (or to enable the Security Trustee's nominees to exercise) any rights or powers attaching to the Shares;
  - (2) to perfect its title to the Shares;
  - (3) to vest or to enable it to vest title to the Shares in the Security Trustee or its nominee(s) or in any purchaser, to the intent that the Security Trustee may at any time after the occurrence of a Crystallisation Event without notice present for immediate registration any transfer of the Shares to the Security Trustee or the Security Trustee's nominee for the purpose of protecting or perfecting its security over the Shares and may without notice after the occurrence of a Crystallisation Event present for immediate registration any transfer of the Shares to any purchaser; or
  - (4) otherwise to enforce any of its rights hereunder after the occurrence of a Crystallisation Event; and
- (B) at no cost to the Security Trustee, if called upon to do so by the Security Trustee, (and to the extent the Mortgagor has not already done so) immediately execute and deliver to the Security Trustee transfers of all or any of the Shares to the Security Trustee and/or its nominee(s);

- 4.1.7 shall promptly inform the Security Trustee of any event as soon as it becomes aware of it, or of the receipt of any notice, which may affect the fulfilment by the Mortgagor of any of its covenants or obligations hereunder or the security constituted by this Mortgage;
- 4.1.8 shall give to the Security Trustee or such person or persons as the Security Trustee may for that purpose appoint such information as the Security Trustee or such other person or persons aforesaid shall require as to all matters relating to its business or otherwise relating to its affairs;
- 4.1.9 no amendments shall be made to any provision of the constitution of the Company except for any mandatory changes required by law (unless the Security Trustee has given its written consent thereto);
- 4.1.10 by entering into this Mortgage, the Mortgagor hereby covenants and agrees that it will not at any time institute against the Company or cause the Company to make a voluntary filing or consent to an involuntary filing

with respect to the Company in any bankruptcy, reorganisation, arrangement, examinership, insolvency or liquidation proceeding;

- 4.1.11 it will ensure that the Shares are, and at all times remain, free from any restriction on transfer to the Security Trustee or its nominee(s) or to any purchaser from the Security Trustee pursuant to the exercise of any rights or remedies of the Security Trustee under or pursuant to this Mortgage;
- 4.1.12 it will duly and promptly pay all calls, instalments or other payments which may be or become due in respect of the Shares as and when the same from time to time become due;
- 4.1.13 it will promptly give to the Security Trustee copies of all notices and other documents received in respect of the Shares and will notify the Security Trustee immediately upon the appointment of any additional or replacement director or secretary or officer of the Company and will promptly provide to the Security Trustee, in respect of each newly appointed director or secretary, new letters of resignation and new letters of authority each substantially in the form set out in Part 1 and Part 2 of Schedule 4;
- 4.1.14 following the occurrence of a Crystallisation Event and upon receipt of written notice from the Security Trustee, it will forthwith procure delivery to the Security Trustee or to its agent in Ireland of the original certificate of incorporation and constitution, minute books and all corporate seals of the Company and all registers and books of account which the Company is obliged to maintain under the laws of Ireland;
- 4.1.15 it will take such action as the Security Trustee may reasonably request in the event that it becomes possible (whether under the terms of issue of the Shares, a reorganisation or otherwise) to convert or exchange the Shares or have them repaid or in the event that any offer to purchase is made in respect of the Shares or any proposal is made for varying or abrogating any rights attaching to them; and
- 4.1.16 it will notify the Security Trustee immediately upon receipt of any notice issued under section 768 of the Companies Act 2014 in respect of any or all of the Shares or upon becoming aware that any such notice has been issued or that steps have been taken or are about to be taken to obtain an order for the sale of any or all of the Shares under section 768 the Companies Act 2014.

4.2 With respect to the Mortgagor's rights and powers relating to any of the Shares:

- 4.2.1 such rights shall not be exercised in any manner inconsistent with the security intended to be conferred on the Security Trustee by or pursuant to this Mortgage;
- 4.2.2 at any time after the occurrence of a Crystallisation Event (and without any consent or authority on the part of the Mortgagor) the Security Trustee and its nominee(s) may (in the name of the Mortgagor or otherwise) exercise or cause to be exercised in respect of any of the Shares any voting rights and any other powers or rights arising in respect of the Shares whether or not registered in the name of the

Security Trustee or its nominee and/or any rights to receive, interest, principal or other payments of money, as the case may be, forming part of the Shares and all other powers and rights conferred or exercisable by the bearer or holder thereof; and

- 4.2.3 any dividends paid by the Company may, unless a Crystallisation Event has occurred, be paid only in accordance with clause 20.11 (*Dividends and Share Capital*) of the Facility Agreement.

## **5 CONTINUING SECURITY AND SUBROGATION**

### **5.1 Continuing security**

The security created by this Mortgage shall be held as a continuing security for the full and punctual payment, performance, discharge and satisfaction of all the Secured Obligations and shall not be considered as satisfied or discharged by any settlement or intermediate settlement of account or settlement of the whole or any part of the Secured Obligations, or any other act, event or matter whatsoever, other than a release executed pursuant to the terms and conditions of Clause 16 (*Discharge of Mortgage*).

### **5.2 Additional security**

This security shall be in addition to, not in substitution for or derogation of, and shall not merge with or otherwise prejudice or affect any contractual or other right or remedy or any guarantee, lien, pledge, bill, note, mortgage or other lien (whether created by the deposit of documents or otherwise) now or hereafter held by or available to the Security Trustee and shall not be in any way prejudiced or affected thereby or by the invalidity thereof or by the Security Trustee now or hereafter dealing with, exchanging, releasing, varying or abstaining from perfecting or enforcing any of the same or any rights which it may now or hereafter have or giving time for payment or indulgence or compounding with any other person liable.

### **5.3 Subrogation**

Until the Secured Obligations have been paid or satisfied in full (and notwithstanding payment of a dividend in any liquidation or bankruptcy or under any compromise or arrangement), the Mortgagor waives all rights of subrogation against the Company and agrees not to demand or accept or to negotiate, assign, mortgage or otherwise dispose of any amounts, obligations or liabilities now or hereafter due or owing to it by the Company or to take any steps to enforce any right against the Company for the same or to claim or prove in competition with the Security Trustee in the bankruptcy or liquidation of the Company. If the Mortgagor acts in breach of this Clause, anything so received and any benefit derived directly or indirectly by it therefrom shall be held in trust for the Security Trustee as a continuing security for the Secured Obligations.

### **5.4 Power of consolidation**

Notwithstanding anything to the contrary contained in the Act, the Security Trustee reserves the right to consolidate mortgage securities without restriction.

### **5.5 Security Interest not discharged**

The Security Interest created by this Mortgage shall not be discharged, impaired or otherwise affected by:

- 5.5.1 any failure by any Secured Party to take or enforce any other security, guarantee or other assurance taken or agreed to be taken or given for all or any of the Secured Obligations;
- 5.5.2 any time or other indulgence given or agreed to be given by any Secured Party to the Mortgagor or any other person in respect of the Secured Obligations or in respect of the Mortgagor's or such other person's obligations under any security or guarantee relating thereto;
- 5.5.3 any amendment, modification, variation, supplement, novation, restatement or replacement of all or any part of the Secured Obligations or any Transaction Document or otherwise;
- 5.5.4 any release or exchange of any other security, guarantee or other assurance now or hereafter held by or enuring to the benefit of any Secured Party for all or any part of the Secured Obligations; and/or
- 5.5.5 any other act, fact, matter, event, circumstance, omission or thing (other than a discharge in accordance with the express terms of this Mortgage) which, but for this provision, might operate to impair or discharge the rights of any Secured Party under this Mortgage or under any other Transaction Document or which, but for this provision, might constitute a legal or equitable discharge of the security hereby created.

## **6 FINANCIAL COLLATERAL DIRECTIVE**

To the extent that any of the Shares constitute "financial collateral" and this Mortgage and the obligations of the Mortgagor or the Security Trustee hereunder constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the European Communities (Financial Collateral) Regulations 2010 (S.I. No. 626 of 2010) as amended by the European Communities (Financial Collateral Arrangements) (Amendment) (No.2) Regulations 2011 (the "Regulations")) the Security Trustee shall, at any time after the occurrence of a Crystallisation Event, have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Obligations. For this purpose, the parties agree that the value of such financial collateral so appropriated shall be the market price of the Shares determined by the Security Trustee by reference to a public index or by such other process as the Security Trustee may select including independent valuation. The parties further agree that the method of valuation provided for in this Mortgage shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

## **7 ENFORCEMENT OF SECURITY**

- 7.1 The Secured Obligations shall be deemed to have become due and payable upon the occurrence of a Crystallisation Event which is continuing and immediately upon such occurrence the power of sale and other powers and remedies conferred by the Act and under this Mortgage shall become immediately enforceable by the Security Trustee as directed by the Agent (acting on the instructions of the applicable Instructing Group) without notice to the Mortgagor and:

- 7.1.1 the Security Trustee and any nominees of the Security Trustee wherever situate may without further notice and without restriction in respect of all or any of the Shares, exercise all the powers or rights (including, without limitation, all voting and/or consensual powers pertaining to the Shares) which may be exercisable by the registered holder of the Shares or any part thereof and all other powers conferred on mortgagees by the Act as hereby varied or extended in such manner as the Security Trustee as directed by the Agent (acting on the instructions of the applicable Instructing Group) may think fit;
- 7.1.2 the Security Trustee may complete any share transfer forms then held by the Security Trustee pursuant to this Mortgage in the name of the Security Trustee (or its nominee) and the Mortgagor shall do whatever the Security Trustee requires in order to procure the prompt registration of such transfer and the prompt issue of a new certificate or certificates for in the name of the Security Trustee;
- 7.1.3 the Security Trustee may date any or all, as the Security Trustee as directed by the Agent (acting on the instructions of the applicable Instructing Group) in its absolute discretion may deem appropriate, of the letters of resignation of the directors and secretary of the Company provided to the Security Trustee pursuant to this Mortgage and may execute, seal, deliver, acknowledge, file and register all such documents and any other document and do any and all such other acts or things as the Security Trustee as directed by the Agent (acting on the instructions of the applicable Instructing Group) may in its absolute discretion deem necessary or desirable to remove any or all of such directors and/or secretary; and/or
- 7.1.4 any payments which may be received or receivable by the Security Trustee or by any nominee in respect of any of the Shares may be applied by the Security Trustee as though they were proceeds of sale.
- 7.2 Notwithstanding anything contained in this Mortgage, the exercise by the Security Trustee of the powers and rights conferred on it by the virtue of the provisions of Chapter 3 of Part 10 of the Act shall not be subject to any restriction on such exercise contained in section 96(1) of the Act.
- 7.3 Power of Sale
  - 7.3.1 the restrictions on the power of sale contained in Sections 100(1) (a) to (c), 100(2), 100(3) and 100(4) of the Act shall not apply to this Mortgage and the Security Trustee and any Receiver shall have absolute discretion as to the time of exercise of the power of sale and without the requirement to serve notice as specified in the final proviso to Section 100(1);
  - 7.3.2 the requirement to give notice as specified in the final proviso to Section 100(1) of the Act shall not apply to this Mortgage;
  - 7.3.3 the requirement to obtain the consent of the Mortgagor or a court order authorising the exercise of the power of sale under Section 100(2) or Section 100(3) of the Act shall not apply to this Mortgage;

- 7.3.4 neither the Mortgagor nor any Receiver nor any other party shall be required to give any notice or make demand for payment or advertisement or other formality in respect of the exercise of the power of sale conferred by this Mortgage or under the Act;
- 7.3.5 the notification requirement contained in Section 103(2) of the Act shall not apply to this Mortgage;
- 7.3.6 Section 96(1)(c) of the Act shall not apply to this Mortgage;
- 7.3.7 Section 101 of the Act shall not apply to this Mortgage; and
- 7.3.8 the Mortgagor shall not take any action under Section 94 of the Act in respect of the Shares, this Mortgage or any monies, obligations and/or liabilities hereby covenanted to be paid or discharged.

#### 7.4 When security becomes enforceable

The security constituted by this Mortgage shall become immediately enforceable and the powers referred to in Clause 7.1 (*Enforcement of Security*) and all the powers and rights conferred on mortgagees by the common law and the Act as varied or extended by this Mortgage, shall be immediately exercisable without the restrictions contained in the Act following the occurrence of a Crystallisation Event which is continuing or at any time thereafter or on the appointment of a Receiver.

#### 7.5 Manner of enforcement

After the security constituted by this Mortgage has become enforceable, the Security Trustee may, as directed by the Agent (acting on the instructions of the applicable Instructing Group), in its absolute discretion enforce all or any part of such security in such manner as it sees fit. The Security Trustee as directed by the Agent (acting on the instructions of the applicable Instructing Group) may in its absolute discretion enter into possession of the Shares and enforce all or any part of its security and exercise all the powers and remedies possessed by it hereunder (including, without limitation, taking possession of the Shares and applying it towards the Secured Obligations or any part thereof) or otherwise conferred on it by the Act or otherwise as the Agent (acting on the instructions of the applicable Instructing Group) directs.

#### 7.6 Sale of Shares

- 7.6.1 In exercising the powers referred to in Clauses 7.1, 7.2 and 7.3 the Shares or any part thereof may be sold or disposed of at such times in such manner and generally on such terms and conditions and for such consideration as the Security Trustee as directed by the Agent (acting on the instructions of the applicable Instructing Group) or any person acting on behalf of the Security Trustee may think fit.
- 7.6.2 Any such sale or disposition may be for cash, debentures or other obligations, shares, stock, securities or other valuable consideration and be payable immediately or by instalments spread over such period as the Security Trustee as directed by the Agent (acting on the instructions of the applicable Instructing Group) or any person acting on behalf of the Security Trustee shall think fit.

- 7.6.3 No purchaser or other person shall be bound or concerned to see or enquire whether the Security Trustee's right to exercise any of the powers hereby conferred has arisen or not or be concerned with notice to the contrary or with the propriety of the exercise or purported exercise of such powers, and the title of such purchaser and the position of such a person shall not be impeachable by reference to any of those matters.
- 7.6.4 In relation to any such sale or transfer of Shares, the Mortgagor hereby expressly waives any pre-emption rights to which it is entitled under the constitution of the Company or otherwise.
- 7.7 The rights of the Security Trustee under this Clause 7 (*Enforcement of Security*) are without prejudice to, and in addition to, any right of possession (express or implied) to which it is at any time otherwise entitled (whether by virtue of this Mortgage, operation of law, statute, contract or otherwise).
- 7.8 If this Mortgage is enforced at a time when no Secured Obligations are immediately due but at a time when Secured Obligations may or will become due, the Security Trustee (or the Receiver) may pay the proceeds of any recoveries effected by it into an interest bearing suspense account.
- 7.9 The Security Trustee and each Receiver is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers when such receivers have been duly appointed under the Act, but so that the power of sale and other powers conferred by the Act shall be as varied and extended by this Mortgage.
- 7.10 All or any of the authorities, discretions and powers, which are conferred by this Mortgage (either expressly or impliedly) upon a Receiver may be exercised if this Mortgage becomes enforceable, by the Security Trustee in relation to all or any part of the Shares, both before and after the appointment of any Receiver of all or any part of the Shares.
- 7.11 Neither the Security Trustee nor any Receiver shall be liable to account as mortgagee in possession in respect of all or any of the Shares and shall not be liable in any respect for any loss upon realisation of the Shares or for any neglect or failure to present any dividend, coupon or any bond or stock drawn for repayment or for any failure to pay any call or instalment or to accept any offer or to notify the Mortgagor of any such matter or for any other loss of any nature whatsoever in connection with the Shares or the exercise by the Security Trustee of any power in relation thereto (save in the case of its fraud, Gross Negligence or wilful misconduct).
- 7.12 No Waiver
- No failure to exercise or enforce and no delay in exercising or enforcing on the part of the Security Trustee or any other Secured Party any right, remedy, power or privilege under this Mortgage or otherwise shall operate as a waiver thereof, nor shall any single or partial exercise or enforcement of any such right, remedy, power or privilege preclude any other or further exercise thereof, or the exercise of any other right, remedy, power or privilege whether hereunder or otherwise. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.



## 8 RECEIVER

- 8.1 After the occurrence of a Crystallisation Event which is continuing or if requested by the Mortgagor, the Security Trustee may by writing without notice to the Mortgagor and without the need for the occurrence of any of the events specified in paragraphs (a) to (c) of section 108(1) of the Act, appoint under seal or under the hand of a duly authorised representative of the Security Trustee any one or more persons to be receiver (a "**Receiver**") of the whole or any part of the Shares (each such person being (a) entitled to act individually as well as jointly and (b) for all purposes deemed to be the agent of the Mortgagor and deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act). The Mortgagor shall be responsible for the remuneration of any such Receiver(s). The Receiver shall be the agent of the Mortgagor and the Mortgagor shall be solely responsible for the Receiver's acts and defaults.
- 8.2 In addition to having the powers of the Security Trustee conferred by Clause 7 (*Enforcement of Security*), each person appointed pursuant to this Clause 8 (*Receiver*) shall have and be entitled to exercise, in relation to the part of the Shares in respect of which he was appointed, all powers conferred by the Act in the same way as if the Receiver had been duly appointed thereunder and shall furthermore but without limiting any powers hereinbefore referred to have power:
- 8.2.1 **possession**: to take possession of, collect, get in, lease and otherwise deal with the property in respect of which he is appointed or any part thereof and apply the same towards the Secured Obligations or any part thereof;
- 8.2.2 **manage**: to carry on or manage or develop or diversify or concur in carrying on or managing or developing or diversifying the business of the Company;
- 8.2.3 **compromise**: to settle, adjust, submit to arbitration, compromise and arrange any claims, accounts, disputes, questions, demands, with or by any person who is or claims to be a creditor of the Company relating in any way to the Shares which he or the Security Trustee may reasonably think expedient;
- 8.2.4 **employees, etc**: to appoint, hire and employ officers, employees, contractors, agents and advisors of all kinds and to discharge any such persons and any such persons appointed, hired or employed by the Company;
- 8.2.5 **redemption of security interests**: to redeem any Security Interest (whether or not having priority to the security hereby created) over the Shares and to settle the accounts of encumbrancers;
- 8.2.6 **take an indemnity**: to take any indemnity from the Mortgagor from and against all actions, claims, expenses, demands and liabilities whether arising out of contract or out of tort or in any other way incurred by it or by any manager, agent, officer, servant or workman for whose debt, default or miscarriage he may be answerable for anything done or omitted to be done in the exercise or purported exercise of its powers under this Mortgage or under any appointment duly made under the provisions of this Clause 8.2.6 and if he thinks fit but without prejudice to the foregoing to effect with any insurance company or office or

underwriters any policy or policies of insurance either in lieu or satisfaction of or in addition to such indemnity from the Mortgagor;

- 8.2.7 **sell:** exchange, convert into money and realise all or any part of the Shares by public auction or private contract and generally in such manner and on such terms and conditions as he shall think proper. (The consideration for any such transaction may consist of cash, debenture or other obligations, shares, stock or valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit);
  - 8.2.8 **borrow money:** to raise and borrow money either unsecured or on the security of any of the Shares either in priority to the security constituted by this Mortgage or otherwise and generally on any terms and for whatever purpose which he thinks fit. (No person lending that money is concerned to enquire as to the propriety or purpose of the exercise of that power or to check the application of any money so raised or borrowed);
  - 8.2.9 **legal actions:** to bring, prosecute, enforce, defend, and abandon all actions, suits and proceedings in relation to any of the Shares which may seem to it to be expedient;
  - 8.2.10 **receipts:** to give valid receipts for all monies and execute all assurances and things which may be proper or desirable for realising the Shares;
  - 8.2.11 **use Mortgagor's name:** to use the name of the Mortgagor for all or any of the purposes aforesaid and in any legal proceedings with full power to convey any property sold in the name of the Mortgagor for all of which purposes the Mortgagor hereby irrevocably and by way of security appoints every such Receiver to be its attorney; and
  - 8.2.12 **other powers:** to do all such other acts or things as he may consider to be incidental or conducive to any of the matters or powers aforesaid and to exercise in relation to the Shares or any of them all such powers, authorities and things as he would be capable of exercising if he were the absolute beneficial owner of the same.
- 8.3 The restrictions contained in 108(4) of the Act shall not apply to any Receiver appointed under Clause 8 (*Receiver*).
- 8.4 The Security Trustee may in writing:
- 8.4.1 remove any Receiver appointed hereunder;
  - 8.4.2 appoint another person or persons as Receiver either in the place of a Receiver whose appointment has for any reason terminated; and
  - 8.4.3 fix the remuneration of any Receiver appointed by it without being limited to the rate of commission prescribed under section 108(7) of the Act but the Security Trustee shall not be liable for the payment of any remuneration to the Receiver or of any costs, charges or expenses of the Receiver which shall be paid by the Mortgagor on a full indemnity basis and such costs, charges and expenses shall constitute part of the Secured Obligations.

- 8.5 The foregoing powers of appointment of a Receiver shall be in addition to and not to the prejudice of all statutory or other powers of the Security Trustee under the Act or otherwise and such powers as varied or extended by this Mortgage shall be and remain exercisable by the Security Trustee in respect of any of the Shares notwithstanding the appointment of a Receiver over them or over any of the other Shares.
- 8.6 The Security Trustee shall not be responsible for any misconduct or negligence on the part of the Receiver. The Mortgagor alone shall be responsible for its contracts, engagements, acts, omissions, defaults and losses and for liabilities incurred by it.
- 8.7 If at any time there is more than one Receiver of all or any part of the Shares, each such Receiver may (unless otherwise stated in any appointment document) exercise all of the powers conferred on a Receiver under this Mortgage individually and to the exclusion of each other Receiver.
- 8.8 Relationship with Security Trustee
- 8.8.1 Any expenses incurred by the Receiver in the exercise of any of its powers hereunder may be paid or retained by it out of any moneys coming into its hands as receiver or may be paid by the Security Trustee in which case they shall be treated as expenses properly incurred by the Security Trustee.
- 8.8.2 The Receiver shall in the exercise of its powers, authorities and discretions conform with the reasonable directions from time to time made and given by the Security Trustee.
- 8.8.3 The Security Trustee may at any time require security to be given for the due performance of the Receiver's duties as receiver at the cost of the Mortgagor.
- 8.8.4 The Security Trustee may from time to time determine what funds the Receiver shall be at liberty to keep in hand with a view to the performance of its duties as receiver.
- 8.8.5 The restrictions on taking possession of mortgaged property contained in section 97 and section 98 of the Act shall not apply to this Mortgage. To the fullest extent permitted by law and without the restrictions contained in the Act, all or any of the powers, authorities and discretions which are conferred by this Mortgage (either expressly or impliedly) upon a Receiver of the Shares may be exercised after a Crystallisation Event has occurred by the Security Trustee in relation to the whole of the Shares or any part of them (including, without notice to the Mortgagor, taking possession of and holding all or any part of the Share) without first appointing a Receiver of such property or any part of it or notwithstanding the appointment of a Receiver of such property or any part of it.
- 8.8.6 Section 99(1) of the Act shall not apply to this Mortgage and any obligations imposed on mortgagees in possession or receivers by virtue of the application of section 99(1) shall not apply to the Security Trustee or any Receiver.

## **9 PROTECTION OF SECURITY TRUSTEE AND RECEIVER**

- 9.1 Neither the Security Trustee nor the Receiver shall be liable in respect of any loss or damage which arises out of the exercise of, or the attempted or purported exercise of, or the failure to exercise, any of their respective powers hereunder or otherwise unless and to the extent that such loss or damage is caused by the fraud, Gross Negligence or wilful misconduct of the Security Trustee or as the context requires the Receiver,
- 9.2 The entry into possession of the Shares shall not render the Security Trustee or the Receiver liable to account as mortgagee in possession and if and whenever the Security Trustee enters into possession of the Shares, it shall be entitled at any time thereafter which it thinks fit to go out of such possession and neither the Security Trustee nor any Receiver shall be liable in any respect for any loss upon realisation of the Shares.

## **10 PROTECTION OF THIRD PARTIES**

- 10.1 No person (including a purchaser) dealing with the Security Trustee or any Receiver or with their respective attorneys or agents will be concerned to enquire:

- 10.1.1 whether any of the Secured Obligations have become payable or remain due;
- 10.1.2 whether due notice has been given to any person;
- 10.1.3 whether any power which the Security Trustee or any Receiver is purporting to exercise has become exercisable or has been or is being properly exercised;
- 10.1.4 whether the Receiver is authorised to act; or
- 10.1.5 how any money paid to the Security Trustee or to any Receiver is to be applied,

and all protections to purchasers contained in Sections 104, 105, 106 and 108(5) of the Act shall apply to any person (including a purchaser) dealing with the Security Trustee or any Receiver in like manner as if the statutory powers of sale and appointing a receiver had not been varied or extended by this Mortgage.

- 10.2 The receipt by the Security Trustee or the Receiver of the purchase amounts shall be an absolute and a conclusive discharge to a purchaser and shall relieve it of any obligation to see to the application of any proceeds paid to or by the direction of the Security Trustee or the Receiver.

## **11 POWER OF ATTORNEY**

- 11.1 The Mortgagor hereby irrevocably and by way of security appoints the Security Trustee and each Receiver and the persons deriving title under it severally to be its attorney (with full power to appoint substitutes and to sub-delegate, including the power to authorise the person so appointed to make further appointments) in its name and on its behalf and as its act and deed or otherwise to execute and complete in favour of the Security Trustee or the Receiver or their respective nominees or of any purchaser any transfers or other documents which the Security Trustee may require for perfecting its title to or for vesting the Shares in the

Security Trustee or Receiver or its respective nominees or in any purchaser and to make any alteration or addition to the Shares comprised therein or any other alteration or addition thereto and to redeliver the same thereafter and otherwise generally to sign, seal and deliver and otherwise perfect any such transfers or other documents and any such legal or other mortgages or assignments over the Shares required by the Security Trustee or the Receiver and all such deeds, assurances, agreements and documents and to all such acts and things as may be required for the full exercise of all or any of the powers hereby conferred or which may be deemed expedient on or in connection with any sale or other disposition, realisation or getting in by the Security Trustee or the Receiver or their respective nominees of the Shares or any part thereof or in connection with any other exercise of any power hereunder and this appointment shall operate as a general power of attorney. The Security Trustee and the Receiver shall, in connection with the exercise of the said power of attorney, be the agent of the Mortgagor, and the Mortgagor shall be solely responsible for the acts and defaults of that person and liable in respect of any contracts or engagements made or entered into by it and in no circumstances whatsoever shall the Security Trustee or the Receiver be in any way responsible for any misconduct, negligence or default of that person. The exercise of such power by or on behalf of the Security Trustee or the Receiver shall not put any person dealing with the Security Trustee or a 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 lawful exercise by the Security Trustee or the Receiver of such power shall be conclusive evidence of its rights to exercise the same.

11.2 The powers conferred on any attorney appointed by the Mortgagor pursuant to Clause 11.1 may only be exercisable by that attorney upon the occurrence of a Crystallisation Event.

11.3 The Mortgagor will ratify and confirm all things done by any attorney appointed hereunder in the exercise or purported exercise of all or any of such attorney's powers.

## **12 APPLICATION OF PROCEEDS**

12.1 All proceeds and/or amounts received or recovered by the Security Trustee or any Receiver pursuant to this Mortgage or the powers conferred by it shall, notwithstanding Section 106(3), Section 107 and Section 109 of the Act, (and as regards Section 109 as if it related to a receiver of the Shares and not merely a receiver of the income thereof), be applied in accordance with the provisions of clause 8 (*Application of Proceeds*) of the Proceeds Agreement.

## **13 REPRESENTATIONS AND WARRANTIES**

13.1 The Mortgagor represents and warrants to the Security Trustee that at the date hereof:

13.1.1 it is a public limited company duly incorporated and validly existing under the laws of England and Wales;

13.1.2 it is the absolute beneficial and legal owner of the Shares and is entitled to transfer the Shares in the manner contemplated by Clause 3.2.3, as legal and beneficial owner, free and clear from all encumbrances and together with all rights attaching to them;

- 13.1.3 the Shares are, save for this Mortgage, free from all Security Interests whatsoever, have been validly issued, are fully paid up, are non-assessable and have been duly authorised;
- 13.1.4 the Shares constitute the entire issued share capital of the Company and all such Shares are registered in the name of the Mortgagor;
- 13.1.5 the details of the Company's authorised and issued share capital in Recital B are correct in all respects;
- 13.1.6 it has full power and authority to enter into and deliver this Mortgage, to create the security provided for herein and to perform its obligations hereunder and has obtained all licences and authorities necessary for those purposes and will maintain them in full force and effect;
- 13.1.7 this Mortgage has been duly entered into and delivered by the Mortgagor and constitutes the legal, valid and binding obligations of the Mortgagor enforceable in accordance with their terms, except as limited by general principles of equity and any relevant bankruptcy, insolvency, examinership, administration or similar laws affecting creditors' rights generally;
- 13.1.8 the execution and delivery by it of this Mortgage and the performance by it of its obligations under this Mortgage do not and will not violate or result in a breach of, or exceed any power granted to it under:
- (A) its constitutional documents or formation agreements;
  - (B) any law, rule or regulation to or by which it or any of its properties or assets is subject or bound that is material to its obligations under this Mortgage or the other Transaction Documents;
  - (C) any judgment, order, injunction, determination, award or ruling of any court or arbitration or any judicial, administrative or governmental authority to or by which it is subject or bound that is material to its obligations under this Mortgage or the other Transaction Documents; or
  - (D) any deed, agreement, contract or other undertaking to which it is a party or which may be binding on it or any of its respective properties or assets that is material to its obligations under this Mortgage or the other Transaction Documents;
- 13.1.9 no director of the Mortgagor nor a person connected with such a director (as defined in Section 220 of the Companies Act, 2014) is the legal or beneficial holder of an interest in the equity share capital of the Company;
- 13.1.10 it is not necessary for the legality, validity, enforceability or admissibility in evidence of this Mortgage that this Mortgage be registered, filed, recorded, or enrolled with any court, registry or public authority in any relevant jurisdiction or that any stamp, registration or similar taxes be paid on or in relation to this Mortgage;

- 13.1.11 no litigation, arbitration or administrative proceeding or claim before any court, arbitrator, governmental, regulatory or administrative agency or authority which might by itself or together with any other proceedings or claims materially and adversely affect the Mortgagor's ability to observe or perform its obligations under this Mortgage is in progress or pending, or to the best of the knowledge, information and belief of the Mortgagor threatened against the Mortgagor, or any of its assets;
- 13.1.12 subject in all respects to the pledge and Security Interest created by this Mortgage, the Mortgagor is and will be, at all times in the future, so long as any of the Secured Obligations remain outstanding and/or unperformed (or at the time of any future delivery, pledge, assignment or transfer thereof will be) the sole legal and beneficial owner of the Shares and such Shares are, and at all times shall continue to be, free and clear of any lien, Security Interest, option or other mortgage, encumbrance, or right of any party;
- 13.1.13 under the laws of England and Wales, it is subject to private commercial law, the Mortgagor is not entitled to sovereign immunity under the laws of England and Wales, and neither the Mortgagor nor its properties or assets have the right of immunity from suit or execution on the grounds of sovereignty in England and Wales; and
- 13.1.14 no liquidator, provisional liquidator, official manager, administrator, examiner, custodian, trustee, receiver and manager or similar officer has been appointed in respect of all or any part of the assets of the Mortgagor nor has any application been made to a court which is still pending for an order for, or any act, matter or thing been done which with the giving of notice, lapse of time or satisfaction of some other condition (or any combination thereof) will lead to, the appointment of any such officers or the winding up, reorganisation or liquidation of the Mortgagor or the entry of any order for relief under any insolvency, examination, creditor's rights or reorganisation of similar laws with respect to the Mortgagor,
- 13.2 The Mortgagor acknowledges that it has made the representations and warranties contained in Clause 13 (*Representations and Warranties*) to the Security Trustee with the intention of inducing the Security Trustee to enter into this Mortgage and that the Security Trustee has or will so enter into this Mortgage in reliance on the representations and warranties contained in Clause 13 (*Representations and Warranties*).
- 13.3 The representations and warranties of the Mortgagor in Clause 13.1 shall survive the execution of this Mortgage.
- 13.4 The rights and remedies of the Security Trustee in relation to any misrepresentation or breach of warranty on the part of the Mortgagor shall not be prejudiced by any investigation by or on behalf of the Security Trustee into the affairs of the Mortgagor, by the performance of this Mortgage or by any other act or thing which may be done by it in connection with this Mortgage and which would, apart from this sub-clause, prejudice such rights or remedies.

## **14 ASSIGNMENT**

- 14.1 The Security Trustee may assign or transfer all or any part of its rights, benefits or obligations under this Mortgage to any person replacing it as the Security Trustee in accordance with the Transaction Documents. Any successor to or assignee or transferee of the Security Trustee shall be entitled to the full benefit hereof.
- 14.2 The Mortgagor may not without the prior written consent of the Agent, assign or transfer all or any of its rights, benefits or obligations under this Mortgage.
- 14.3 This Mortgage shall be binding upon and enure to the benefit of each of the parties and their respective successors and permitted assigns.

## **15 PAYMENTS**

All payments to be made under this Mortgage shall be made free and clear of and without deduction for or on account of either any set-off or counterclaim or any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any nature whatsoever. If the Mortgagor shall at any time be compelled by law to make any deduction or withholding from any payment to be made hereunder the Mortgagor will concurrently pay to the Security Trustee such additional amount as will result in payment to the Security Trustee of the full amount which would have been received if such deduction or withholding had not been made.

## **16 DISCHARGE OF MORTGAGE**

- 16.1 Upon indefeasible payment and discharge in full of the Secured Obligations the Security Trustee shall, at the Mortgagor's cost, promptly execute a release of the security created by this Mortgage provided that:

16.1.1 no Crystallisation Event has occurred; and

16.1.2 for any payment or otherwise the Security Trustee is satisfied (acting reasonably) that no payment, security or disposition which the Security Trustee may receive or has received can be voided, set aside, refunded, or invalidated pursuant to any enactment or law relating to bankruptcy, liquidation or insolvency or for any other reason whatsoever,

also otherwise in accordance with clause 7 (*Release of Security*) of the Proceeds Agreement on discharge of the Secured Obligations in so far as such relate to the Aircraft, and any such release or discharge shall be void if any payment or discharge of the Secured Obligations is set aside or proves to have been for any reason invalid or void and the Security Trustee shall be entitled to enforce the security hereby created subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made.

- 16.2 Upon any such release or discharge the Security Trustee shall return to the Mortgagor the share certificate, blank share transfer form and any other documents provided by the Mortgagor to the Security Trustee under Clause 3.2.

## **17 SUSPENSE ACCOUNT AND CURRENCY**

- 17.1 All amounts received, recovered or realised by the Security Trustee under this security may in the sole discretion of the Security Trustee be credited to any



suspense or impersonal account and may be held in such account for so long as the Security Trustee may think fit pending their application from time to time (as the Security Trustee shall be entitled to do at its discretion) in or towards the discharge of the Secured Obligations.

- 17.2 For the purpose of or pending the discharge of any of the Secured Obligations the Security Trustee is hereby authorised and empowered by the Mortgagor to convert any amounts received, recovered or realised by the Security Trustee hereunder from their existing currency of denomination into such other currency of denomination as the Security Trustee may think fit and any such conversion shall be effected at the Security Trustee's then prevailing spot rate of exchange for obtaining such other currency with the existing currency (whether or not such rate includes a premium over any official or other rate of exchange).

No payment to the Security Trustee or any Secured Party (whether under any judgment or court order or otherwise) shall discharge the obligation or liability of the Mortgagor in respect of which it was made unless and until the Security Trustee or the relevant Secured Party shall have received payment in full in the currency in which such obligation or liability was incurred and to the extent the amount of any such payment shall on actual conversion into such currency fall short of such obligation or liability expressed in that currency the Security Trustee or the relevant Secured Party shall have a further separate cause of action against the Mortgagor and shall be entitled to enforce the security hereby created to recover the amount of the shortfall.

## **18 SEVERABILITY**

- 18.1 If any provision of this Mortgage is or becomes prohibited or unenforceable in any jurisdiction, that shall not affect the validity of any other provision hereof or affect the validity or enforceability of such provision in any other jurisdiction.

## **19 COSTS, EXPENSES AND STAMP DUTY**

- 19.1 The Mortgagor will promptly pay any stamp and other documentary duties and registration taxes to which this Mortgage or any transfer of the Shares contemplated hereby may be subject or give rise and will fully indemnify the Security Trustee on demand of the Security Trustee from and against any loss or liability suffered or incurred as a result of any delay or omission by the Mortgagor to pay any such duties or taxes.
- 19.2 All costs and expenses associated with this Mortgage shall be subject to clause 16 (*Costs and Expenses*) of the Facility Agreement.

## **20 MISCELLANEOUS PROVISIONS**

- 20.1 If the Mortgagor for any reason fails to comply with any provision of this Mortgage or any of the Transaction Documents to which it is a party the Security Trustee may, without being in any way obliged to do so or responsible for so doing and without prejudice to the Security Trustee's rights under Clause 7 (*Enforcement of Security*) effect compliance on the Mortgagor's behalf.
- 20.2 Time shall be of the essence under this Mortgage. No delay or omission on the part of the Security Trustee in exercising any right, power or remedy under this Mortgage shall impair such right, power or remedy or be construed as a waiver thereof nor shall any single or partial exercise of any such right, power or remedy

preclude any further exercise thereof or the exercise of any other right, power or remedy.

- 20.3 In any proceedings relating to this Mortgage a statement as to any amount due to the Security Trustee under this Mortgage which is certified as being correct by an officer or agent of the Security Trustee shall in the absence of manifest error, be conclusive evidence that such amount is in fact due and payable.
- 20.4 This Mortgage embodies the entire agreement between the parties and supersedes all previous statements, representations and agreements between the parties relating to the subject matter of this Mortgage.

## **21 NOTICES**

All notices, requests, demands or other communications hereunder shall be given or made in the manner, and shall be deemed received, as provided for in clause 19 (*Notices*) of the Proceeds Agreement.

## **22 GOVERNING LAW AND JURISDICTION**

- 22.1 This Mortgage and any non-contractual obligation arising from or connected with it shall be governed by and construed in accordance with the laws of Ireland.
- 22.2 Each of the Security Trustee and the Mortgagor irrevocably agree that the courts of Ireland are to have jurisdiction to hear and determine any suit, action or proceeding and to settle any disputes which may arise out of or in connection with this Mortgage ("**Proceedings**") and for such purposes irrevocably submits to the jurisdiction of such courts.
- 22.3 The Mortgagor irrevocably waives any objection which it may have now or hereafter to the laying of any Proceedings in any such court as is referred to in Clause 22.2 and any claim that any Proceedings have been brought in an inconvenient forum and further irrevocably agrees that a judgment in any Proceedings brought in any court referred to in Clause 22.2 shall be conclusive and binding upon the Mortgagor and may be enforced in the courts of any other jurisdiction.
- 22.4 Nothing contained in this Clause 22 (*Governing Law and Jurisdiction*) shall limit (and shall not be construed so as to limit) the right of the Security Trustee to take Proceedings against the Mortgagor in any other court of competent jurisdiction, nor shall the taking of any Proceedings in one or more jurisdictions preclude the taking of any Proceedings in any other jurisdiction whether concurrently or not.
- 22.5 The Mortgagor hereby consents generally 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.
- 22.6 To the extent that the Mortgagor 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 Mortgagor hereby irrevocably agrees not to claim and hereby

irrevocably waives such immunity to the full extent permitted by the laws of such jurisdiction.

**23 COUNTERPARTS**

This Mortgage may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument.

**24 DELIVERY**

The Mortgagor confirms that its execution of the Mortgage constitutes its delivery.

**25 FURTHER ASSURANCE**

25.1 The Mortgagor shall, at its cost, promptly do all such acts or execute all such documents as the Security Trustee may reasonably specify (and in such form as the Security Trustee may reasonably require in favour of the Security Trustee or its nominee(s)):

25.1.1 to perfect the security created or intended to be created in respect of the Shares (which may include the execution by the Mortgagor of a mortgage, charge or assignment over all or any of the assets constituting, or intended to constitute, the Shares) and all rights relating thereto both present and future (including any substituted securities and any vendor's lien) or for the exercise of the Collateral Rights; and/or

25.1.2 to confer on the Security Trustee or on the Secured Parties over any property and assets of the Mortgagor located in any jurisdiction equivalent or similar to the security intended to be conferred by or pursuant to this Mortgage; and/or

25.1.3 to facilitate the realisation of the Shares which are, or are intended to be, the subject of the security created by this Mortgage

25.2 The Mortgagor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purposes of the creation, perfection, protection or maintenance of any security conferred or intended to be conferred on the Security Trustee by or pursuant to this Mortgage.

25.3 Any action taken or thing done pursuant to this Clause shall be at the Mortgagor's sole cost and expense.

**26 LIMITATION ON RECOURSE/ NON-PETITION**

26.1 This Mortgage secures the Secured Obligations as limited in recourse by the limited recourse provisions set out in clause 6 (*Limitation on Recourse*) of the Facility Agreement and all rights, liabilities and obligations of the parties hereto are subject to such limited recourse provisions as if the same were set out in full herein, mutatis mutandis as if all references to Borrower were read as Mortgagor and as if all references to Agreement were read as this Mortgage. Any amounts expressed to be owed to the Security Trustee, any Receiver or any other party herein shall be limited to, and only payable from, the Shares and any proceeds realised or recovered from the enforcement of the security created herein. This Mortgage shall not impose any personal obligation or liability on the Mortgagor

other than as and to the extent specifically stated in the limited recourse provisions set out in clause 6 (*Limitation on Recourse*) of the Facility Agreement as if the same were set out in full herein, mutatis mutandis as if all references to Borrower were read as Mortgagor and as if all references to Agreement were read as this Mortgage.

- 26.2 Subject and without prejudice to Clause 26.1 above, the Security Trustee, any Receiver or any other party shall not petition or take any other step or action for the winding up, examinership, liquidation or dissolution of the Mortgagor nor for the appointment of a liquidator, examiner, receiver or other similar or other person in respect of the Mortgagor or its assets.

# SCHEDULE 1

## PART 1 - SHARE TRANSFER FORM

### STOCK TRANSFER FORM

(Above this line for Registrars only)		
Consideration Money Euro €1.00		Certificate lodged with the Registrar  (for completion by Registrar/Stock Exchange)
Name of Undertaking	<b>CAPITAL MSN 4033 II LIMITED</b>	
Description of Security	ORDINARY SHARES OF €1.00	
Number of amount of Shares, Stock or other security and, in figures column only, number and denomination of units, if any	Words One ordinary share of one euro each	Figures 1 Unit of €1.00 each
Name(s) of registered holder(s) should be given in full: the address should be given where there is only one holder.  If the transfer is not made by the registered holder(s) insert also the name(s) and capacity (e.g., Executor(s) of the person(s) making the transfer	In the name(s) of  <b>AVATION PLC</b>	
I/We hereby transfer the above security out of the name(s) aforesaid to the person(s) named below Signature(s) for transferor(s)  <b>GIVEN under the common seal of AVATION PLC</b>  _____ Director  _____ Director/Secretary		Stamp of selling Broker(s) or, for transactions which are not stock exchange transactions, of Agent(s), if any, acting for the transferor(s)   Date _____
Reference to the Registrar in this form means the Registration Agent of the undertaking, NOT the Registrar of Companies	Full name(s) and full postal address(es) (including County or, if applicable, Postal District number) of the person(s) to whom the security is transferred.  Please state title, if any, or whether Mr, Mrs, Miss, or Ms  Please complete in type writing or in Block Capitals.	

I/We request that such entries be made in the register as are necessary to give effect to the transfer.

Stamp of Buying Broker(s) (if any)

Stamp or name and address of  
person lodging this form (if other  
than the Buying Broker(s))

(Endorsement for use only in Stock Exchange Transactions)

The Security represented by the transfer overleaf has been sold as follows:

..... Shares/Stocks	..... Shares/Stocks
..... Shares/Stocks	..... Shares/Stocks
..... Shares/Stocks	..... Shares/Stocks
..... Shares/Stocks	..... Shares/Stocks
..... Shares/Stocks	..... Shares/Stocks
..... Shares/Stocks	..... Shares/Stocks
..... Shares/Stocks	..... Shares/Stocks
..... Shares/Stocks	..... Shares/Stocks
..... Shares/Stocks	..... Shares/Stocks
..... Shares/Stocks	..... Shares/Stocks

Balance (if any) due to Selling Broker(s)

Amount of Certificate(s)

Broker Transfer Form for above amounts certified

Stamp of Certifying Stock Exchange

Stamp of Selling Broker(s)

## FORM OF CERTIFICATE REQUIRED WHERE TRANSFER IS NOT LIABLE TO AD VALOREM STAMP DUTY

I/We hereby certify that the transaction in respect of which this transfer is made falls within the following description:-

- (a) Vesting the property in trustees on the appointment of a new Trustee of a pre-existing Trust, or on the retirement of a Trustee.
- (b) A transfer, where no beneficial interest in the property passes, (i) to a mere nominee of the Transferor, (ii) from a mere nominee of the Transferor, (iii) from one nominee to another nominee of the same beneficial owner.
- (c) A transfer by way of security for a loan; or re-transfer to the original Transferor on repayment of a loan
- (d) A transfer to a residuary legatee of Shares, etc., which forms part of the residue divisible under a Will,
- (e) A transfer to a beneficiary under a Will of a specific legacy of Shares, etc.
- (f) A transfer of Shares, etc., being the property of a person dying intestate, to the person or persons entitled thereto.
- (g) A transfer to a beneficiary under a settlement on distribution of the trust funds, of Shares, etc., forming the share, or part of the share of those funds to which the beneficiary is entitled in accordance with the terms of the settlement.
- (h) A transfer on the occasion of a marriage to trustees of shares, etc., to be held on the terms of a settlement made in consideration of marriage (i) A transfer by the liquidator of a Company of Shares, etc., forming part of the assets of the Company, to which the Transferee is entitled in satisfaction or part satisfaction of his rights as a Shareholder of the Company.

Here set out concisely the facts  
Explaining the transaction in  
Cases falling within (b) and (c)  
or in any case which does not  
clearly fall within any one of the  
clauses (a) to (g), Adjudication  
in any case may be required

to  
Date

Transferor:


Transferee:


\*\*\*\*\*

Signature.....

\*\*\*\*\*

Description.....

\*NOTE- The above Certificate must be signed in the case of (b) and (c), either by (1) all the transferors and transferees, or (2) a member of a Stock Exchange or a Solicitor acting for one or other of the parties, or (3) an accredited representative of a bank. Where the Bank or its official nominee is a party to the transfer, the Certificate maybe to the effect that "the transfer is accepted from Section 74 of the Finance (1909-10) Act, 1910". The above Certificate in other cases should be signed by a Solicitor or other person (e.g., a Bank acting as Trustee or Executor) having a full knowledge of the facts.

**SCHEDULE 1**  
**PART 2 – SHAREHOLDERS LETTER OF AUTHORITY**

To **INVESTEC BANK PLC** (together with its successors and permitted assigns, the "Security Trustee")

Date:

**RE: CAPITAL MSN 4033 II LIMITED**

(the "Company")

Dear Sirs

We hereby irrevocably and unconditionally authorise you to date and otherwise complete the share transfer form deposited by ourselves with you in respect of our shareholding in the Company pursuant to a share mortgage dated 2023 between ourselves and you the Security Trustee (the "**Share Mortgage**"), as and when you become entitled to date and complete the same pursuant to the terms of the Share Mortgage.

This letter and any non-contractual obligation arising from or connected with it shall be governed by and construed in accordance with the laws of Ireland.

Yours faithfully

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For and on behalf of  
**AVATION PLC**



## SCHEDULE 2

### IRREVOCABLE PROXY

Reference is made to the share mortgage dated 2023 between **INVESTEC BANK PLC** (together with its successors and permitted assigns, the "**Security Trustee**") and **AVATION PLC** (the "**Mortgagor**") in respect of shares held in **CAPITAL MSN 4033 II LIMITED** (the "**Company**") (the "**Share Mortgage**").

Capitalised terms used but not defined herein shall have the meaning ascribed to them in the Share Mortgage (whether defined expressly therein or by reference to another document).

We, Avation Plc, hereby irrevocably appoint the Security Trustee as our proxy to vote at meetings of the shareholders of the Company in respect of any existing or further shares in the Company which may have been or may from time to time be issued to us and/or registered in our name. This proxy becomes effective upon the occurrence of a Crystallisation Event and is thereafter irrevocable by reason of being coupled with the interest of the Security Trustee (for and on behalf of the Secured Parties) of the aforesaid shares.

This Irrevocable Proxy and any non-contractual obligation arising from or connected with it shall be governed by and construed in accordance with the laws of Ireland.

\_\_\_\_\_  
For and on behalf of  
**AVATION PLC**

Dated:

### SCHEDULE 3

#### IRREVOCABLE APPOINTMENT

Reference is made to the share mortgage dated 2023 between **INVESTEC BANK PLC** (together with its successors and permitted assigns, the "**Security Trustee**") and **AVATION PLC** (the "**Mortgagor**") in respect of shares held in **CAPITAL MSN 4033 II LIMITED** (the "**Company**") (the "**Share Mortgage**").

Capitalised terms used but not defined herein shall have the meaning ascribed to them in the Share Mortgage (whether defined expressly therein or by reference to another document).

We, **AVATION PLC** upon the occurrence of a Crystallisation Event irrevocably appoint the Security Trustee as our duly authorised representative to sign resolutions in writing of the Company in respect of any existing or further shares in the Company which may have been or may from time to time be issued to us and/or registered in our name.

This Irrevocable Appointment and any non-contractual obligation arising from or connected with it shall be governed by and construed in accordance with the laws of Ireland.

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For and on behalf of  
**AVATION PLC**

Dated:

## SCHEDULE 4

### PART 1- DIRECTOR'S LETTER OF RESIGNATION

Date:

**THE BOARD OF DIRECTORS  
CAPITAL MSN 4033 II LIMITED**

Dear Sirs;

#### RESIGNATION OF DIRECTOR

Reference is made to the share mortgage dated \_\_\_\_\_ 2023 between **INVESTEC BANK PLC** (together with its successors and permitted assigns, the "**Security Trustee**") and **AVATION PLC** (the "**Mortgagor**") in respect of shares held in **CAPITAL MSN 4033 II LIMITED** (the "**Company**") (the "**Share Mortgage**").

Capitalised terms used but not defined herein shall have the meaning ascribed to them in the Share Mortgage (whether defined expressly therein or by reference to another document).

I hereby resign as director of the Company and confirm that I have no claims against the Company for loss of office, arrears of pay or otherwise howsoever.

This resignation is to be effective as at the date hereof. You are hereby authorised to complete this letter by dating the same at any time after you are notified by the Security Trustee that a Crystallisation Event has occurred.

This letter and any non-contractual obligation arising from or connected with it shall be governed by and construed in accordance with the laws of Ireland.

Yours faithfully

**SIGNED and DELIVERED AS A DEED**

by

[Jarlath Canning/Robert Morgan]

\_\_\_\_\_  
in the presence of:

\_\_\_\_\_  
(signature of witness)

\_\_\_\_\_  
(name of witness)

\_\_\_\_\_  
(address of witness)

**Director's letter of authority**

To: **INVESTEC BANK PLC** (together with its successors and permitted assigns, the "Security Trustee")

Dear Sirs

I hereby unconditionally and irrevocably authorise you to date the letter of resignation delivered by me to you under the share mortgage dated 2023 between the Security Trustee and Avation Plc (the "**Mortgagor**") in respect of shares held in Capital MSN 4033 II Limited (the "**Share Mortgage**") as and when you become entitled to date such letter under the terms of the Share Mortgage.

This letter and any non-contractual obligation arising from or connected with it shall be governed by and construed in accordance with the laws of Ireland.

Yours faithfully

**SIGNED and DELIVERED AS A DEED**

by

[Jarlath Canning/Robert Morgan]

\_\_\_\_\_  
in the presence of:

\_\_\_\_\_  
(signature of witness)

\_\_\_\_\_  
(name of witness)

\_\_\_\_\_  
(address of witness)

Date:

## PART 2 - SECRETARY'S LETTER OF RESIGNATION

Date:

The Board of Directors

**CAPITAL MSN 4033 II LIMITED**

Dear Sirs,

### RESIGNATION OF SECRETARY

Reference is made to the share mortgage dated 2023 between **INVESTEC BANK PLC** (together with its successors and permitted assigns, the "**Security Trustee**") and **AVATION PLC** (the "**Mortgagor**") in respect of shares held in **CAPITAL MSN 4033 II LIMITED** (the "**Company**") (the "**Share Mortgage**").

Capitalised terms used but not defined herein shall have the meaning ascribed to them in the Share Mortgage (whether defined expressly therein or by reference to another document).

We hereby resign as secretary of the Company and confirm that we have no claims against the Company for loss of office, arrears of pay or otherwise howsoever.

This resignation is to be effective as at the date hereof. You are hereby authorised to complete this letter by dating the same at any time after you are notified by the Security Trustee that a Crystallisation Event has occurred.

This letter and any non-contractual obligation arising from or connected with it shall be governed by and construed in accordance with the laws of Ireland.

Yours faithfully

**GIVEN** under the common seal of

**MFD SECRETARIES LIMITED**

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Director

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Director/Secretary

### **Secretary's letter of authority**

To: **INVESTEC BANK PLC** (together with its successors and permitted assigns, the "**Security Trustee**")

Dear Sirs

We hereby unconditionally and irrevocably authorise you to date the letter of resignation delivered by us to you under the share mortgage dated 2023 between the Security Trustee and Avation Plc (the "**Mortgagor**") in respect of shares held in Capital MSN 4033 II Limited (the "**Share Mortgage**") as and when you become entitled to date such letter under the terms of the Share Mortgage.

This letter and any non-contractual obligation arising from or connected with it shall be governed by and construed in accordance with the laws of Ireland.

Yours faithfully

**GIVEN** under the common seal of

**MFD SECRETARIES LIMITED**

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Director

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Director/Secretary

Date:

## SCHEDULE 5

### PART 1 - DIVIDEND MANDATE

Date:

**TO: CAPITAL MSN 4033 II LIMITED (THE "COMPANY")**

Reference is made to the share mortgage dated 2023 between **INVESTEC BANK PLC** (together with its successors and permitted assigns, the "Security Trustee") and **AVATION PLC** (the "Mortgagor") in respect of shares held in **CAPITAL MSN 4033 II LIMITED** (the "Company") (the "Share Mortgage").

Capitalised terms used but not defined herein shall have the meaning ascribed to them in the Share Mortgage (whether defined expressly therein or by reference to another document).

After you are notified by the Security Trustee that a Crystallisation Event has occurred we hereby authorise and direct you to pay any dividends, interest or other moneys paid or payable on the Shares registered in our name to or to the order of the Security Trustee or to its nominee.

On receipt of this mandate please acknowledge to the Security Trustee that you will act in accordance with the instruction contained herein.

This letter and any non-contractual obligation arising from or connected with it shall be governed by and construed in accordance with the laws of Ireland.

---

For and on behalf of  
**AVATION PLC**

## PART 2 - LETTER OF UNDERTAKING

Date:

To: **INVESTEC BANK PLC** (together with its successors and permitted assigns the "**Security Trustee**")

Reference is made to the share mortgage dated 2023 between the Security Trustee and Avation Plc (the "**Mortgagor**") in respect of shares held in Capital MSN 4033 II Limited (the "**Company**") (the "**Share Mortgage**").

Capitalised terms used but not defined herein shall have the meaning ascribed to them in the Share Mortgage (whether defined expressly therein or by reference to another document).

Upon being notified by the Security Trustee that a Crystallisation Event has occurred we hereby undertake to act in accordance with the instruction given pursuant to the dividend mandate dated 2023 from the Mortgagor to us.

This letter and any non-contractual obligation arising from or connected with it shall be governed by and construed in accordance with the laws of Ireland.

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For and on behalf of  
**CAPITAL MSN 4033 II LIMITED**



**IN WITNESS WHEREOF** the parties have executed and delivered (and have intended to so execute and deliver) this Mortgage as a deed on the date written above.

**EXECUTED as a DEED by**

**AVATION PLC**

acting by



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Name: Duncan Gerard Stephen SCOTT

Title: Attorney

in the presence of



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Name of witness: Candy Lee

Title: Contracts Manager

EXECUTED as a DEED by

INVESTEC BANK PLC

acting by

Name: Luke Owen

Title: Authorised signatory

in the presence of

Name of witness: IAN PECK

Title: AVIATION ANALYST

Name:

Title: Authorised signatory

Celia Brito  
Authorised Signatory

in the presence of

Name of witness: IAN PECK

Title: AVIATION ANALYST