

Hearing Date and Time: October 27, 2021 at 10:00 a.m. (Prevailing Eastern Time)
Objection Date and Time: October 24, 2021 at 12:00 p.m. (Prevailing Eastern Time)

DAVIS POLK & WARDWELL LLP
450 Lexington Avenue
New York, New York 10017
Telephone: (212) 450-4000
Facsimile: (212) 701-5800
Marshall S. Huebner
Timothy Graulich
Steven Z. Szanzer
Thomas S. Green

*Counsel to the Debtors
and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

**GRUPO AEROMÉXICO, S.A.B. de C.V., et al.,
Debtors.¹**

Chapter 11

Case No. 20-11563 (SCC)

(Jointly Administered)

**NOTICE OF HEARING ON DEBTORS' MOTION FOR ENTRY OF AN ORDER
(I) AUTHORIZING DEBTOR AEROLITORAL, S.A. DE C.V. TO ASSUME (ON AN
AMENDED BASIS) CERTAIN LEASE AGREEMENTS AND (II) APPROVING THE
CLAIMS SETTLEMENT WITH TRUENOORD NAZAS LIMITED**

PLEASE TAKE NOTICE that, on October 12, 2021, the above-captioned debtors and
debtors in possession (collectively, the “**Debtors**”) filed the *Debtors’ Motion for Entry of an
Order (I) Authorizing Debtor Aerolitoral, S.A. de C.V. To Assume (On an Amended Basis)
Certain Lease Agreements and (II) Approving the Claims Settlement with TrueNoord Nazas*

¹ The Debtors in these cases, along with each Debtor’s registration number in the applicable jurisdiction, are as follows: Grupo Aeroméxico, S.A.B. de C.V. 286676; Aerovías de México, S.A. de C.V. 108984; Aerolitoral, S.A. de C.V. 217315; and Aerovías Empresa de Cargo, S.A. de C.V. 437094-1. The Debtors’ corporate headquarters is located at Paseo de la Reforma No. 243, piso 25 Colonia Cuauhtémoc, Mexico City, C.P. 06500.

Limited (the “**Motion**”). A hearing on the Motion is scheduled to be held on **October 27, 2021 at 10:00 a.m. (prevailing Eastern Time)** (the “**Hearing**”) before the Honorable Judge Shelley C. Chapman, United States Bankruptcy Judge, in the United States Bankruptcy Court for the Southern District of New York (the “**Court**”), or at such other time as the Court may determine.

PLEASE TAKE FURTHER NOTICE that, in accordance with General Order M-543, dated March 20, 2020 (Morris, C.J.) (“**General Order M-543**”),² the Hearing will be conducted telephonically. Any parties wishing to participate must do so telephonically by making arrangements through CourtSolutions, LLC (www.court-solutions.com). Instructions to register for CourtSolutions, LLC are attached to General Order M-543.

PLEASE TAKE FURTHER NOTICE that copies of the Motion may be obtained free of charge by visiting the website of Epiq Corporate Restructuring, LLC at <https://dm.epiq11.com/aeromexico>. You may also obtain copies of any pleadings by visiting the Court’s website at <http://www.nysb.uscourts.gov> in accordance with the procedures and fees set forth therein.

PLEASE TAKE FURTHER NOTICE that the Hearing may be continued or adjourned from time to time by an announcement of the adjourned date or dates at the Hearing or a later hearing or by filing a notice with the Court. The Debtors will file an agenda before the Hearing, which may modify or supplement the motion(s) to be heard at the Hearing.

² A copy of the General Order M-543 can be obtained by visiting <http://www.nysb.uscourts.gov/news/general-order-m-543-court-operations-under-exigent-circumstances-created-covid-19>.

PLEASE TAKE FURTHER NOTICE that any responses or objections to the Motion shall be in writing, shall comply with the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules for the Southern District of New York, shall be filed with the Court by (a) attorneys practicing in the Court, including attorneys admitted *pro hac vice*, electronically in accordance with General Order M-399 (which can be found at www.nysb.uscourts.gov) and (b) all other parties in interest, in accordance with the customary practices of the Court and General Order M-399, to the extent applicable, and shall be served in accordance with General Order M-399 and the *Order Establishing Certain Notice, Case Management, and Administrative Procedures*, entered on July 8, 2020 [ECF No. 79], so as to be filed and received no later than **October 24, 2021 at 12:00 p.m. (prevailing Eastern Time)** (the “**Objection Deadline**”).

PLEASE TAKE FURTHER NOTICE that all objecting parties are required to telephonically attend the Hearing, and failure to appear may result in relief being granted upon default.

PLEASE TAKE FURTHER NOTICE that, if no responses or objections are timely filed and served with respect to the Motion, the Debtors may, on or after the Objection Deadline, submit to the Court an order substantially in the form of the proposed order attached to the Motion, under certification of counsel or certification of no objection, which order may be entered by the Court without further notice or opportunity to be heard.

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Dated: October 13, 2021
New York, New York

DAVIS POLK & WARDWELL LLP

By: /s/ Timothy Graulich

450 Lexington Avenue
New York, New York 10017
Telephone: (212) 450-4000
Facsimile: (212) 701-5800
Marshall S. Huebner
Timothy Graulich
Steven Z. Szanzer
Thomas S. Green

*Counsel to the Debtors
and Debtors in Possession*

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New York, New York 10017
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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

**GRUPO AEROMÉXICO, S.A.B. de C.V., et
al.,**

Debtors.¹

Chapter 11

Case No. 20-11563 (SCC)

(Jointly Administered)

**DEBTORS' MOTION FOR ENTRY OF AN ORDER (I) AUTHORIZING DEBTOR
AEROLITORAL, S.A. DE C.V. TO ASSUME (ON AN AMENDED BASIS) CERTAIN
LEASE AGREEMENTS AND (II) APPROVING THE CLAIMS SETTLEMENT WITH
TRUENOORD NAZAS LIMITED**

Grupo Aeroméxico, S.A.B. de C.V. (“**Grupo Aeroméxico**”) and certain of its affiliates (collectively, the “**Debtors**”), each of which is a debtor and debtor in possession in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”), hereby file this motion (this “**Motion**”) seeking the entry of an order:

- i. authorizing, but not directing, Debtor Aerolitoral, S.A. de C.V. (the “**Debtor Lessee**”) to assume:

¹ The Debtors in these cases, along with each Debtor’s registration number in the applicable jurisdiction, are as follows: Grupo Aeroméxico, S.A.B. de C.V. 286676; Aerovías de México, S.A. de C.V. 108984; Aerolitoral, S.A. de C.V. 217315; and Aerovías Empresa de Cargo, S.A. de C.V. 437094-1. The Debtors’ corporate headquarters is located at Paseo de la Reforma No. 243, piso 25 Colonia Cuauhtémoc, Mexico City, C.P. 06500.

- a. that certain Aircraft Lease Agreement, dated October 2, 2013 (as assigned, amended, supplemented, or otherwise modified from time to time, the “**19000672 Aircraft Lease**”), on an amended basis on terms substantially consistent with those set forth in that certain Amended and Restated Aircraft Lease Agreement (the “**Amended 19000672 Aircraft Lease**”) between TrueNoord Nazas Limited (the “**Lessor**”) and the Debtor Lessee relating to that certain Embraer E-190LR aircraft bearing manufacturer’s serial number 19000672 (together with the related engines, parts, equipment, and appurtenances, the “**19000672 Aircraft**”); and
 - b. that certain Aircraft Lease Agreement, dated October 2, 2013 (as assigned, amended, supplemented, or otherwise modified from time to time, the “**19000673 Aircraft Lease**” and, together with the 19000672 Aircraft Lease, the “**Aircraft Leases**”), on an amended basis on terms substantially consistent with those set forth in that certain Amended and Restated Aircraft Lease Agreement (the “**Amended 19000673 Aircraft Lease**” and, together with the Amended 19000672 Aircraft Lease, the “**Amended Aircraft Leases**”) between the Lessor and the Debtor Lessee relating to that certain Embraer E-190LR aircraft bearing manufacturer’s serial number 19000673 (together with the related engines, parts, equipment, and appurtenances, the “**19000673 Aircraft**” and, together with the 19000672 Aircraft, the “**Aircraft**”); and
- ii. approving the Claims Settlement (as defined herein).

The agreed form of the Amended Aircraft Leases is attached to the Proposed Order (as defined herein) as Exhibit 1 and summaries of the material terms of the Amended Aircraft Leases are attached hereto as Exhibit B. This Motion is supported by the *Declaration of Matthew Landess in Support of (A) Debtors’ Motion for Entry of an Order (I) Authorizing Debtor Aerolitoral, S.A. de C.V. To Assume (On an Amended Basis) Certain Lease Agreements and (II) Approving the Claims Settlement with TrueNoord Nazas Limited and (B) Related Sealing Motion* (the “**Landess Declaration**”) filed contemporaneously herewith and incorporated herein by reference. In further support of this Motion, the Debtors respectfully state as follows:

Jurisdiction and Venue

1. The United States Bankruptcy Court for the Southern District of New York (the “**Court**”) has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the

Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.). This is a core proceeding pursuant to 28 U.S.C. § 157(b). In addition, the Debtors confirm their consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter a final order or judgment in connection herewith consistent with Article III of the United States Constitution.

2. Venue of the Chapter 11 Cases and related proceedings is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

3. By this Motion, and pursuant to sections 365, 364, and 105(a) of chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) and Bankruptcy Rules 6004, 6006, 9013, and 9019, the Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “**Proposed Order**” and, if entered, the “**Order**”), (a) authorizing (but not directing) the Debtor Lessee to assume the Aircraft Leases, each on an amended basis, on terms and conditions substantially consistent with (i) those set forth in the form of the Amended Aircraft Leases attached to the Proposed Order as **Exhibit 1** and (ii) the summaries of the material terms of the Amended Aircraft Leases attached hereto as **Exhibit B** and (b) approving the Claims Settlement, each as further detailed herein and in the Proposed Order.

Background

A. General Background

4. On June 30, 2020 (the “**Petition Date**”), each of the Debtors filed in this Court voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors have

continued to operate and manage their businesses and have continued to possess their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

5. The Chapter 11 Cases are being jointly administered for procedural purposes only pursuant to Bankruptcy Rule 1015(b) and the *Order Directing Joint Administration of Chapter 11 Cases* [ECF No. 30] entered by the Court on July 1, 2020 in Grupo Aeroméxico's Chapter 11 Case.²

6. On July 13, 2020, the Office of the United States Trustee for the Southern District of New York (the “**U.S. Trustee**”) appointed an Official Committee of Unsecured Creditors (the “**Committee**”) pursuant to section 1102 of the Bankruptcy Code. *See Notice of Appointment of Official Committee of Unsecured Creditors* [ECF No. 92]. No trustee or examiner has been appointed in the Chapter 11 Cases.

7. Detailed information regarding the Debtors' businesses and affairs, capital structure, and the circumstances leading to the commencement of the Chapter 11 Cases can be found in the *Declaration of Ricardo Javier Sánchez Baker in Support of the Debtors' Chapter 11 Petitions and First Day Pleadings* [ECF No. 20], which is incorporated herein by reference.

B. The Debtors' Fleet Optimization Process

8. As the Court is aware, the Debtors have been engaged in a multi-step process to (a) analyze their anticipated, long-term fleet and equipment needs, (b) make corresponding adjustments to the size and composition of their current operating fleet, and (c) obtain the most favorable terms for agreements relating to aircraft equipment.

² On July 2, 2020, the Court entered similar orders for the other Debtors on their respective Court dockets. *See In re Aerovías de México, S.A. de C.V.*, No. 20-11561, ECF No. 4; *In re Aerolitoral, S.A. de C.V.*, No. 20-11565, ECF No. 4; *In re Aerovías Empresa de Cargo, S.A. de C.V.*, No. 20-11566, ECF No. 4.

9. On September 15, 2020, the Debtors filed their *Motion for Approval of Stipulations and Orders Between Debtors and Counterparties Concerning Certain Aircraft and Engines* [ECF No. 373] (the “**Equipment Stipulation Motion**”), pursuant to which the Debtors sought approval of certain stipulations between certain Debtors and certain counterparties concerning leases of Equipment (as defined in the Equipment Stipulation Motion). These stipulations enabled the Debtors to continue to utilize the Equipment on their operating routes and to maintain the Equipment when not being operated. Broadly speaking, such stipulations provide, with limited variation, for payment of rent calculated based on actual usage of the Equipment (called a “power by the hour” or “PBH” arrangement), rather than a fixed monthly amount. The Court entered an order approving the Equipment Stipulation Motion [ECF No. 396] and so ordered the underlying stipulations. [ECF Nos. 399–429, 475, 491, 502].

10. On April 22, 2021, the Debtors filed their *Motion for (I) Approval of Compromises with Boeing and Other Counterparties, (II) Authorization To (A) Enter Into Amended Aircraft Purchase Agreement with Boeing and (B) Enter into Agreements with Other Counterparties related to the Boeing Transaction, (III) Approval of the Assumption of Such Amended Agreements, as Applicable, and (IV) Approval To Settle Certain Prepetition Claims of Counterparties* [ECF No. 1108] (the “**Boeing Motion**”) and their *Motion for (I) Authorization To (A) Enter Into New Aircraft Lease Agreements and (B) Amend and Assume Certain Existing Aircraft Lease Agreements, and (II) Approval of Compromise Regarding Prepetition Claims with Air Lease Corporation* [ECF No. 1113] (the “**Air Lease Motion**”). The Court approved both the

Boeing Motion and the Air Lease Motion at a hearing on April 30, 2021,³ and subsequently entered each of the orders related thereto.⁴ Pursuant to such orders, the Debtors (a) added 28 new aircraft to their fleet, (b) assumed agreements relating to 18 existing aircraft, and (c) settled the allowed amounts of unsecured claims of certain counterparties with respect to such equipment.

11. The Court has also entered additional orders authorizing the Debtors to either enter into new aircraft leases and/or assume existing aircraft leases on an amended basis. *See* ECF Nos. 984, 1100, 1544, 1572–73, 1659, 1693, 1759.

C. The Amended Aircraft Leases and the Claims Settlement

12. Over the last several months, the Debtors have continued negotiating with existing lessors and potential lessors of additional aircraft and equipment to obtain the best terms available for the aircraft and equipment that will be necessary for the Debtors to pursue their long-term business plan and to optimize their anticipated fleet upon emergence from the Chapter 11 Cases.

13. As a result of arm's length and good faith negotiations, the Debtors have reached an agreement with the Lessor to (a) assume the Aircraft Leases relating to the Aircraft, which the Debtor Lessee currently operates as part of its existing fleet, each on an amended basis, on terms and conditions substantially consistent with (i) those set forth in the form of the Amended Aircraft Leases attached to the Proposed Order as Exhibit 1 and (ii) the summaries of the material terms of the Amended Aircraft Leases attached hereto as Exhibit B, (b) resolve any and

³ *See* Hr'g Tr. (April 30, 2021), 29:17–23 and 37:13–16.

⁴ *See* ECF Nos. 1141–42, 1145, 1154, 1156–57, 1160–62.

all prepetition claims against the Debtors in the Chapter 11 Cases relating to the Aircraft belonging to the Lessor (and its affiliates), and (c) reaffirm Debtor Aerovías de México, S.A. de C.V.'s ("**Aerovías**") guaranty of the Debtor Lessee's obligations under the Amended Aircraft Leases (the "**Guaranty**"), each as described herein and in the Landess Declaration.

14. The form of the Amended Aircraft Leases attached to the Proposed Order as Exhibit 1 sets forth the commercial terms and conditions between the Lessor and the Debtor Lessee. By agreeing to such terms, the Debtors have achieved certainty in maintaining the Aircraft in their fleet on terms that fit the Debtors' short- and long-term needs and with improved economics and terms and conditions as compared to the existing Aircraft Leases. The Aircraft will come at attractive economics and ownership costs. Moreover, the Lessor and the Debtor Lessee agree that the assumption of the Aircraft Leases, each on an amended basis, would not give rise to any obligations to make cash payments at the time of assumption to cure any defaults under the Aircraft Leases under section 365(b)(1)(A) of the Bankruptcy Code.

15. In conjunction with these transactions, the Debtors and the Lessor each believed that it was critical and prudent to also resolve any other claims in the Chapter 11 Cases between the parties. Accordingly, the Debtors seek to resolve any and all prepetition claims against the Debtors relating to the Aircraft belonging to the Lessor (and its affiliates) in the Chapter 11 Cases. To this end, the parties have agreed that the Lessor, on behalf of itself and all of its affiliates, will have an allowed non-priority general unsecured prepetition claim in the amount of \$9,278,740 against the bankruptcy estate of the Debtor Lessee on account of all prepetition claims in respect of the Aircraft belonging to the Lessor (and its affiliates) in the Chapter 11 Cases (the "**Claims Settlement**" and, together with the Amended Aircraft Leases and the

Guaranty, the “**TrueNoord Transactions**”). The amount of the Claims Settlement shall constitute the only prepetition claim relating to the Aircraft or the Aircraft Leases belonging to the Lessor (and its affiliates) allowed in the Chapter 11 Cases and neither the Lessor nor any of its affiliates will assert any claims against the Debtors’ estates on account of the guarantees related to the Aircraft Leases.

16. In determining to enter into the TrueNoord Transactions (including the Claims Settlement which is an integral and necessary component), the Debtors consulted with the respective advisors to Apollo Management Holdings, L.P. (on behalf of one or more affiliates and/or funds or separate accounts managed by it and its affiliates (such lenders collectively, the “**DIP Lenders**”)), the Committee, the Ad Hoc Group of Senior Noteholders,⁵ and the Ad Hoc Group of Unsecured Claimholders,⁶ none of which expressed opposition to the relief requested herein. Accordingly, the Debtors believe that the request sought in this Motion is a sound exercise of its business judgment and is in the best interests of the Debtors, their creditors, and all parties in interest.

Basis for Relief

A. The Court Should Authorize the Assumption of the Aircraft Leases (Each on an Amended Basis) Under Sections 365(a), 364, and 105(a) of the Bankruptcy Code

17. Section 365 of the Bankruptcy Code allows a debtor in possession (with bankruptcy court approval) to maximize the value of its estates by, among other things, assuming

⁵ As used in this Motion, “Ad Hoc Group of Senior Noteholders” refers to the group identified in the *Third Amended Verified Statement of the Ad Hoc Group of Senior Noteholders Pursuant to Bankruptcy Rule 2019* [ECF No. 1731].

⁶ As used in this Motion, “Ad Hoc Group of Unsecured Claimholders” refers to the group identified in the *First Amended Verified Statement of the Ad Hoc Group of Unsecured Claimholders Pursuant to Bankruptcy Rule 2019* [ECF No. 1733].

executory contracts and unexpired leases. 11 U.S.C. § 365(a); *see also NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 521 (1984); *Orion Pictures Corp. v. Showtime Networks, Inc. (In re Orion Pictures Corp.)*, 4 F.3d 1095, 1098 (2d Cir. 1993). An executory contract is a “contract under which the obligation of both the bankrupt and the other party to the contract are so far unperformed that the failure of either to complete performance would constitute a material breach excusing performance of the other.” *Sharon Steel Corp. v. Nat’l Fuel Gas Distribution Corp.*, 872 F.2d 36, 39 (3d Cir. 1989) (internal citations omitted); *see also In re Keren Ltd. P’ship*, 225 B.R. 303, 307 (S.D.N.Y. 1997), *aff’d*, 189 F.3d 86 (2d Cir. 1999) (same).

18. In determining whether to permit a debtor to assume or reject a contract or lease, “the debtor’s interests are paramount.” *COR Route 5 Co. v. Penn Traffic Co. (In re Penn Traffic Co.)*, 524 F.3d 373, 383 (2d Cir. 2008). Accordingly, the decision to assume or reject an executory contract or unexpired lease is governed by the business judgment rule, which requires that a debtor determine that the requested assumption would be beneficial to its estates. *See Grp. of Institutional Invs. v. Chicago, M., St. P. & P. R. Co.*, 318 U.S. 523, 550 (1943) (finding that the question of assumption “is one of business judgment”); *In re Penn Traffic*, 524 F.3d at 383; *In re Old Carco LLC*, 406 B.R. 180, 188 (Bankr. S.D.N.Y. 2009); *In re Helm*, 335 B.R. 528, 538 (Bankr. S.D.N.Y. 2006); *In re MF Global Inc.*, No. 11-2790, 2011 WL 6792758, at *2 (Bankr. S.D.N.Y. Dec. 20, 2011) (“The assumption or rejection of an executory contract may be approved if such action would benefit the debtor’s estate and is an exercise of sound business judgment.”); *Sharon Steel*, 872 F.2d at 40.

19. In considering a motion to assume or reject an executory contract or unexpired lease, a debtor “should examine a contract and the surrounding circumstances and apply its best

‘business judgment’ to determine if [assumption] would be beneficial or burdensome to the estate.” *In re Orion Pictures Corp.*, 4 F.3d at 1099; *see also In re Klein Sleep Prods., Inc.*, 78 F.3d 18, 25 (2d Cir. 1996); *In re Gucci*, 193 B.R. 411, 415 (S.D.N.Y. 1996). A debtor’s decision to assume an executory contract or unexpired lease based on its business judgment will generally not be disturbed absent a showing of “bad faith or abuse of business discretion.” *In re Old Carco*, 406 B.R. at 188 (quoting *In re G Survivor Corp.*, 171 B.R. 755, 757 (Bankr. S.D.N.Y. 1994), *aff’d sub nom. John Forsyth Co., Inc. v. G Licensing, Ltd.*, 187 B.R. 111 (S.D.N.Y. 1995)); *see also In re MF Global Inc.*, No. 11-2790, 2011 WL 6792758, at *2 (Bankr. S.D.N.Y. Dec. 20, 2011) (“The assumption or rejection of an executory contract may be approved if such action would benefit the debtor’s estate and is an exercise of sound business judgment.”); *In re Chipwich, Inc.*, 54 B.R. 427, 430–31 (Bankr. S.D.N.Y. 1985). The party opposing a debtor’s exercise of its business judgment has the burden of rebutting the presumption of validity. *See Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.)*, 147 B.R. 650, 656 (S.D.N.Y. 1992), *appeal dismissed*, 3 F.3d 49 (2d Cir. 1993).

20. Upon finding that the debtor has exercised its sound business judgment in determining that the assumption of a contract or lease is in the best interests of the debtor, its creditors, and all parties in interest, the court should approve the assumption under section 365(a) of the Bankruptcy Code. *See, e.g., In re Child World, Inc.*, 142 B.R. 87, 89 (Bankr. S.D.N.Y. 1992); *In re Gucci*, 193 B.R. at 417.

21. Moreover, to the extent that entry into the Amended Aircraft Leases implicates section 364 of the Bankruptcy Code given the reaffirmation of the Guaranty, the Debtors have established that entry into the Amended Aircraft Leases is in the best interests of the Debtors’

estates, their creditors, and all other parties in interest, which is sufficient to satisfy the standard for relief under section 364 of the Bankruptcy Code. Provided that an agreement to obtain post-petition credit is consistent with the provisions of, and policies underlying, the Bankruptcy Code, courts grant a debtor considerable deference in exercising its sound business judgment in obtaining such credit. *See, e.g., In re Latam Airlines Grp. S.A.*, 620 B.R. 722, 768 (Bankr. S.D.N.Y. 2020) (“Generally, in evaluating the merits of proposed post-petition financing, courts will defer to a debtor’s business judgment provided that the financing does not unduly benefit a party in interest at the expense of the estate.”) (citations omitted); *In re Barbara K. Enters., Inc.*, No. 08-11474 (MG), 2008 WL 2439649, at *14 (Bankr. S.D.N.Y. June 16, 2008) (“The Court is aware that its normal function in reviewing requests for post-petition financing is to defer to a debtor’s own business judgment so long as a request for financing does not ‘leverage the bankruptcy process’ and unfairly cede control of the reorganization to one party in interest.”) (citing *In re Ames Dep’t Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990)).

22. Lastly, section 105(a) of the Bankruptcy Code confers the Court with broad equitable powers to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

23. The Debtors respectfully submit that the relief requested herein is fair, equitable, reasonable, and in the best interests of the Debtors’ estates and is, thus, justified under sections 365(a), 364, and 105(a) of the Bankruptcy Code. As described above and in the Landess Declaration, the Debtors are seeking to reset their fleet and attendant costs to a market level. As part of this process, the Debtors are evaluating their fleet of aircraft and equipment, reviewing the relevant underlying leases and agreements, and, to the extent prudent, negotiating

amendments to such leases and agreements for aircraft and equipment that the Debtors desire to maintain. In doing so, the Debtors compared the Aircraft Leases and the Aircraft to available alternatives and ultimately negotiated (at arm's length, in good faith, and in consultation with their key stakeholders) new economically favorable terms, as memorialized in the form of the Amended Aircraft Leases, that are in line with the Debtors' long-term business plan. In addition to the improved costs and better terms and conditions as compared to the Aircraft Leases, the Amended Aircraft Leases also will create operational flexibility for the Debtors, as they will allow the Debtors to retain and operate two existing aircraft in their fleet and would position the Debtors to potentially reject other aircraft or equipment that are not as attractive for the long term fleet. Finally, the Debtors have determined (based on the exercise of their sound business judgment) that the terms of the Amended Aircraft Leases represent the best available transactions under the circumstances (*i.e.*, the Chapter 11 Cases), but also would be commercially beneficial transactions irrespective of such circumstances (and are superior to at least some of their prepetition aircraft leases).

24. In light of the foregoing, the Debtors respectfully submit that the assumption of the Aircraft Leases, each on an amended basis on terms substantially consistent with those set forth in the form of the Amended Aircraft Leases, (a) would be the result of the Debtors exercising their sound business judgment in accordance with their fiduciary duties, (b) would be in the best interests of their estates and economic stakeholders, and (c) would further serve to maximize value for the benefit of all creditors. Accordingly, the Debtors respectfully request that the Court authorize, but not direct, the Debtor Lessee to assume the Aircraft Leases, each on

an amended basis on terms substantially consistent with those set forth in the form of the Amended Aircraft Leases, and to perform all the obligations thereunder.

B. The Court Should Approve the Claims Settlement Under Bankruptcy Rule 9019

25. By this Motion, the Debtors also seek approval of the Claims Settlement between the Lessor and the Debtors for the allowance of a claim stemming from the amendment of the Aircraft Leases' terms, while expunging all other claims relating to the Aircraft belonging to the Lessor (and its affiliates) against the Debtors in the Chapter 11 Cases.

26. A court should exercise its discretion to approve settlements "in light of the general public policy favoring settlements." *In re Hibbard Brown & Co.*, 217 B.R. 41, 46 (Bankr. S.D.N.Y. 1998). Indeed, courts in this district have made clear that "[a]s a general matter, 'settlements and compromises are favored in bankruptcy as they minimize costly litigation and further parties' interests in expediting the administration of the bankruptcy estate.'" *In re Republic Airways Holdings, Inc.*, No. 16-10429 (SHL), 2016 WL 2616717, at *3 (Bankr. S.D.N.Y. May 4, 2016) (citing *In re Dewey & LeBouef LLP*, 478 B.R. 626, 640 (Bankr. S.D.N.Y. 2012)); see also *Motorola, Inc. v. Official Comm. of Unsecured Creditors (In re Iridium Operating LLC)*, 478 F.3d 452, 455 (2d Cir. 2007).

27. Under Bankruptcy Rule 9019 and governing case law, a court should approve a compromise or settlement where it makes an independent determination that the compromise or settlement is fair and equitable, reasonable, and in the best interests of the debtor's estate. See, e.g., *In re Republic Airways*, 2016 WL 2616717 at *3; *Air Line Pilots Ass'n, Int'l v. Am. Nat'l Bank & Trust Co. of Chi. (In re Ionosphere Clubs)*, 156 B.R. 414, 426 (S.D.N.Y. 1993); *Nellis v. Shugrue*, 165 B.R. 115, 122–23 (S.D.N.Y. 1994). In so doing, a court may consider the opinions

of the trustee or debtor in possession that the settlement is fair and equitable. *See Nellis*, 165 B.R. at 122; *In re Purofied Down Prods. Corp.*, 150 B.R. 519, 522 (S.D.N.Y. 1993).

28. Furthermore, when assessing whether or not to approve a settlement, “the court need not conduct a ‘mini-trial’ to determine the merits of the underlying litigation” nor decide the issues of law or fact raised by the settlement. *See In re Purofied Down Prods.*, 150 B.R. at 522. Instead, a court should “canvass the issues and see whether the settlement fall[s] below the lowest point in the range of reasonableness.” *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983) (alteration in original) (citations omitted). In this regard, courts have found that “[t]he ‘reasonableness’ of [a] settlement depends upon all factors, including probability of success, the length and cost of the litigation, and the extent to which the settlement is truly the product of ‘arms-length’ bargaining, and not fraud or collusion.” *In re Ionosphere Clubs, Inc.*, 156 B.R. at 428.

29. The Debtors respectfully submit that the Claims Settlement satisfies the range of reasonableness test described above. Rather than engage in costly and value-destructive litigation over the Debtor Lessee’s obligations to the Lessor, the amounts of the Lessor’s claim, and any amounts mitigating the quantum of those claims, the parties negotiated a consensual resolution settling on \$9,278,740 as the agreed aggregate amount for the Claims Settlement. Notably, pursuant to the Claims Settlement, claims in the aggregate amount of at least \$12,411,624 (related to guarantees and other possible claims against the Debtors) will be withdrawn. Any efforts by the Debtors, through litigation or otherwise, to resolve such disputes would be time-consuming and expensive, and would delay any distribution to the creditor beneficiaries of the Debtors’ estates. A failure to resolve the matters at issue at this time could

negatively impact the Debtors and their estates. The Claims Settlement is the product of arm's length and good faith bargaining among the separate and independent advisors of the Debtors and the Lessor that will (a) eliminate the need for a costly claims dispute and (b) unlock distributable value for the Debtors' unsecured creditors by liquidating the Lessor's prepetition claim against the Debtors. Lastly, a number of the Debtors' key stakeholders, including the respective advisors to the Committee, the Ad Hoc Group of Senior Noteholders, and the Ad Hoc group of Unsecured Claimholders, have no objection to the relief requested herein. Accordingly, the Debtors respectfully submit that the proposed Claims Settlement is fair and equitable, would be in the best interests of the Debtors' estates, creditors, and other stakeholders, and should be approved.

Notice

30. Notice of this Motion will be provided to the following parties: (a) the entities on the Master Service List (as defined in the *Order Establishing Certain Notice, Case Management, and Administrative Procedures* [ECF No. 79], which is available on the Debtors' case website at <https://dm.epiq11.com/case/aeromexico/info>); (b) the U.S. Trustee; (c) counsel to the Committee; (d) counsel to the DIP Lenders; (e) counsel to the Ad Hoc Group of Senior Noteholders; and (f) any person or entity with a particularized interest in the subject matter of this Motion. The Debtors respectfully submit that no other or further notice is required.

No Prior Request

31. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

[Remainder of page intentionally left blank]

WHEREFORE, the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as the Court deems just and proper.

Dated: October 13, 2021
New York, New York

DAVIS POLK & WARDWELL LLP

By: /s/ Timothy Graulich

450 Lexington Avenue
New York, New York 10017
Telephone: (212) 450-4000
Facsimile: (212) 701-5800
Marshall S. Huebner
Timothy Graulich
Steven Z. Szanzer
Thomas S. Green

*Counsel to the Debtors
and Debtors in Possession*

Exhibit A

Proposed Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

**GRUPO AEROMÉXICO, S.A.B. de C.V., et
al.,

Debtors.¹**

Chapter 11

Case No. 20-11563 (SCC)

(Jointly Administered)

**ORDER (I) AUTHORIZING DEBTOR AEROLITORAL, S.A. DE
C.V. TO ASSUME (ON AN AMENDED BASIS) CERTAIN
LEASE AGREEMENTS AND (II) APPROVING THE CLAIMS
SETTLEMENT WITH TRUENOORD NAZAS LIMITED**

Upon the motion (the “**Motion**”)² of the Debtors for entry of an order (this “**Order**”), (i) authorizing, but not directing, Debtor Aerolitoral, S.A. de C.V. (the “**Debtor Lessee**”) to assume the Aircraft Leases, each on an amended basis on terms and conditions substantially consistent with (a) those set forth in the form of the Amended Aircraft Leases (attached hereto as **Exhibit 1**) and (b) the summaries of the material terms of the Amended Aircraft Leases attached to the Motion as **Exhibit B** and (ii) approving the Claims Settlement, each as set forth more fully in the Motion and the Landess Declaration; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference M-431*, dated January 31, 2012 (Preska, C.J.); and

¹ The Debtors in these cases, along with each Debtor’s registration number in the applicable jurisdiction, are as follows: Grupo Aeroméxico, S.A.B. de C.V. 286676; Aerovías de México, S.A. de C.V. 108984; Aerolitoral, S.A. de C.V. 217315; and Aerovías Empresa de Cargo, S.A. de C.V. 437094-1. The Debtors’ corporate headquarters is located at Paseo de la Reforma No. 243, piso 25 Colonia Cuauhtémoc, Mexico City, C.P. 06500.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

consideration of the Motion and the relief requested therein being a core proceeding under 28 U.S.C. § 157(b); and venue of the Chapter 11 Cases and related proceedings being proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the notice parties identified in the Motion; such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion [and held a hearing to consider the relief requested in the Motion on October 27, 2021 (the “**Hearing**”)]; and upon [the record of the Hearing, and upon] all of the proceedings had before the Court; and after due deliberation the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and the Court having found that the relief granted herein is in the best interests of the Debtors, their creditors, and all other parties in interest; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted to the extent set forth herein.
2. The Debtor Lessee is authorized (but not directed), pursuant to and in accordance with sections 365 and 364 of the Bankruptcy Code, to (a) assume the Aircraft Leases, each on an amended basis on terms and conditions substantially consistent with (i) those set forth in the form of the Amended Aircraft Leases attached hereto as **Exhibit 1** and (ii) the summaries of the material terms of the Amended Aircraft Leases attached to the Motion as **Exhibit B** and (b) reaffirm Aerovías de México, S.A. de C.V.’s guaranty of the Debtor Lessee’s obligations under the Amended Aircraft Leases. Each Aircraft Lease, as amended, shall be deemed assumed by the Debtor Lessee upon the

effectiveness of the corresponding Amended Aircraft Lease in accordance with its terms and, upon such effectiveness, the applicable Amended Aircraft Lease shall be in full force and effect and the Debtor Lessee shall be obligated to perform all of its obligations thereunder without the need for further notice or action by the Debtor Lessee or the Lessor or a further order of the Court.

3. The Debtors are authorized (but not directed) to enter into, and perform their obligations under, all exhibits, addenda, and other agreements contemplated by the Amended Aircraft Leases without further approval of the Court.

4. The Debtors and the Lessor are authorized (but not directed) to execute, deliver, provide, implement, and fully perform any and all obligations, instruments, and papers provided for or contemplated in the Amended Aircraft Leases and to take any and all actions to implement the Amended Aircraft Leases.

5. From and after the effective date of each Amended Aircraft Lease, the obligations thereunder shall constitute administrative expenses of the Debtor Lessee's estate pursuant to section 503(b)(1) and 507(a)(2) of the Bankruptcy Code.

6. The Debtor Lessee shall have no payment obligations to the Lessor (inclusive of its affiliates) to satisfy its obligation to cure any pre-assumption defaults under the Aircraft Leases in accordance with section 365(b)(1)(A) of the Bankruptcy Code.

7. The Claims Settlement is (a) integral and necessary to the TrueNoord Transactions, (b) supported by reasonable consideration, (c) fair and equitable and in the best interest of the Debtors' estates, and (d) permitted by the Bankruptcy Code, and thus, is hereby approved pursuant to Bankruptcy Rule 9019(a) and shall be binding on the

Debtors, the Lessor, and their affiliates.

8. In accordance with the Claims Settlement, the Lessor shall be allowed a non-priority general unsecured prepetition claim in the amount of \$9,278,740 against the bankruptcy estate of the Debtor Lessee on account of all prepetition claims in respect of the Aircraft belonging to the Lessor (and its affiliates) in the Chapter 11 Cases (or any subsequent chapter 7 case in the event of conversion) (the “**Allowed Claim**”). For the avoidance of doubt, the amount of the Claims Settlement shall constitute the only prepetition claim relating to the Aircraft belonging to the Lessor (and its affiliates) allowed in the Chapter 11 Cases.

9. In accordance with the Claims Settlement, all other claims against the Debtors relating to the Aircraft belonging to the Lessor (and its affiliates) in the Chapter 11 Cases are hereby deemed withdrawn, including, without limitation, the claims assigned numbers 14472 and 565024820 (collectively, the “**Withdrawn Claims**”).

10. The Allowed Claim shall be automatically allowed, and the Withdrawn Claims shall be automatically withdrawn, upon the effectiveness of the Amended Aircraft Leases, and no further notice or action shall be required of the Lessor or the Debtors to effectuate the allowance or withdrawal, as applicable, of such claims upon such occurrence. From and after the effective date of the Amended Aircraft Leases, Epiq Corporate Restructuring, LLC is authorized to update the claims register to reflect the terms of this Order, including, among other things, reflecting the allowance of the Allowed Claim and the withdrawal of the Withdrawn Claims as set forth in this Order.

11. The parties holding the Allowed Claim (or any portion thereof) shall

support a Complying Plan³ proposed by the Debtors, including, without limitation, by voting in favor of a Complying Plan. The obligations under this Order, including, without limitation, the obligation to vote its Allowed Claim in favor of a Complying Plan, shall be binding on the Debtors, the Lessor (and its affiliates), any successor or assignee, or the transferee of the Allowed Claim (or any portion thereof).

12. The Debtors are authorized to take, or refrain from taking, any action necessary or appropriate to implement and effectuate the terms of, and the relief granted in, this Order without seeking further order of the Court.

13. Notwithstanding any subsequent appointment of any trustee(s) under any chapter of the Bankruptcy Code, this Order shall be binding in all respects upon, and shall inure to the benefit of, the Debtors, their estates, their creditors, their respective affiliates, successors, and assigns, and any affected third parties, including, but not limited to, the Lessor and all other persons asserting interests in the Aircraft.

14. While the above referenced Chapter 11 Cases are pending, this Court shall retain exclusive jurisdiction over any and all matters arising from or related to the implementation, interpretation, and enforcement of this Order and the Amended Aircraft Leases.

Dated: _____, 2021
New York, New York

THE HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE

³ A chapter 11 plan shall be deemed a “Complying Plan” if it treats the Allowed Claim (a) as allowed general unsecured non-priority claims not subject to reconsideration under section 502 of the Bankruptcy Code and (b) no worse than the non-priority unsecured claims of any other aircraft or engine lessor whose claims run solely against the Debtor Lessee (other than de minimis “convenience class” claims).

Exhibit 1

Form of the Amended Aircraft Leases

DATED AS OF [____], 2021

TRUENOORD NAZAS LIMITED
as Lessor

and

AEROLITORAL, S.A. DE C.V.,
as Lessee

**AMENDED AND RESTATED AIRCRAFT LEASE
AGREEMENT
RELATING TO THE LEASING OF ONE EMBRAER
E-190LR MODEL AIRCRAFT
MSN [REDACTED]
EQUIPPED WITH TWO CF34-[REDACTED] ENGINES**

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AMENDED AND RESTATED AIRCRAFT LEASE AGREEMENT

THIS AGREEMENT is made as of [____], 2021

BETWEEN:

TrueNoord Nazas Limited, a company organized under the laws of Ireland, whose main office is at No. 1 Grants Row, Lower Mount Street, Dublin 2, D02 HX96, Ireland (“**Lessor**”); and

Aerolitoral, S.A. de C.V., a company organized and existing under the Laws of the United Mexican States and having its principal office at Paseo de la Reforma, No. 243, Piso 25, Colonia Cuauhtémoc, Alcaldía Cuauhtémoc, Mexico City, 06500, Mexico (“**Lessee**”).

It is agreed as follows:

1. INTERPRETATION

1.1 Definitions

In this Agreement, unless the context otherwise requires, capitalized words and expressions shall have the respective meanings given to them in Clause 1 of Schedule 1 (*Definitions and Construction*).

1.2 Construction

The conventions on construction and usage set out in Clause 2 of Schedule 1 (*Definitions and Construction*) shall apply to this Agreement.

1.3 Clauses and Schedules

References in this Agreement to clauses or schedules are, unless otherwise specified, references to clauses of and schedules to this Agreement and together the clauses and schedules shall constitute this Agreement. Certain provisions including conditions precedent and representations and warranties have been placed in the schedules and shall take effect as part of this Agreement.

2. AGREEMENT TO LEASE

Subject to and in accordance with the terms and conditions of this Agreement, Lessor agrees to lease the Aircraft to Lessee and Lessee agrees to take the Aircraft on lease from Lessor for the Term. [REDACTED] (the “**Prior Lessor**”) and Lessee previously entered into an Aircraft Lease Agreement dated [REDACTED] (as amended, modified and assigned prior to the date hereof, the “**Prior Lease**”) in respect of the Aircraft, and the Prior Lessor’s interest in the Prior Lease was assigned to Lessor pursuant to the Assignment, Assumption and Amendment Agreement, dated [REDACTED], by and among the Prior Lessor, Lessor and Lessee. The parties acknowledge and agree that this Agreement amends and restates the Prior Lease in its entirety.

3. **DELIVERY**

3.1 **Delivery and Acceptance**

It is acknowledged by Lessee that the Aircraft was delivered to and accepted by Lessee under the Prior Lease on the Original Delivery Date and is currently in the possession of Lessee and no physical delivery of the Aircraft by Lessor to Lessee will be required at Lease Commencement Date. It is further acknowledged by Lessee that the Aircraft has been in the possession and operation of Lessee and that, subject to satisfaction of the conditions precedent set forth in Clause 1 and 3 of Schedule 3 (*Conditions Precedent and Post-Closing Matters*), Lessor shall lease the Aircraft to Lessee and Lessee shall have no right to reject the Aircraft under this Agreement due to any defects or deficiencies in its condition on the Lease Commencement Date. Without prejudice to Clause 3 of Schedule 3 (*Conditions Precedent and Post-Closing Matters*), execution of the Lease Commencement Date Confirmation by Lessee shall constitute conclusive proof as between Lessor and Lessee that Lessee has irrevocably and unconditionally accepted the Aircraft on an “as is, where is” basis under this Agreement without any reservations or exceptions whatsoever.

3.2 **Risk**

Throughout the Term, Lessee shall be responsible for all risks associated with or relating to the Aircraft, including for any loss, requisition, hijacking, of or damage to the Aircraft. In recognition of the foregoing, and notwithstanding Lessor’s rights under this Agreement, Lessee acknowledges and agrees that, as between Lessor and Lessee, Lessee (a) is in sole operational control of the Aircraft and is in the business of operating commercial aircraft, (b) is solely responsible for the condition, inspection, maintenance, repair, oversight, operation and security of the Aircraft and compliance with all requirements of applicable Regulations, and (c) has not relied upon, and shall not rely upon, any statement, act, or omission of Lessor in connection with the use, operation, maintenance, repair, condition or security of the Aircraft, except as may be agreed by Lessor.

4. **TERMINATION DATE AND RENEWAL OPTION**

4.1 **Termination Date**

The Termination Date shall be the Expiry Date, provided that:

- (a) if Lessor, acting in accordance with Clause 19.2 (*Lessor’s Rights*) of this Agreement, terminates or cancels the leasing of the Aircraft to Lessee under this Agreement, the date of such termination or cancellation shall be the Termination Date and Clause 19.2 (Lessor’s Rights) shall apply;
- (b) if the Aircraft or the Airframe suffers a Total Loss, the Termination Date shall be the date when Lessor receives the full amount of the Agreed Value; provided that Lessee shall still be obligated to pay to Lessor all other amounts then due and payable under this Agreement;
- (c) if the period referred to in clause (d) of the definition of Total Loss extends beyond the Expiry Date, the last day of such period shall be the Termination Date;
- (d) if the Term is extended pursuant to Clause 18.2 (Non-Compliance), the Termination Date shall be the date on which the Aircraft is redelivered to Lessor pursuant to such Clause; and

- (e) if the leasing of the Aircraft is terminated in accordance with Clause 19.5 (Illegality), the date of such termination shall be the Termination Date.

In any event, Rent shall continue to accrue and be payable until the Termination Date or until the Redelivery Date (in accordance with Clause 18.1(d) hereof), unless otherwise agreed herein.

4.2 **Renewal Options**

4.2.1 **Renewal Notice**

- (a) Lessee shall have the right to extend the Term of this Agreement by [REDACTED] months (the “**Operational Extension**”) by providing Lessor a written notice signed by Lessee at least [REDACTED] days prior to the then-scheduled Expiry Date (including, for the avoidance of doubt, if such Expiry Date has been extended pursuant to Clause 4.2.1(b) below). All terms and conditions of this Agreement during the then-Base Lease Term or Renewal Lease Term, as the case may be, shall remain in full force and effect during any Operational Extension, unless Lessor and Lessee expressly agree otherwise in writing.
- (b) Notwithstanding the Operational Extension in Clause 4.2.1(a), Lessee shall have an additional right to extend the Term of this Agreement up to [REDACTED] times by providing Lessor a Renewal Notice signed by Lessee at least [REDACTED] days prior to the Expiry Date (including, for the avoidance of doubt, if such Expiry Date has been extended pursuant to Clause 4.2.1(a) above). A Renewal Notice shall set forth (i) Lessee’s decision to extend the leasing of the Aircraft for the relevant Renewal Lease Term and (ii) Lessee’s decision as to the duration of such Renewal Lease Term which shall be for a [REDACTED] to [REDACTED] period.
- (c) Notwithstanding anything to the contrary in this Agreement or any other Operative Document:
 - (i) no Renewal Notice shall be binding on Lessor or oblige Lessor to extend the leasing of the Aircraft hereunder for any Renewal Lease Term, and shall be considered not to have been given, if any Event of Default shall have occurred and be continuing on and as of the date of any such notice; and
 - (ii) any Renewal Notice shall be irrevocable and shall constitute an unconditional obligation of Lessee to extend the leasing of the Aircraft hereunder for the Renewal Lease Term to which such Renewal Notice relates.

4.2.2 **Renewal Rent and Documentation**

- (a) Upon receipt of a Renewal Notice, as provided in Clause 4.2.1 (*Renewal Notice*) above, Lessee and Lessor shall enter into good faith negotiations with respect to the amount to be paid by Lessee as Rent during the applicable Renewal Lease Term. Whether the amount of the Rent is agreed between Lessee and Lessor within thirty (30) days of the receipt of the Renewal Notice or the amount of Rent is established pursuant to Clause 4.2.2(b), the amount of Rent shall be documented in an amendment to this Agreement within a further period of thirty (30) days, which shall be in form and substance reasonably acceptable to Lessee and Lessor. Thereupon, (i) Lessee and Lessor shall promptly execute and deliver such lease amendment and (ii) Lessor shall procure that Lessor Guarantor executes and delivers a confirmation of the Lessor Guarantee in respect of this Agreement as so amended

in form and substance acceptable to Lessee acting reasonably, (iii) Lessee shall provide (x) written evidence of appropriate corporate action authorizing execution and delivery of such amendment and (y) evidence of the issuance of each approval, license and consent which may be required in connection with such amendment; and (iv) Lessor shall provide (x) written evidence of appropriate corporate action by Lessor authorizing the execution and delivery of such amendment and by Lessor Guarantor authorizing execution and delivery of such confirmation of the Lessor Guarantee and (y) evidence of the issuance of each approval, license and consent which may be required in connection with such amendment and such confirmation.

- (b) [REDACTED].
- (c) All terms and conditions of this Agreement during the Base Lease Term shall remain in full force and effect during any Renewal Lease Term, unless Lessor and Lessee expressly agree otherwise in writing.

5. RENT

5.1 Fixed Rent Periods

- (a) The Term shall be divided into (i) an initial PBH Period and (ii) after the PBH Period, successive periods (each a “**Fixed Rent Period**”) in respect of which Fixed Rent shall accrue and be payable.
- (b) The first Fixed Rent Period shall commence on the day immediately following the last day of the PBH Period (the “**Transition Date**”) and each subsequent Fixed Rent Period shall commence on the date immediately following the last day of the previous Fixed Rent Period.
- (c) Each Fixed Rent Period shall be of one month’s duration except that (i) if the Transition Date occurs on the first day through the fifteenth day of a calendar month, the first Fixed Rent Period shall end on the last day of that calendar month, (ii) if the Transition Date occurs on the sixteenth day through the last day of a calendar month the first Fixed Rent Period shall end on the last day of the following calendar month, and (iii) with respect to the final Fixed Rent Period, if it would not otherwise end on the Expiry Date, it shall end on the Expiry Date.

5.2 PBH Period

- (a) The PBH Rent shall be paid from the Lease Commencement Date until the earlier of (i) [REDACTED] and (ii) the date that the fleetwide average utilization for the same aircraft type as the Aircraft reaches a minimum of [REDACTED]% of the monthly utilization for each of the [REDACTED] consecutive months corresponding to the same months from January 2019 through December 2019, as set forth in Clause 7 of Part A of the Financial Terms Annex (the “**PBH Period**”).
- (b) For each calendar month (or part thereof) in the PBH Period during the Term, Lessee will provide a utilization report to Lessor by the [REDACTED] day of the immediately succeeding calendar month and make a payment of the PBH Rent by the later of (x) the [REDACTED] day of such calendar month and (y) [REDACTED] Business Days after [REDACTED] (the “**PBH Rent Date**”).

5.3 Rent Date

- (a) During the PBH Period, Lessee shall pay the PBH Rent to Lessor in [REDACTED] on each PBH Rent Date.
- (b) Other than during the PBH Period, during the Term, Lessee shall pay Fixed Rent to Lessor in [REDACTED] on each Fixed Rent Date.

5.4 Rent

- (a) Fixed Rent payable in respect of each Fixed Rent Period shall be calculated as set forth in Clause 1 of Part A of the Financial Terms Annex.
- (b) PBH Rent payable in respect of the PBH Period shall be the amount in Clause 1 of Part A of the Financial Terms Annex.
- (c) If any Fixed Rent Period has a duration of less than a month, the Fixed Rent payable for that Fixed Rent Period shall be prorated by multiplying the amount of the Fixed Rent for that Fixed Rent Period by a fraction the numerator of which is the number of days in that Fixed Rent Period and the denominator of which is 30.

6. [REDACTED]

7. PAYMENTS

7.1 Account for Lessee Payments

All payments by Lessee to Lessor under the Operative Documents will be made for value on the due date in Dollars in immediately available funds by SWIFT or wire transfer to the account set out below or to such other account as Lessor may from time to time notify Lessee in writing [REDACTED] Business Days prior to a date for a payment hereunder; provided that the payment and/or indemnity obligations of Lessee under the Operative Documents, measured as of the date any such change is effective, shall not be increased solely as a result of the designation of such other account:

Bank:	[REDACTED]
Account No:	[REDACTED]
Account Name:	[REDACTED]
Swift Code:	[REDACTED]
ABA:	[REDACTED]
Reference:	[REDACTED]

7.2 Default Interest

If any party hereto fails to pay any amount payable under this Agreement on the due date, such party shall pay to the other party on demand from time to time interest at the Default Rate (both before and after judgment) on that amount, from the due date to the date of payment in full. All such interest will be compounded monthly and calculated on the basis of [REDACTED].

7.3 **Absolute Obligations**

- (a) This Agreement is a net lease. Lessee's obligations to pay Rent and to perform any of its other obligations pursuant to this Agreement are absolute and unconditional irrespective of any contingency whatsoever and shall be paid and performed in full when due without reduction, deduction, set-off, recoupment, claim or counter claim, and Lessor shall have all of the rights and benefits of a lessor under a lease to which Section 2A-407 of the UCC applies as provided therein. Lessee may not regard its obligations as cancelled, terminated, suspended, reduced or altered (and waives to the greatest extent permitted by applicable Laws any rights which it may have at any time to cancel, terminate, suspend, reduce or alter such obligations) by reason of any contingency or circumstance whatsoever, including (but not limited to):
- (i) any right of set-off, counterclaim, recoupment, reduction, reimbursement, claim, defense or other right which Lessee may have against Lessor, any Indemnitee, the Manufacturer, any other vendor, or against any other Person;
 - (ii) any unavailability of the Aircraft for any reason or interruption of or interference with Lessee's use, operation or possession of the Aircraft;
 - (iii) any defect in title, airworthiness, condition, design, operation of or use of the Aircraft, merchantability, fitness for any purpose, registration of the Aircraft or any damage to or loss or destruction of the Aircraft (subject to the provisions of Clause 16 (*Loss, Damage and Requisition*));
 - (iv) any breach of or delay by any party to any Operative Document, however fundamental and whether with or without fault on its part, in performing or complying with any of its obligations under any Operative Document;
 - (v) any insolvency, bankruptcy, reorganization, arrangement, readjustment of debt, dissolution, liquidation or similar proceedings by or against any Lessor Party or Lessee or any other Person;
 - (vi) any invalidity or unenforceability of or other defect in this Agreement or of any Operative Document or the registration of any Operative Document or of the Aircraft under the laws of any state; and,
 - (vii) any other cause or circumstance which but for this provision would or might otherwise have the effect of terminating, canceling, suspending, abating, reducing, deferring or in any way affecting any obligation of Lessee under this Agreement, including to lease the Aircraft or pay Rent. Lessee acknowledges and agrees that it has used its own judgment in selecting the Aircraft, and has not relied on Lessor or on any information supplied by Lessor, and that Lessor is not a manufacturer of or dealer in aircraft.
- (b) Each payment of Rent made by Lessee shall be final. Lessee will not seek to recover all or any part of any payment of Rent for any reason whatsoever except for manifest error.
- (c) The provisions of this Clause 7.3 (*Absolute Obligations*) shall not be construed to limit Lessee's right to institute separate legal proceedings for direct damages or otherwise pursue

remedies for direct damages against Lessor in the event of Lessor's breach of the terms of this Agreement or to limit Lessee's rights and remedies against any other Person.

7.4 Currency Indemnity

- (a) If, under any applicable Law, whether as a result of a judgment or the liquidation of a party or for any other reason, any payment under or in connection with the Operative Documents is made or is recovered in a currency (the "**other currency**") other than the currency (the "**contractual currency**") in which it is payable pursuant to the Operative Documents then, to the extent that the payment (when converted into the contractual currency at the rate of exchange on the date of payment or, in the case of a liquidation, the latest date for the determination of liabilities permitted by the applicable Law) falls short of the amount unpaid under the Operative Documents, the payor shall as a separate and independent obligation, fully indemnify the party entitled to receive such payment against the amount of the shortfall. For the purposes of this sub-clause "**rate of exchange**" means the rate at which the payor is able on the relevant date to purchase the contractual currency in New York with the other currency.
- (b) Each party waives any right it may have in any jurisdiction to pay any amount under any Operative Document in a currency other than that in which such amount is expressed to be payable.

7.5 Application of Payments by Lessor

If any sum paid to Lessor or recovered by Lessor in respect of the liabilities of Lessee under this Agreement is less than the amount then due, Lessor may apply that sum to amounts that are then due from Lessee under the Operative Documents in such proportions and order and generally in such manner as Lessor may determine in its reasonable discretion.

7.6 Lessor's Determination of Amounts Due

Any certificate or determination by Lessor as to any rate of interest or as to any other amount payable under this Agreement shall, in the absence of manifest error, be prima facie evidence of the amount so payable.

7.7 Business Day Convention

If any payment due under this Agreement (including any payment of Rent) would otherwise be due on a day which is not a Business Day, it shall be due on the immediately [REDACTED] Business Day, or, if that Business Day falls in the following month, in the following year, or after the Termination Date, on the Business Day immediately [REDACTED] such date.

7.8 Retention of Certain Payments

Any amount referred to in any Operative Document which is payable to or retainable by Lessee shall not be paid to or retained by Lessee at any time when an Event of Default shall have occurred and be continuing, but instead such amount shall be paid to or held by Lessor as security to be held and applied in accordance with the provisions of this Agreement. At such time as there shall not be continuing any Event of Default, such amount shall be paid to Lessee to the extent not applied in accordance with the preceding sentence. Where Lessor would, but for this Clause 7.8 (*Retention of Certain Payments*) or any similar provision, be obliged to make any payment to Lessee, Lessor

may elect to make such payment but shall be entitled to deduct or withhold from such payment any amount then due and payable under the Operative Documents with prior electronic or written notice to Lessee.

7.9 Invoices

Lessor shall provide Lessee with an electronic or paper invoice and supporting documentation before any payment to be made by Lessee to Lessor under the Operative Documents is due (including with respect to the payment of Rent). The Lessee acknowledges that if, for any reason, the Lessee fails to receive any invoice, the Lessee shall remain obliged to pay Rent in accordance with the terms of this Agreement.

8. LESSOR COVENANTS

8.1 Quiet Enjoyment

Lessor agrees that, provided no Event of Default has occurred and is continuing and **provided that** this Agreement shall not have been otherwise terminated, none of Lessor nor any other Lessor Party, and Lessor shall procure that no other Person claiming by, through or under it or any other Lessor Party (including any Financing Party), shall take or cause to be taken any action to interfere with Lessee's right to use, possession and quiet enjoyment of the Aircraft. The foregoing shall not, however, prevent Lessor, or its successors, assigns and transferees, from exercising any rights or remedies under the Operative Documents, which shall not constitute any such interference.

8.2 Lessor Obligations following Termination Date

Lessor shall within [REDACTED] Business Days of the Termination Date pay to Lessee a portion of any Rent paid to Lessor to the extent such portion is attributable to the period falling after, but excluding, the Termination Date; provided that, if any Event of Default has occurred and is continuing, Lessor may hold and apply any such amounts in or toward the cure of such Event of Default and, at such time as no Event of Default is in existence, shall pay the unapplied portion thereof, if any, to Lessee.

8.3 Lessor Obligations regarding Tax Information

Lessor shall provide to Lessee the information described in Clause 20.6(c) hereof, as and when required pursuant to such Clause.

8.4 Lessor Obligations Regarding AD Cost Sharing

Subject to Clause 7.8 (*Retention of Certain Payments*), if Lessee performs an Airworthiness Directive on the Aircraft on a terminating action basis (or to the highest level of compliance available) prior to the expiration of the Term and the cost of performing such Airworthiness Directive on the Aircraft exceeds [REDACTED], Lessor shall, promptly following receipt of an invoice and documentation supporting the cost of performing such Airworthiness Directives on the Aircraft, reimburse Lessee for a portion of such cost determined in accordance with the formula set forth in Clause 5 of Part A of the Financial Terms Annex.

8.5 Lessor Maintenance Payments

Lessor shall pay the amounts required by Part C of the Financial Terms Annex.

9. **LESSEE COVENANTS**

9.1 **Performance**

- (a) Lessee shall perform and comply with its undertakings, covenants and other agreements in this Agreement and the Operative Documents at all times during the Term.
- (b) Lessee shall remain liable to Lessor for all of Lessee's obligations and liabilities under this Agreement notwithstanding any delegation by Lessee to another Person of any such obligations or liabilities or any reliance by Lessee on another Person to perform or discharge any such obligations or liabilities, whether or not such delegation or reliance is permitted or contemplated by this Agreement (including any Permitted Sublessee and the related sublease under Clause 10.3 (*Subleasing*)); **provided that** to the extent any such obligation or liability is actually performed or discharged by such other Person on Lessee's behalf, such performance or discharge shall constitute performance or discharge of the corresponding obligation or liability of Lessee.
- (c) Lessee will cause any Post-Closing Authorizations and Filings to be made or obtained as provided in the definition of such term and by the deadline provided in Clause 5 of Schedule 3 (*Conditions Precedent and Post-Closing Matters*).

9.2 **Information – General and Financial**

Lessee shall:

- (a) provide to Lessor the information described in Clause 5.2(b) hereof, as and when required pursuant to such Clause;
- (b) furnish to Lessor:
 - (i) by making the same available on its website or directly to Lessor if not posted on its website, no later than [REDACTED] days after the last day of each financial year of each Obligor, its audited consolidated balance sheet and cash flow statement as of such day and its audited consolidated profit and loss statement for the year ending on such day, prepared in English and in accordance with the international financial reporting standards, consistently applied and stating in comparative form the respective figures as of the end of and for the preceding financial year;
 - (ii) not later than [REDACTED] days following the end of the [REDACTED] months of each [REDACTED] of each Obligor, the unaudited financial statements for that [REDACTED] month period (including a balance sheet, cash flow statement and profit and loss statement), prepared in English and in accordance with the international financial reporting standards, consistently applied and stating in comparative form the respective figures as of the end of and for the preceding six month period; and
 - (iii) to the extent that Lessee is permitted by applicable Law and is not bound by confidentiality undertakings to third parties, such other information concerning the business or financial affairs of each Obligor as Lessor may from time to time

reasonably request; provided, however, that under no circumstances shall Lessee be required to provide Lessor with financial or operational forecasts;

- (c) to the extent that Lessee is permitted by applicable Law and is not bound by confidentiality undertakings to third parties, notify Lessor of the commencement of any action, suit or proceeding by or before any Government Entity which, if adversely determined, would have a material adverse effect on Lessee's ability to perform its obligations under the Operative Documents;
- (d) promptly notify Lessor if the Airframe or any Engine has been lost, arrested, confiscated, seized, impounded, taken in execution, detained or forfeited, or become the subject of a hijacking or requisition;
- (e) promptly notify Lessor of any "Event of Default" (howsoever defined in such Permitted Sublease) has occurred under any Permitted Sublease or if any Permitted Sublease has terminated (other than as a result of the normal expiration thereof);
- (f) promptly notify Lessor of the occurrence of any Total Loss or of any event which is likely to result in a claim under the Insurances in excess of the Damage Notification Threshold; and
- (g) promptly notify Lessor of the occurrence of any Event of Default and shall provide the Lessor promptly upon request with reasonable details of any such Event of Default and of any steps that are being taken in relation to its rectification.

9.3 **Operation of the Aircraft**

Lessee shall:

- (a) operate the Aircraft solely for commercial purposes;
- (b) not use or operate the Aircraft in violation of or contrary to any Regulation applicable to it or the Aircraft; provided that, the foregoing shall not prohibit Lessee from operating the Aircraft temporarily in any manner or location in the event of an emergency;
- (c) not knowingly permit any items to be on or transported by the Aircraft if it is prohibited by any Regulation for such item to be on or transported by the Aircraft;
- (d) not use or operate the Aircraft for any purpose for which the Aircraft is not designed or for any purpose other than primarily in passenger service in passenger configuration, or in a manner inconsistent with the Manufacturers' manuals or the Aviation Authority directives;
- (e) not permit the Aircraft to be used in any manner which might invalidate any Manufacturer warranty;
- (f) not use the Aircraft for purposes of training, qualifying or re-confirming the status of cockpit personnel except for the benefit of Lessee's cockpit personnel, and then only if the use of the Aircraft for such purpose is not disproportionate to the use for such purpose of other aircraft of the same or similar type operated by Lessee in any twelve (12) month period;

- (g) not use or operate the Aircraft or suffer or permit the Aircraft to be used or operated in any manner when the Insurances are not in full force and effect, and not use, operate or locate the Aircraft or suffer or permit the Aircraft to be used, operated or located in any manner not covered by the Insurances or in any area excluded from coverage by the Insurances (and without limiting the foregoing, Lessee will not use, operate or locate the Aircraft or permit it to be used, operated or located in any area of recognized or threatened hostilities when the war risk Insurances are not in full force and effect and applicable thereto); provided, that, the foregoing shall not prohibit Lessee from operating the Aircraft temporarily in any such locations in the event of an emergency situation;
- (h) if the Aircraft is withdrawn from service or ceases to be operated for more than 10 consecutive Business Days (other than for the purposes of overhaul, repair, modification or maintenance in accordance with this Agreement), the Lessee shall:
 - (i) procure that the Aircraft is stored in accordance with the applicable instructions of the Airframe Manufacturer and the Engine Manufacturer; and
 - (ii) notify the Lessor and give the Lessor details of the manner and location in which the Aircraft is to be stored; and
- (i) not operate, maintain, modify, insure or deal with the Aircraft or any Engine or Part in a manner which adversely discriminates against the Aircraft or such Engine or Part, when compared with the manner in which Lessee operates, maintains, modifies, insures or deals with similar aircraft, engines or parts in Lessee's fleet.

9.4 General Covenants, Compliance and Outgoings

Lessee shall:

- (a) at all times during the Term maintain (i) its business as a commercial scheduled air carrier; (ii) its corporate existence (except as permitted by Clause 9.7 (*Lessee Existence*)); and (iii) in full force and effect, all consents, licenses, authorizations, approvals, permits, rights and privileges material to its business or to the performance of its obligations under this Agreement;
- (b) comply with all Regulations required for the making of payments, and the performance by Lessee of its other obligations under this Agreement and the Operative Documents;
- (c) not cause or permit the Aircraft to proceed to, or remain at, any location in an Excluded Country, except on a temporary basis in the event of an emergency situation, unless the same are permitted pursuant to applicable consents, exemptions or licenses which have been obtained or apply in respect thereof;
- (d) promptly pay or cause to be paid when due (i) all license, registration, navigation and airport fees and charges assessed and demanded by any Government Entity and/or any other air navigation authority in accordance with applicable Regulations relating to the Aircraft and (ii) all debts, claims, liabilities, obligations, costs, expenses, charges, fees (including, without limitation, license and registration fees), Taxes and other outgoings related to the operation, storage, maintenance, leasing or registration of the Aircraft, which in either case if not paid when due could result in a Security Interest which is not a Permitted Lien being imposed on the Aircraft; and

- (e) comply with all applicable Laws concerning security measures to protect the Aircraft and its passengers from theft, destruction, hijacking, bombing or other acts of terrorism.

9.5 **Registration and Protection**

- (a) Lessee shall to the greatest extent permitted by applicable Law and at its own cost and expense (unless otherwise expressly set forth herein) and subject to Lessee's receipt from Lessor of any documentation required by the Aviation Authority or any applicable Regulation (provided always that Lessee shall request such necessary documentation from Lessor in a timely manner):
 - (i) so long as Lessor continues to be eligible for such registration, keep the Aircraft registered with the AFAC in the name of Lessor as owner thereof and not take or permit any action contrary to the continued registration of the Aircraft with the AFAC in the name of Lessor other than (x) with Lessor's prior written approval which will not be unreasonably withheld or (y) in connection with a sublease of the Aircraft to a member of Grupo Aeromexico or to Delta Air Lines, Inc.;
 - (ii) subject to clause (iii) below, cooperate with Lessor in relation to the registration and recordation with the AFAC and any other relevant public record (or as required to comply with the Cape Town Convention or the Geneva Convention where applicable) of (x) the Aircraft and this Agreement (or particulars thereof) and/or (y) the interest of Lessor as owner and lessor and, at Lessor's cost, the rights of any Financing Parties having a Security Interest in respect of the Aircraft or this Agreement (as the case may be) on such public record;
 - (iii) cause any supplements and amendments to be promptly filed and recorded with the AFAC and any other relevant public record (or as required to comply with the Cape Town Convention or the Geneva Convention where applicable); and
 - (iv) at Lessor's cost make and cooperate with Lessor in relation to the making of any changes to the registrations referred to at (i), (ii) or (iii) above as may be necessary or advisable (and are consistent with the provisions of this Agreement) to take account of any change permitted by this Agreement in ownership of the Aircraft any Engine or Part (including any permanent replacement of any Engine or Part) or any change in the financing of the Aircraft.
- (b) Lessee shall not without the prior written consent of Lessor change the State of Registration other than as permitted pursuant to Clause 9.5(a)(i) and, following the termination of any sublease of the Aircraft during which the Aircraft is registered in a jurisdiction other than Mexico, Lessee shall also have the right without Lessor consent to re-register the Aircraft with the AFAC in the name of Lessor as owner.
- (c) Lessee shall from time to time, do or cause to be done any and all acts and things which may be required or desirable (in the discretion of Lessor acting reasonably, but in each case consistent with the provisions of this Agreement and the other Operative Documents to which Lessee is a party) which are requested in writing by Lessor, acting reasonably, to ensure that Lessor, and, at Lessor's cost, the Financing Parties, if any, have or obtain the fullest benefit(s) of the Cape Town Convention and/or the Protocol as in effect in the State of Registration in connection with the Aircraft and any Engine, including (but not limited to):

- (i) any matters connected with registering, perfecting, preserving and/or enhancing any International Interest(s) or other registrable interests vested in Lessor or the Financing Parties with respect to the Aircraft and/or any Engine and constituted by this Agreement;
 - (ii) constituting any International Interest(s) or other registrable interests to be vested in Lessor or the Financing Parties with respect to the Aircraft and/or any Engine in connection with this Agreement;
 - (iii) entry into agreements (subordination or otherwise) to protect, perfect and/or enhance and/or improve the priority of any International Interest(s) or other registrable interests referred to in the foregoing Clauses 9.5(c)(i) and/or (ii); and
 - (iv) taking all relevant actions and cooperating as may be requested by Lessor in writing with respect to the issuance of an IDERA in favor of Lessor (or if requested, the Financing Parties Representative) to the extent such instrument becomes recognized in Mexico after the date hereof and all necessary Regulations implementing such recognition and measures with respect to the filing and acknowledgement of an IDERA have been fully adopted and implemented in Mexico after the date hereof; provided that Lessee shall only be required to take any such action or provide any such cooperation subject to, and in accordance with all applicable laws and regulations of Mexico, and upon the deactivation of the Deregistration Power of Attorney in effect at that time.
- (d) Lessee and Lessor agree that for all purposes of the Cape Town Convention, (i) this Agreement, and any sublease under the terms of this Agreement, will constitute a separate International Interest with respect to the Airframe and/or each Engine, and (ii) the Airframe and each Engine constitute Aircraft Objects.
- (e) The costs and expenses in opening and maintaining the Transacting User Entity accounts for Lessee shall be borne by Lessee, but the costs and expenses in opening and maintaining the Transacting User Entity accounts of the Lessor Parties and any Financing Party shall be borne by the Lessor Parties or the Financing Parties, as the case may be.

9.6 Title and other Property and Security Interests

Lessee shall:

- (a) affix, and maintain in a prominent position, a fireproof plate (having dimensions of not less than 10 cm. x 7 cm.) on each Engine and in the cockpit or cabin of the Aircraft stating:

“THIS [AIRCRAFT/ENGINE] IS OWNED BY [•] AND IS MORTGAGED TO [•] AS SECURITY TRUSTEE FOR ITSELF AND OTHER BANKS”;

provided, that the replacement of any such fireproof plates required due to changes of ownership or lienholders shall be arranged and paid for by Lessor.
- (b) not at any time (i) represent to others that Lessor or the Financing Parties are in any way connected with or responsible for any operation of the Aircraft or the business of Lessee or carriage (whether for hire or reward or gratuitously) which may be undertaken by Lessee; or (ii) pledge the credit of Lessor or the Financing Parties;

- (c) not hold itself out to any third party as owner of the Aircraft or any part of it, and on all occasions when the ownership of the Aircraft, any Engine or any Part is relevant, make clear to third parties that title is held by Lessor;
- (d) not abandon the Aircraft, any Engine or any Part;
- (e) not grant to any person other than Lessor or Financing Parties Representative an IDERA or a deregistration power of attorney with respect to the Airframe or any Engine, and the granting of an IDERA to Lessor or Financing Parties Representative shall be subject to Clause 9.5(c)(iv);
- (f) not dispose (whether by way of sale, lease, assignment, the grant of any Security Interest or otherwise) of the Aircraft (other than as permitted by the Operative Documents (including Clause 10)) and not allow the Aircraft, any Engine or any Part to become or remain subject to any Security Interest (other than Permitted Liens) and promptly at Lessee's expense take such action as may be necessary to discharge any such Security Interest other than Permitted Liens if the same shall exist at any time; or
- (g) not consent to any interests conflicting with (whether or not taking priority over) the interests of Lessor as lessor and owner or any Financing Party to be registered at the International Registry without the prior written consent of Lessor, or such Financing Party (as the case may be).

9.7 **Lessee Existence**

Lessee will, and will procure that the Guarantor will, preserve its corporate existence, will not sell, lease, transfer or otherwise dispose of all or substantially all of its assets (in one or in any series of transactions) to any Person and will continue to be a regularly scheduled, commercial airline; provided that Lessee may sell, lease, transfer or otherwise dispose of all or substantially all of its assets (in one or a series of transactions) to any Person or merge or consolidate with any Person in a transaction in which it is not the surviving Person if the following conditions are satisfied:

- (a) Lessee has provided Lessor with thirty (30) days prior written notice of such transaction;
- (b) the Person acquiring such assets or the Person surviving such merger or consolidation (in either case, the "**Surviving Entity**") assumes all of the rights and obligations of Lessee and/or Guarantor (as applicable) under the Operative Documents to which Lessee and/or Guarantor is a party;
- (c) the tangible net worth of the Surviving Entity is equal to or greater than the tangible net worth of Lessee and/or Guarantor (as the case may be) immediately prior to such merger or consolidation, except where (if the Surviving Entity's tangible net worth would be lower than such prior tangible net worth of Lessee and/or Guarantor (as the case may be)), this does not and could not reasonably be expected to cause an Event of Default or have a material adverse effect on the ability of the Surviving Entity to comply with its obligations under the Operative Documents;
- (d) the Surviving Entity is duly organized and validly existing under the laws of its state of organization;

- (e) the Surviving Entity shall execute and deliver to Lessor an agreement, in form and substance reasonably satisfactory to Lessor, by which the Surviving Entity assumes the due and punctual performance and observance of each covenant and condition of Lessee and/or Guarantor (as the case may be) under the Operative Documents and agrees to be bound thereby (such assumption of obligations to be legal, valid, binding and enforceable, except as enforcement of such agreement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar law affecting the rights of creditors generally and general principles of equity);
- (f) the Surviving Entity shall execute and deliver to Lessor and/or file such recordations and filings with any Government Entity (including the Aviation Authority) and such other documents as Lessor shall reasonably deem to be necessary or advisable (including, without limitation, to preserve and protect the interests of Lessor and the Financing Parties) to evidence, or in connection with, such transfer of assets, merger or consolidation; and
- (g) prior to and immediately after giving effect to such transfer of assets, merger or consolidation, no Event of Default shall have occurred and be continuing.

Lessee shall pay all reasonable costs and expenses incurred by Lessor and, if applicable, any Financing Party (including all reasonable legal fees and expenses) in relation to any such transfer of assets, merger or consolidation following receipt of an invoice and supporting documentation in respect thereof.

9.8 **Recognition of Rights**

Lessee shall procure, when applicable, that any Person to whom possession of any Engine is given (other than Manufacturers or Approved Maintenance Performers) in accordance with the provisions of this Agreement acknowledges in writing within a mortgage or lease or other agreement between Lessee and such Person or otherwise, that it will respect the interests of the owner and lessor of such Engine, as applicable and the interests of the Financing Parties in respect of such Engine and will not seek to exercise any rights whatsoever in relation to such Engine. Lessor hereby acknowledges, on behalf of itself, the other Lessor Parties and any Financing Parties, and for the benefit of any holder of an interest in an engine that may at any time be attached to the Airframe, that it will respect the interests of such holders of interests and will not seek to exercise any rights whatsoever in relation to such engine.

10. **POSSESSION, SUBLEASING AND POOLING**

10.1 **Possession**

Lessee will not, without the prior written consent of Lessor (not to be unreasonably withheld or delayed), sublease or otherwise part with possession of the Aircraft, any Engine or any Part, except that Lessee shall have the right to deliver possession of the Aircraft, the Engines or any Part without Lessor's consent:

- (a) with respect to the Aircraft, the Engines or any Part, to the relevant Manufacturer or Approved Maintenance Performer for testing, modification, maintenance, repair, overhaul or other work to the extent required or permitted by this Agreement;
- (b) on a wet lease which complies with Clause 10.2 (*Wet leasing*);

- (c) on a sublease which complies with Clause 10.3 (*Subleasing*); and
- (d) with respect to an Engine or Part as expressly permitted by this Agreement.

10.2 **Wet leasing**

Lessee shall be permitted to wet lease or charter the Aircraft to a third party **provided that** under the terms of such wet lease or charter:

- (a) the Aircraft shall be operated solely by regular employees of Lessee possessing all current certificates and licenses that are required by applicable Regulations;
- (b) the Aircraft shall remain subject to the insurance coverage required under Clause 15 (*Insurance*) or such other insurance coverage as is approved by Lessor and the Lessee shall provide to the Lessor copies of certificates of insurance from the insurance brokers for the Lessee and, if applicable, the wet lessee, evidencing such insurances;
- (c) the Aircraft shall be maintained by Approved Maintenance Performers in accordance with the Maintenance Program and Lessee's normal maintenance practices;
- (d) the Aircraft shall not be subject to any change in its State of Registration;
- (e) such wet lease or charter is expressly subordinated to this Agreement and the rights of Lessor and the Financing Parties hereunder and to the Aircraft;
- (f) the wet leasing shall cease if the leasing of the Aircraft under this Agreement terminates for any reason; and
- (g) the duration of such wet lease or charter (including all extensions and renewals) does not exceed six (6) months (or if shorter, the remainder of the Term) except with the Lessor's prior written consent.

10.3 **Subleasing**

Lessee may, (x) [REDACTED] or (y) with the written consent of Lessor (not to be unreasonably withheld or delayed), sublease the Aircraft to any Person not described in sub-clause (x) above. Any proposed sublease shall satisfy each of the following conditions:

- (a) the Lessee remains primarily liable for the performance of this Agreement, which shall at all times remain in full force and effect;
- (b) either (i) the sublease shall state that it is subject and subordinate to this Agreement, and the sublessee shall execute an acknowledgment addressed to Lessor and any Financing Parties Representative confirming the foregoing and acknowledging that the sublease will terminate on or before the Termination Date; or (ii) if Lessor notifies Lessee that Lessor's counsel in the relevant jurisdiction is of the opinion that a sublease assignment is necessary or advisable in such jurisdiction, Lessee shall grant Lessor or Financing Parties Representative (as applicable) a security assignment (in form and substance reasonably satisfactory to Lessor and Financing Parties Representative) assigning all of Lessee's rights, title and interest to, in and under such sublease to Lessor, or the Financing Parties Representative, as applicable;

- (c) the proposed sublessee must be a commercial air carrier or air operator holding a valid air operator's certificate;
- (d) no Event of Default shall have occurred and be continuing at the time of commencement of such sublease or would result as a consequence of such sublease;
- (e) Lessee shall have given not less than [REDACTED] days' prior written notice to Lessor of its intention to enter into any sublease agreement or arrangement (which notice shall include a description of the proposed subleasing arrangements including the identity of the proposed sublessee, the term of the sublease and the proposed delivery date under the sublease) and Lessee shall have provided to Lessor at [REDACTED] days' prior to execution of the sublease agreement, a copy of the draft sublease agreement and the draft insurance certificate (it being acknowledged that in any event (x) Lessee may redact the amount of Rent and all other economic terms, (y) the conditions below are required to be satisfied prior to commencement of the relevant sublease and (z) the evidence and/or documentation specified below shall be required to be provided to Lessor prior to commencement of the relevant sublease so as to give Lessor a reasonable period of time to review the same);
- (f) the sublease shall not permit the sublessee to take any action inconsistent with the requirements and obligations of Lessee under this Agreement and shall require the sublessee to operate the Aircraft on substantially similar or more favorable terms as those set out in this Agreement, including without limitation, Clause 9.3 (*Operation of the Aircraft*), Clause 11.4 (*Maintenance and Repair*), and if the sublessee is to maintain Insurances rather than Lessee, Clause 15 (*Insurance*);
- (g) the Lessor is able to complete its "know your customer" (KYC) anti-money laundering, anti-corruption, anti-bribery checks in respect of the proposed sublessee to its satisfaction;
- (h) the sublease shall not permit any further subleasing, wet leasing or charter of the Aircraft;
- (i) the sublease shall not have a term which extends or is capable of extending beyond the then scheduled Expiry Date;
- (j) on or prior to the commencement of the sublease Lessee shall provide to Lessor evidence satisfactory to Lessor confirming that the Aircraft will continue to be insured in accordance with this Agreement;
- (k) the sublessee under the sublease shall not at the time of commencement of the relevant sublease be insolvent or otherwise be subject to any events of the type set out in clauses (f) through (h) of Clause 19.1 (*Events*);
- (l) the sublessee under the sublease shall hold all certificates, licenses, permits and authorizations required for its use and operation of the Aircraft;
- (m) if the Aircraft is to be registered in a new State of Registration in connection with a sublease or the termination of a sublease, Lessee shall procure that all filings, recordings and registrations are made to the extent necessary (i) to deregister the Aircraft from the registry maintained by the then existing State of Registration, (ii) to register the Aircraft in the new State of Registration in the name of Lessor as owner (and if that is not possible, in the name of Lessee or the sublessee with the interests of Lessor and Lessee noted in the registry) in

accordance with and to the extent permitted by applicable Law in the new State of Registration, and (iii) to register, record, protect and/or perfect the Security Interest of any Financing Parties Representative in the new State of Registration in accordance with and to the extent permitted by applicable Law in the new State of Registration. Lessor shall co-operate and procure that the Financing Parties co-operate with Lessee upon reasonable request by Lessee to assist Lessee and/or the sublessee, as the case may be, in promptly making any filings, recordings and registrations in the existing State of Registration and, if applicable, any new State of Registration which are necessary in connection with any subleasing or change in the State of Registration. Lessee shall pay all reasonable and documented out-of-pocket costs and expenses incurred by Lessor and any Financing Party in connection with such filings, recordings and registrations (and no sublease shall be permitted unless and until such filings, recordings and registrations have been made or arrangements have been made to effect the same following the delivery of the Aircraft under the sublease);

- (n) if the proposed sub-lease (and any assignment by way of security of the associated rights under that sub-lease entered into in accordance with paragraph (b) above) creates an International Interest, the Lessor and Lessee shall, and the Lessee shall procure that the proposed sublessee shall, at no cost to the Lessor Parties or the Finance Parties:
 - (i) register such International Interest at the International Registry; and
 - (ii) procure that the sublessee executes and delivers an IDERA, properly registered with the Aviation Authority;
- (o) Lessee shall provide Lessor with a copy of the executed sublease and any amendments thereto within five (5) Business Days after the execution of such sublease or such amendments; such copy may be in electronic form, it being agreed that Lessee may redact the amount of Rent and all other economic terms; and
- (p) no subleasing of the Aircraft shall release Lessee from its obligations under this Agreement, and Lessee hereby confirms and agrees that it shall remain fully liable to perform all of its obligations under this Agreement notwithstanding any such subleasing and shall be primarily liable for any act or omission of any sublessee in connection with any such subleasing; provided Lessee's obligations hereunder shall be satisfied to the extent performed by a sublessee.

10.4 **Pooling**

(a) **Pooling of Engines**

Lessee shall not permit any Engine to become subject to pooling or interchange arrangements or permit any Engine to go out of its possession pursuant to any such arrangement unless:

- (i) no Event of Default has occurred and is continuing;
- (ii) the installation of the Engine on a Pool Aircraft (as defined below) is in accordance with the provisions of an engine pooling arrangement with the Engine Manufacturer or with an Approved Maintenance Performer or with other

responsible, commercial air carriers which, among other things, contains the following requirements:

- (A) the Engines will only be installed on an aircraft (a “**Pool Aircraft**”) with which it is compatible;
- (B) the arrangements under which the Pool Aircraft are owned or operated ensure that title to any Engine installed on that aircraft remains vested in Lessor following the installation of the Engine on that Pool Aircraft and shall not jeopardize Lessor’s or any Financing Party’s rights in that Engine;
- (C) the arrangements under which the Pool Aircraft is insured would permit the recovery by Lessor of an amount at least equal to the full replacement value of that Engine upon the Total Loss of that Pool Aircraft (including the Engine) when the Engine is installed thereon;
- (D) the terms and conditions of Clause 9.8 (*Recognition of Rights*) are complied with; and
- (E) the Engine is re-installed on the Airframe prior to the Expiry Date unless it is replaced by a Replacement Engine in accordance with Clause 12.6 (*Permanent Replacement of Engines and Parts*).

(b) **Pooling of Parts**

Lessee shall not permit any Part to become subject to pooling or interchange arrangements, or allow any Part to go out of its possession pursuant to any such arrangement, except pursuant to an arrangement whereby:

- (i) a record of the location of any Part will be kept and made available to Lessor at any time on request;
- (ii) title to the Part which has gone out of Lessee’s possession pursuant to such arrangement shall remain with Lessor until returned to Lessee or replaced with a Replacement Part in accordance with Clause 12.6 (*Permanent Replacement of Engines and Parts*); and
- (iii) the Part is re-installed on the Aircraft prior to the Expiry Date unless it is replaced by a Replacement Part in accordance with Clause 12.6 (*Permanent Replacement of Engines and Parts*).

11. **TECHNICAL REPORTING, AIRCRAFT DOCUMENTS, INSPECTION, MAINTENANCE AND REPAIR**

11.1 **Maintenance Status Report**

Throughout the Term, Lessee shall:

- (a) provide Lessor within [REDACTED] days after the end of each calendar month, a technical report for the Aircraft in the form of Schedule 15 (*Form of Maintenance Status Report*) which must have all [REDACTED] and the details of [REDACTED]; and
- (b) give Lessor at least [REDACTED] months written notice as to the time and location of all Heavy Maintenance Events.

11.2 Aircraft Documents

Lessee shall:

- (a) keep accurate, complete and current records (which records shall form part of the Aircraft Documents and, notwithstanding that such records may be generated by Lessee, shall be deemed to be the property of Lessor and leased to Lessee hereunder) as listed in Schedule 7 (*Aircraft Documents at Redelivery*) or as may otherwise be required by the Aviation Authority, the Maintenance Program and all applicable Regulations and FAR 129;
- (b) maintain all technical Aircraft Documents in English (except for the flight attendants' log book, which forms part of the cockpit and cabin rectification log book, which may be maintained in Spanish) in Lessee's format (which may be microfiche, microfilm or digital and/or electronic format or any other form);
- (c) promptly furnish to Lessor all such information as Lessor may from time to time reasonably request regarding the Aircraft or any part thereof, its use, registration, location and condition; and
- (d) retain and store such Aircraft Documents, as required by the Aviation Authority, the Manufacturers, Maintenance Program and all applicable Regulations and other materials at either (i) Lessee's or any Permitted Sublessee's principal place of business, (ii) the facility of an Approved Maintenance Performer or (iii) a storage location under Lessee's or any Permitted Sublessee's control, and not permit any other Person (other than an Approved Maintenance Performer or a Permitted Sublessee) to have possession of or control over the same without Lessor's prior written consent.

11.3 Inspection

- (a) Upon Lessor's request, Lessee shall arrange that at any reasonable time during the Term (but no more than once per calendar year except as specified in clause (e) below), Lessor or its authorized representatives (which may include representatives of the Financing Parties) may inspect the Aircraft and the Aircraft Documents, as provided herein and Lessee shall provide all reasonable assistance and co-operation in connection with such inspection (including facilitating access to the Aircraft and the Aircraft Documents). If the physical records are stored by any third party, Lessee will provide a letter granting access to the records for Lessor or its authorized representatives. Any such inspections shall not disrupt Lessee's normal business operations and inspections of the Aircraft shall be limited to a walk-around inspection which may include going on board the Aircraft but shall not include the opening of any panels, bays or disassembly of any components. During any such inspection, Lessor may, at its own expense, make copies of the Aircraft Documents.
- (b) Each such inspecting Person shall be solely responsible for its cost of conducting an inspection (including all reasonable out-of-pocket expenses and insurance coverage)

unless an inspection reveals that Lessee has failed to comply in any material respect with its obligations under this Agreement, in which case any follow up inspection required to verify that remedial work has been completed will be at Lessee's cost.

- (c) Lessor shall not have any duty or obligation to inspect the Aircraft and Lessor shall not incur any liability as a result of non-exercise of any inspection rights in this Clause 11.3 (*Inspection*).
- (d) Any inspection of the Aircraft (including any Aircraft Documents) shall be solely for Lessor's information and failure to notify Lessee of any discrepancies thereafter shall not imply that Lessee is in compliance with this Agreement, its maintenance provisions or applicable Law.
- (e) If an Event of Default has occurred and is continuing, Lessor shall have the right to one (1) additional inspection during the Term subject to the requirements set forth in clause (a) above, and Lessee shall reimburse Lessor (or its authorized representatives) for Lessor's reasonable out-of-pocket costs and expenses in conducting such additional inspection.
- (f) For the avoidance of doubt, this Clause 11.3 (*Inspection*) shall not apply to the inspection for redelivery of the Aircraft.

11.4 **Maintenance and Repair**

Lessee shall, or shall procure that an Approved Maintenance Performer shall, maintain, overhaul and repair the Aircraft so that at all times during the Term:

- (a) the Aircraft is kept airworthy in all respects and in good operating condition and repair except while the Aircraft is undergoing maintenance, modification or repair required or permitted by this Agreement;
- (b) Lessee has a current and valid certificate of airworthiness (in the appropriate category for the nature of the operations of the Aircraft) for the Aircraft issued by the Aviation Authority except where the Aircraft is undergoing maintenance, modification or repair required or permitted by this Agreement, and Lessee will from time to time provide to Lessor a copy thereof within ten (10) days of Lessor's request;
- (c) the Aircraft is maintained in accordance with the Maintenance Program through an Approved Maintenance Performer and in at least the same manner and with at least the same care as is the case with respect to similar aircraft owned, leased or otherwise operated by Lessee or, if the Aircraft is being subleased, the Permitted Sublessee (taken as a whole), and as if Lessee were to retain and continue operating the Aircraft in its fleet after the Termination Date, including maintenance scheduling, modification status and technical condition, and all maintenance to the Airframe, any Engine or any Part required to maintain all warranties applicable to the Aircraft in full force and effect in accordance with their terms;
- (d) the Aircraft complies with all Regulations, Mandatory Orders and Airworthiness Directives having a compliance date during the Term regardless of upon whom such requirements are imposed;

- (e) Lessee and the Aircraft are each in compliance with any other applicable Regulation which relates to the maintenance, condition, use or operation of the Aircraft or requires any modification or alteration to the Aircraft, any Engine or Part regardless of upon whom such requirements are imposed; and
- (f) any replacement of an Engine or Part in the course of maintenance is in accordance with Clause 12 (*Replacement and Interchange of Engines and Parts*).

11.5 **Maintenance Program**

- (a) Lessee shall at all times ensure that the Aircraft is subject to a maintenance program which is approved by the Aviation Authority and based on the Manufacturer's Maintenance Planning Document (the "**Maintenance Program**").
- (b) Upon Lessor's request, Lessee shall furnish to Lessor a copy of the then most current version of the preamble and matrix from the Maintenance Program.

11.6 **Engine Health Monitoring; Electronic Information.**

In the event Lessee elects to participate in the Engine Manufacturer's Health Monitoring Program, Lessee will not object if Lessor seeks access from the Engine Manufacturer to its reports or data relating to the Engines, provided there is no cost to Lessee. In addition, if Lessee subscribes to the Airframe Manufacturer's on-line electronic information database and maintains on that system an updated record of the aircraft service bulletins and other configuration embodiment status and to the extent permissible as a result of future developments by the Airframe Manufacturer, Airworthiness Directives, structural repairs and maintenance planning data compliance status, Lessee will not object if Lessor seeks access to such on-line system with respect to the Aircraft, provided there is no additional cost to Lessee.

12. **REPLACEMENT AND INTERCHANGE OF ENGINES AND PARTS**

12.1 **Replacement of Engines and Parts**

- (a) Lessee shall have the right [REDACTED], on written notice to Lessor, to permanently replace any Engine with a Replacement Engine or replace any Part with a Replacement Part by complying with the terms of Clause 12.6 (*Permanent Replacement of Engines and Parts*). In the case of an Engine replacement, such written notice shall be given to Lessor upon the earlier of (i) at least [REDACTED] days' [REDACTED] or (ii) at least [REDACTED] days [REDACTED], except in connection with a Total Loss of an Engine or failure of an Engine to meet the Redelivery Conditions.
- (b) Lessee shall promptly replace or procure the replacement of any Part which has become time, cycle or calendar-expired, lost, stolen, seized, confiscated, destroyed, damaged beyond economic repair, unserviceable or permanently rendered unfit for use, in accordance with Clause 12.6 (*Permanent Replacement of Engines and Parts*).
- (c) Lessee shall be entitled to install and permit the installation of engines and parts on the Aircraft other than the Engines and Parts **provided that:**
 - (i) a permanent replacement of an Engine or Part shall be in accordance with Clause 12.6 (*Permanent Replacement of Engines and Parts*);

- (ii) a temporary replacement of an Engine shall be in accordance with Clause 12.3 (*Installation of other engines*); and
- (iii) a temporary replacement of a Part shall be in accordance with Clause 12.4 (*Installation of other parts*).

12.2 Removed Engines and Parts

Lessee shall be entitled to remove and permit the removal of an Engine or Part from the Aircraft **provided that:**

- (a) such Removed Engine or Removed Part:
 - (i) is (x) installed on another aircraft in accordance with Clause 12.5 (*Installation of Engines and Parts on Other Aircraft*), (y) properly and safely stored, or (z) in the possession of an Approved Maintenance Performer for repair, maintenance, modification and/or refurbishment in accordance with this Agreement;
 - (ii) is kept free of Security Interests (other than Permitted Liens);
 - (iii) continues to be covered by the Insurances; and
 - (iv) remains the property of Lessor unless and until there has been a permanent replacement in accordance with Clause 12.6 (*Permanent Replacement of Engines and Parts*) and unless and until title to that Replacement Engine or Replacement Part, as applicable, has passed to Lessor pursuant to and in accordance with this Agreement; and
- (b) Lessee complies with Clause 9.8 (*Recognition of Rights*) with respect to any Removed Engine and Removed Part.

Lessee shall ensure that any Removed Engine or Removed Part is reinstalled on the Aircraft or permanently replaced by a Replacement Engine or Replacement Part in accordance with Clause 12.6 (*Permanent Replacement of Engines and Parts*) by no later than [REDACTED].

12.3 Installation of other engines

Lessee may only install and permit the installation of an engine on the Airframe that is not a permanent replacement in accordance with Clause 12.6 (*Permanent Replacement of Engines and Parts*) if:

- (a) such engine is suitable for operation on the Airframe;
- (b) such engine is owned by or leased or conditionally sold to Lessee or a Permitted Sublessee or in Lessee's or a Permitted Sublessee's possession pursuant to a pooling arrangement; and
- (c) the Insurances for the Aircraft are not adversely affected.

No later than [REDACTED], Lessee shall remove any engine that is not an Engine and replace it with the relevant Removed Engine or a Replacement Engine in accordance with Clause 12.6 (*Permanent Replacement of Engines and Parts*).

12.4 **Installation of other parts**

Lessee may install and permit the installation of any part on the Aircraft that is not a permanent replacement pursuant to Clause 12.6 (*Permanent Replacement of Engines and Parts*) if:

- (a) as soon as reasonably practicable [REDACTED], but before the [REDACTED] removes that part and [REDACTED] pursuant to Clause 12.6 (*Permanent Replacement of Engines and Parts*); and
- (b) the Insurances for the Aircraft are not adversely affected.

12.5 **Installation of Engines and Parts on Other Aircraft**

- (a) Lessee shall only be entitled to install or permit the installation of a Removed Engine or Removed Part on another aircraft (the “**Other Aircraft**”) if such aircraft is operated by Lessee or a Permitted Sublessee or a Person that is a party to a pooling arrangement in accordance with Clause 10.4 (*Pooling*) and if:
 - (i) such installation will not cause an Event of Default;
 - (ii) subject to Clause 12.6 below, Lessor remains the owner of the Removed Engine or Removed Part unless and until it is permanently replaced pursuant to Clause 12.6 (*Permanent Replacement of Engines and Parts*) and the Removed Engine or Removed Part does not thereby become subject to a Security Interest (other than a Permitted Lien) and remains subject to this Agreement;
 - (iii) neither the provisions of applicable Law nor the terms of any lease, pooling arrangement or other agreement or Security Interest to which the Other Aircraft is subject, (x) prohibit such installation, or (y) require that the Removed Engine or Removed Part become the property of a Person other than Lessor and/or subject to any Security Interest, or (z) will have the effect at any time of divesting or impairing the title and interests of Lessor as owner and lessor of the Removed Engine or Removed Part (or the rights of the Financing Parties under any Security Interest or assignment in respect of the Removed Engine or Removed Part).
- (b) Lessee shall ensure that any Removed Engine or Removed Part is reinstalled on the Aircraft or permanently replaced by a Replacement Engine or Replacement Part in accordance with Clause 12.6 (*Permanent Replacement of Engines and Parts*) by no later than [REDACTED].

12.6 **Permanent Replacement of Engines and Parts**

- (a) If an Engine is to be permanently replaced in accordance with Clause 12.1(a), Lessee shall procure that good and marketable title to a Replacement Engine free and clear of all Security Interests other than Permitted Liens is conveyed to Lessor and that such Replacement Engine is subject to this Agreement whereupon the Replacement Engine shall be an Engine hereunder and the replaced Engine shall cease to be an Engine and title to the replaced Engine shall vest in Lessee (or Lessee’s designee). Lessee shall obtain Lessor’s prior written consent (acting reasonably) to any proposed Replacement Engine that does not have value and utility at least equal to that of the replaced Engine (including with regard to Hours and Cycles since last Engine Performance Restoration and since new, remaining

life on the Engine LLPs and modification status), provided that such value and utility is substantiated by supporting documentation and records and other evidence reasonably acceptable to the Lessor. The parties shall supply to each other all such title documents as the other may reasonably require to evidence and perfect such transfer of title in accordance with all applicable Laws (including the provision if requested by the other party of bills of sale, any amendments or supplements to this Agreement and legal opinions), and where the Cape Town Convention applies, the parties shall procure the prompt discharge and registration of the transfers of title at the International Registry.

- (b) Upon installation of a Replacement Part on the Airframe or any Engine, that Replacement Part shall without further act be deemed transferred to and owned by Lessor and subject to this Agreement, and the replaced Part shall be deemed transferred to and owned by Lessee and cease to be a Part hereunder.
- (c) If Lessor has paid a Lessor Maintenance Payment for an Engine LLP shop visit on an Engine, then such Engine shall be redelivered to Lessor in accordance with this Agreement unless replaced in accordance with paragraph (a) above by a Replacement Engine that has had the same Engine LLP shop visit prior to the end of the Term.

12.7 Equipment Changes

- (a) Lessee may from time to time make or permit Equipment Changes as it may consider desirable in the proper conduct of its business; provided that each Equipment Change (i) is approved by the Aviation Authority, and (ii) (w) is required by the Aviation Authority or the FAA, or (x) [REDACTED] or (y) has been approved by Lessor in writing, or (z) does not and will not:
 - (i) result in (A) a breach of Lessee's obligations under this Agreement, (B) any expense payable by Lessor or (C) any change in the category or status of the Aircraft for purposes of any laws of the State of Registration or of the Aviation Authority;
 - (ii) materially diminish or impair the value, utility or airworthiness of the Aircraft; or
 - (iii) have a cost in excess of US\$[REDACTED] in [REDACTED] Dollars, with such amount to be escalated by [REDACTED]% per annum on each anniversary of the Original Delivery Date after the Lease Commencement Date.
- (b) Title to any equipment installed on the Aircraft pursuant to an Equipment Change after the Lease Commencement Date that is owned by Lessee will on installation, without further act, vest in Lessor and shall be a Part subject to this Agreement free and clear of all Security Interests (other than Permitted Liens). Lessee will at its own expense take all such steps and execute, and procure the execution of, all such instruments as Lessor may reasonably require and which are necessary to ensure that title so passes to Lessor according to all applicable Laws.
- (c) So long as no Event of Default has occurred and is continuing, Lessee may remove and retain any Equipment Change to the extent it is severable from the Aircraft and (i) such Equipment Change is not required by a Mandatory Order or an Airworthiness Directive, (ii) such severance will not adversely affect the value, utility, condition or airworthiness of the Aircraft in comparison to its value, utility, condition or airworthiness prior to the

installation of such Equipment Change, and (iii) such Equipment Change did not constitute directly or by function a replacement of a Part or Parts installed on the Aircraft on the Original Delivery Date unless the Part or Parts so replaced are reinstalled on the Aircraft. Title to all parts, components, equipment and furnishings comprising any such removed Equipment Change will, on such removal, vest in Lessee free from any claim of Lessor or Security Interest of the Financing Parties and all such parts, components, equipment and furnishings shall cease to be Parts subject to this Agreement. For the avoidance of doubt, Lessee shall be entitled to remove any [REDACTED] installed by Lessee provided that (i) it is severable from the Aircraft and (ii) Lessee [REDACTED] (as the case may be) that was [REDACTED] on the [REDACTED].

12.8 Lessee Title

Following (i) transfer of title of a Replacement Engine or Replacement Part in accordance with Clause 12.6(a) and (b) respectively, or (ii) removal of an Equipment Change in accordance with Clause 12.7(c), title to the replaced Engine or Part or removed Equipment Change will, pass to Lessee on an "AS IS, WHERE IS" basis, without recourse, representation or warranty, except that Lessor shall represent and warrant to Lessee that it has conveyed to Lessee such title to such replaced Engine or Part or Equipment Change as was conveyed to it free and clear of all Lessor Liens, and Lessor will (at Lessee's request and cost) provide such documents as Lessee may reasonably require to evidence and perfect such transfer of title in accordance with all applicable Laws (including the provision, if required, to Lessee of bills of sale), and where the Cape Town Convention applies, cooperate with the prompt registration of the transfers of title at the International Registry.

13. MANUFACTURER'S WARRANTIES

- (a) During the Term, Lessor hereby makes available to Lessee, and authorizes Lessee to exercise, at Lessee's cost, such rights as Lessor may have under any warranty with respect to the Aircraft, any Engine or any Part made by any manufacturer, vendor, sub-contractor or supplier (including compensation for loss of use of the Aircraft during the Term), to the extent that the same have not otherwise been made available to Lessee pursuant to any other agreement; provided, that if an Event of Default has occurred and is continuing, any cash payments in respect of any warranty claim shall be subject to Clause 7.8 (*Retention of Certain Payments*).
- (b) Lessee shall give Lessor prompt written notice of any warranty claim in respect of the Aircraft which is expected to exceed the Damage Notification Threshold.
- (c) Lessee shall take all steps and execute all documents as are necessary at the end of the Term to ensure that the benefit of any warranties to which this Clause 13 (*Manufacturer's Warranties*) applies and which have not expired is vested in Lessor including all claims thereunder (whether or not perfected and not including any claims relating to Lessee's loss of use and operation of the Aircraft); provided, that in the event Lessee is required to pursue any such claims, Lessee will agree to do so only upon receipt of satisfactory indemnification for costs and expenses from Lessor.

14. **INDEMNITIES**

14.1 **General**

Lessee agrees to assume liability for (as between itself and the Indemnitees), and to defend and indemnify and at all times keep indemnified and hold harmless each of the Indemnitees against any and all Losses (without duplication):

- (a) which may at any time be suffered or incurred by any Indemnatee directly or indirectly as a result of, arising from or connected with the manufacture, ownership, possession, delivery, importation, transportation, pooling, interchange, leasing, subleasing, wet leasing, chartering, storage, registration, insurance, replacement, maintenance, modification, refurbishment, condition, service, repair, overhaul, control, management, use, operation, exportation or redelivery of the Aircraft, any Engine or Part (either in the air or on the ground), whether or not such Losses may be attributable to any defect in the Aircraft, any Engine or any Part or to its design, testing or use or otherwise, and regardless of whether it arises out of or is attributable to any act or omission, negligent or otherwise, of any Indemnatee;
- (b) which arise as a result of the prevention or attempt to prevent the arrest, confiscation, seizure, taking in execution, impounding, forfeiture of the Aircraft or in securing release of the Aircraft, unless the foregoing occurs as a result of a Lessor Lien; or
- (c) which may at any time be suffered or incurred as a consequence of any design, testing, use of any article or material in the Aircraft, any Engine or any Part, including any defect therein (regardless of whether it is discoverable) or its operation or use constituting an infringement of patent, copyright, trademark, design or other proprietary right,

but excluding any Loss in relation to a particular Indemnatee to the extent that such Loss:

- (i) is attributable to the Gross Negligence or willful misconduct of any Indemnatee; or
- (ii) is attributable to a Lessor Tax or a Lessor Lien; or
- (iii) is, or is in respect of any claim for, a Tax, which shall instead be subject to Clause 20 (*Taxation*); or
- (iv) is attributable to acts or events which occur before the Lease Commencement Date or after the Aircraft has been redelivered to Lessor in compliance with Clause 18 (*Redelivery*) and is no longer subject to this Agreement, unless any such act or event is attributable to an act, omission, event or circumstance which occurred during the Term; or
- (v) is attributable to the breach by any Indemnatee of the express terms of this Agreement or any other Operative Document but excluding any such breach to the extent it is attributable to or arises out of a breach by Lessee under any Operative Document; or
- (vi) constitutes the ordinary and usual operating and overhead expenses of an Indemnatee; or

- (vii) arises in respect of any voluntary sale, assignment, conveyance, transfer or other disposition by any Indemnatee of (x) the Aircraft, an Engine or any interest therein that is not a replacement thereof under this Agreement or (y) any interest in this Agreement or any other Operative Document;
- (viii) is in respect of any claim for currency indemnification, which shall instead be subject to Clause 7.4 (*Currency Indemnity*);
- (ix) represents or results from any decline in the market value of the Aircraft;
- (x) represents or results from a failure of such Indemnatee to realize any anticipated profit;
- (xi) represents or arises out of a claim by any Financing Party against any Lessor Party or its Affiliates; or
- (xii) is indemnified against elsewhere in this Agreement or any other Operative Document.

14.2 Notification and Contest

Each Indemnatee intending to claim any amounts from Lessee pursuant to Clause 14.1 (*General*), shall promptly notify Lessee in writing of any matter of which such Indemnatee, has received written notice and for which Lessee is obligated to indemnify under this Clause 14 (each a “**Claim**”); **provided, however**, the delay or failure of such Indemnatee to give notice to Lessee in accordance with this Clause 14.2 (*Notification and Contest*) will not discharge or release Lessee from any of its indemnity obligations under Clause 14.1 (*General*) except, and only to the extent, (A) that such delay or failure constitutes gross negligence or willful misconduct, or such Indemnatee actually knew or should have known that such written notice is for a Claim for which Lessee is obligated to indemnify such Indemnatee pursuant to Clause 14.1 (*General*), (B) such delay or failure results in an increase in the amount which Lessee is required to indemnify (in such case to the extent of such increase) and (C) such delay or failure results in Lessee being unable to defend any such Claim. Lessor (and/or any other Indemnatee seeking indemnification, as the case may be) and Lessee shall, if and for so long as no Event of Default is continuing, then consult with one another in good faith for a period not exceeding fifteen (15) Business Days in order to determine what action (if any) may reasonably be taken to avoid or mitigate such Claim. Following such consultation, Lessee shall have the right to take all reasonable action (on behalf, and, if necessary, in the name, of Lessor and/or such other Indemnatee) in order to resist, defend or settle (provided such settlement is accompanied by payment) any claims by third parties giving rise to such Claim, providing always that the following conditions are met or (as the case may be) complied with:

- (i) Lessor (and/or any other such Indemnatee) shall have received a written acknowledgment from Lessee satisfactory to it (acting reasonably) of Lessee’s responsibility for all expenses, costs (including all reasonable legal fees and expenses), or other Losses incurred by any Indemnatee arising out of or related to the Claim and such contest and if Lessor or relevant Indemnatee is required by law to pay the Claim, Lessee shall comply with its obligation to indemnify Lessor or such Indemnatee in respect thereof;
- (ii) no Event of Default has occurred which is continuing;

- (iii) such contest will not result in any danger of the sale, forfeiture or loss of, or the creation of any Security Interest (other than any Permitted Lien) on, the Aircraft; and
- (iv) such contest does not involve any risk of criminal liability for Lessor or any other Indemnatee.

Where Lessee or its insurers undertake the defense of an Indemnatee with respect to a Claim, no additional legal fees or expenses of such Indemnatee in connection with such defense of such Claim shall be indemnified hereunder unless such fees or expenses were reasonably incurred by the Lessor in connection with the confirmation or protection of its rights and agreed to by the Lessee (acting reasonably) or incurred at the request of Lessee or such insurers or were incurred prior to Lessee's assumption of the defense of such Claim; provided that, if in the written opinion of counsel to such Indemnatee an actual or potential material conflict of interest exists such that it is advisable for such Indemnatee to be represented by separate counsel, the reasonable fees and expenses of such separate counsel shall be borne by Lessee. Subject to the requirements of any policy of insurance, any Indemnatee may participate at its own expense in any judicial proceeding controlled by Lessee or an insurer pursuant to the preceding provisions, and such participation shall not constitute a waiver of the indemnification provided in this Clause 14 (*Indemnities*).

14.3 **Refunds**

Any sums paid by Lessee to Lessor and/or any other Indemnatee in respect of any Claim pursuant to Clauses 14.1 (*General*) and 14.2 (*Notification and Contest*) shall be paid subject to the condition that, in the event that Lessor or such Indemnatee (whichever received the payment) is subsequently reimbursed in respect of that Claim by any other Person, Lessor or such Indemnatee (whichever received the payment) shall promptly pay to Lessee an amount equal to the sum received by Lessor by way of reimbursement in respect of that Claim by any other Person (not to exceed the sum paid to it by Lessee), including any interest on such amount but only to the extent attributable thereto and actually received by Lessor or such Indemnatee, less any Tax payable by Lessor or such Indemnatee in respect of such reimbursement and less any costs and expenses (including all reasonable legal fees and expenses) incurred by Lessor or such Indemnatee in obtaining such reimbursement (to the extent that Lessor or such Indemnatee has not been reimbursed for such costs and expenses by Lessee).

14.4 **Subrogation**

Upon the payment in full of any indemnity pursuant to this Clause 14 (*Indemnities*) by Lessee, Lessee will be subrogated to any right of the relevant Indemnatee in respect of the matter against which such indemnity has been made.

14.5 **Duration**

The indemnities and obligations contained in this Agreement will continue in full force after the expiration, cancellation or other termination of this Agreement notwithstanding any breach or repudiation of this Agreement by Lessor or Lessee or the termination of the leasing of the Aircraft under this Agreement.

15. **INSURANCE**

15.1 **Obligation to Insure**

Throughout the Term, Lessee shall (or shall procure that Permitted Sublessee shall) effect and maintain in full force and effect (in each case on terms consistent with Lloyds Form AVN67B) the following policies:

- (a) All-risk ground, flight and ingestion aircraft hull insurance for the Agreed Value covering the Aircraft, all risk insurance on a full replacement cost basis with respect to spares, including the Engines and components while not installed in the Aircraft, and hull and spares war risk and allied perils insurance covering the perils excluded by the War, Hijacking and Other Perils Exclusion Clause (AVN 48B), other than paragraph (b) thereof, and in the case of hull war, for the Agreed Value, on Form LSW 555D and including confiscation by the government of the State of Registration, and in the case of spares on a full replacement cost basis. All hull insurance may be subject to a deductible not to exceed the Minimum Deductible Amount per occurrence and Lessee shall notify the insurers that this Agreement requires Total Loss Proceeds to be paid to Lessor or a designated Financing Party as if such party were named as sole loss payee. If the hull war and hull all risks cover are contained in separate policies, then the terms of AVS 103 (or equivalent) shall be incorporated in each such policy.
- (b) Comprehensive aircraft third party, passenger, cargo, products, mail and aviation and airline general third party legal liability insurance, including war and allied perils (being all perils excluded by the War, Hijacking and Other Perils Exclusion Clause (AVN 48B), other than paragraph (b) thereof), in an amount that is not less than the Minimum Liability Coverage for any one occurrence and in the aggregate for products liability.
- (c) All such insurances shall apply on a worldwide basis (subject to standard insurance market geographical limits **provided** that such geographical limits do not exclude any area to which the Aircraft is in fact operated and that overflying of such excluded areas is covered) and shall be placed directly in the international insurance market, with insurers of recognised responsibility and good repute, specialising in and normally participating in aviation insurance.
- (d) The insurances referred to in paragraph (a) above shall name each of Lessor, Owner and the Financing Parties Representative as an additional insured for their respective rights and interests and the insurances referred to in paragraph (b) above shall cover each Indemnatee as an additional insured.

15.2 **Liability Insurances**

The Insurances referred to in Clause 15.1(b) shall:

- (a) include and insure (to the extent of the risks covered by the policies) the indemnity provisions of Clause 14.1;
- (b) for a period of two years or until the next Redelivery Check (whichever is the shorter period) after the Lease Termination Date, continue to cover each Indemnatee as an additional insured; and

- (c) for a period of two years or until the next Redelivery Check (whichever is the shorter period) after the date of any transfer by Lessor pursuant to Clause 26.1, continue to cover the transferring Lessor (and the relevant Owner and Financing Parties and other related Indemnitees) as additional insured.

15.3 Insurance Certificates

As soon as practicable and in any event not later than the expiration or termination date of any Insurances effected pursuant hereto, Lessee shall provide to Lessor (a) a copy of renewed certificate of insurance evidencing the renewal or replacement of such Insurances and a renewed insurer's or broker's letter of undertaking in a form acceptable to Lessor or (b) a faxed or emailed confirmation from Lessee's insurer or insurance broker that such Insurances have been renewed on the terms required by this Clause 15 **provided** that Lessee shall, in the case of sub-paragraph (b) above, within seven days after such renewal, furnish to Lessor a certificate of insurance and insurer's or broker's letter of undertaking complying with sub-paragraph (a) above.

15.4 Assignee of Lessor's Interests

If Lessor assigns all or any of its rights or otherwise disposes of any interest in the Aircraft to any other person, Lessee shall, upon request, procure that such person shall

- (a) be designated as loss payee (and so notified to the insurers) and/or as additional assured in the policies effected hereunder; and
- (b) enjoy the same rights and insurance enjoyed by Lessor under such policies.

15.5 Information regarding Insurances

Lessee shall provide Lessor and the Financing Parties Representative with any information reasonably requested by such person from time to time concerning the Insurances or in connection with any claim being made or proposed to be made thereunder.

15.6 Currency of Insurances

All Insurances shall be payable and settled in Dollars except as may be otherwise agreed by Lessor.

15.7 Failure to Insure

If at any time the Insurances are not maintained in compliance with this Clause 15, Lessor or any Financing Party shall be entitled but not bound to do any of the following (without prejudice to any of the rights which any of them may have under the Operative Documents by reason of such failure):

- (a) upon giving notice thereof to Lessee, to pay any premiums due or to effect or maintain such insurance or otherwise remedy such failure in such manner as Lessor or, if applicable, any Financing Party considers appropriate (and Lessee shall upon demand reimburse Lessor or if applicable, the relevant Financing Party in full for any amount so expended in that connection); and/or
- (b) at any time while such failure is continuing, to require the Aircraft to remain at any airport or (as the case may be), subject to the Aircraft being adequately insured, proceed to and

remain at any airport designated by Lessor, until such failure is remedied to Lessor's satisfaction.

15.8 Lessor's Right to Insure

Lessee acknowledges that each of Lessor, Owner and each Financing Party has an insurable interest in the Aircraft and may, at its own expense, obtain insurance or contingent insurance in its own name with respect to such insurable interest. Lessee shall provide to Lessor, Owner and each Financing Party all reasonable assistance as from time to time requested by it in order to adequately protect such insurable interest. Neither Lessor, Owner nor any Financing Party shall maintain any such insurance that would prejudice the insurance maintained by Lessee pursuant to this Agreement.

15.9 Changes to Insurance Practice

If there is a material change in the generally accepted industry-wide practice with regard to the insurance of aircraft or any material change with respect to the insurance of aircraft based or operated in any jurisdiction in which the Aircraft may then be based or operated (whether relating to all or any of the types of Insurances required to be effected under this Clause 15) such that Lessor shall be of the reasonable opinion that the Insurances required pursuant to this Clause 15 are insufficient to protect the respective interests of Lessor and the other Indemnitees (bearing in mind the nature and route of operation of the Aircraft), the insurance requirements set forth in this Clause 15 shall be amended, as soon as practicable following notice by Lessor to Lessee, so as to include such additional or varied requirements as may be reasonably necessary to ensure that the insurance as so varied shall provide comparable protection to Lessor and the other Indemnitees to that which it would have done if such change had not occurred. In such circumstances, Lessor will consult in good faith with Lessee in relation to any proposed change.

15.10 Self-Insurance

Lessee may not self-insure the risks required to be insured against pursuant to this Clause 15 **provided** that Lessee may self-insure the risks covered by the hull insurance maintained in compliance with this Clause 15 by way of deductible (except in connection with a total loss), in such amounts as are customarily self-insured with respect to aircraft of the same type and used in the same manner as the Aircraft by other similar air carriers, but in no event in an amount greater than the deductible amount per aircraft per occurrence mentioned in Clause 15.1.

15.11 Reinsurance

In the event that any of the risks required to be insured under this Clause 15 are not placed in the manner provided in Clause 15.1, then such risks shall be reinsured and shall:

- (a) be placed with a reinsurer of recognized responsibility and good repute, specializing in and normally participating in aviation insurance in the international insurance market;
- (b) be on the same terms as the primary insurance required hereunder;
- (c) be at levels of not less than 100% of insurances required to be maintained pursuant to Clause 15.1;

- (d) contain a "cut-through" clause in the following form (or otherwise reasonably satisfactory to Lessor):

"The Reinsurers hereby agree (at the request and with the agreement of the Reinsured) that in the event of any valid claim arising hereunder the Reinsurers shall in lieu of payment to the Reinsured, its successors in interest and assigns pay to the person named as loss payee in accordance with Loss Payable Clause under the original insurances effected by the Insured that portion of any loss due for which the Reinsurers would otherwise be liable to pay the Reinsured (subject to proof of loss), it being understood and agreed that any such payment by the Reinsurers shall fully discharge and release the Reinsurers from any and all further liability with such claim.

The Reinsurers reserve the right to set off against any claim payable hereunder in accordance with this clause any outstanding premiums due on the reinsurance in respect of the Aircraft.

Payment shall be made under this reinsurance notwithstanding any bankruptcy, insolvency, liquidation or dissolution of the Reinsured, and/or that the original Insurer has made no payment under the original insurance policies.

Notwithstanding anything to the contrary in this clause, any payment due under this clause shall not contravene any law or decree of the Government of Mexico or any other applicable jurisdiction."

- (e) provide for payment to be made directly to the relevant Indemnatee notwithstanding (a) any bankruptcy, insolvency, liquidation or dissolution of the primary insurer and/or (b) that the primary insurer has made no payment under the primary policies; and
- (f) be evidenced by a reinsurance certificate and supported by a broker's letter of undertaking reasonably satisfactory to Lessor.

16. LOSS, DAMAGE AND REQUISITION

16.1 Total Loss after Delivery

- (a) If a Total Loss of the Aircraft or Airframe occurs after the Lease Commencement Date, Lessee shall pay the Agreed Value together with all Rent and other amounts then due and payable under the Operative Documents to Lessor (or to any Financing Party named as loss payee under the Insurances) on or prior to the earlier of:
- (i) [REDACTED] days after the Total Loss Date in respect of that Total Loss; and
- (ii) [REDACTED] Business Days after the date of receipt of insurance proceeds in respect of that Total Loss;

Lessor will use its commercially reasonable efforts to agree and execute a release agreement in form and substance satisfactory to the relevant insurers and reinsurers.

- (b) Subject to the rights of any insurers and reinsurers or other third parties, upon irrevocable payment in full to Lessor of the Agreed Value and all other amounts which may be or

become payable to Lessor under this Agreement, Lessor shall at Lessee's cost transfer to Lessee all of Lessor's right, title and interest in and to the Aircraft including any Engines and Parts not installed when the Total Loss occurred, on an "AS IS, WHERE IS" basis and without recourse, representation or warranty (except a representation and warranty that Lessor is transferring such title to the Aircraft free from all Lessor Liens), and Lessor shall provide such documents as Lessee may reasonably require to evidence and perfect such transfer of title in accordance with all applicable Laws (including the provision, if required, to Lessee of bills of sale and removal of any International Interests created by this Agreement from the International Registry).

- (c) Upon a Total Loss of any Engine not involving a Total Loss of the Airframe, Lessee shall give Lessor prompt written notice thereof, and Lessee shall replace the Engine that suffered the Total Loss by procuring that title to a Replacement Engine is conveyed to Lessor in accordance with Clause 12.6 (*Permanent Replacement of Engines and Parts*) within [REDACTED] days of the Total Loss Date in respect of such Total Loss, and continue to pay Rent and all other sums due under this Agreement as if the Total Loss had not occurred.

16.2 Requisition

- (a) During any requisition for use or hire of the Aircraft, any Engine or any Part which does not constitute a Total Loss:
 - (i) the Rent and other amounts payable under this Agreement will not be suspended or abated either in whole or in part, and Lessee will not be released from any of its other obligations under the Agreement (other than operational obligations with which Lessee is unable to comply solely by virtue of the requisition);
 - (ii) so long as no Event of Default has occurred and is continuing, Lessee shall be entitled to any rent or fees paid by the requisitioning authority in respect of the Term;
 - (iii) Lessee shall, as soon as practicable after the end of any such requisition, cause the Aircraft to be put into the condition required by this Agreement; and
 - (i) Lessor shall be entitled to all compensation payable by the requisitioning authority in respect of any change in the structure, state or condition of the Aircraft arising during the period of requisition, and Lessor shall apply such compensation in reimbursing Lessee for the cost of complying with its obligations under this Agreement in respect of any such change, provided that, if any Event of Default has occurred and is continuing, Lessor may apply the compensation in or towards settlement of any amounts owing by Lessee under this Agreement.

17. DISCLAIMERS

LESSOR AND LESSEE AGREE THAT THE DISCLAIMERS, WAIVERS AND CONFIRMATIONS SET FORTH IN CLAUSES 17.1 (*EXCLUSION*) TO 17.5 (*CONFIRMATION*) SHALL APPLY AT ALL TIMES DURING THE TERM.

17.1 **Exclusion**

THE AIRCRAFT HAS BEEN LEASED HEREUNDER "AS IS, WHERE IS", AND LESSEE AGREES AND ACKNOWLEDGES THAT:

- (a) LESSOR AND THE OTHER INDEMNITEES WILL HAVE NO LIABILITY IN RELATION TO, AND NEITHER LESSOR NOR ANY OTHER INDEMNITEE HAS MADE OR GIVEN NOR WILL BE DEEMED TO HAVE MADE OR GIVEN (WHETHER BY VIRTUE OF HAVING DONE OR FAILED TO DO ANY ACT, OR HAVING ACQUIRED OR FAILED TO ACQUIRE ANY STATUS UNDER OR IN RELATION TO THIS AGREEMENT OR OTHERWISE), ANY WARRANTIES, CONDITIONS OR REPRESENTATIONS, EXPRESS OR IMPLIED, WITH RESPECT TO, THE AIRCRAFT OR ANY ENGINE OR PART UNDER THIS AGREEMENT INCLUDING THE TITLE, DESCRIPTION, AIRWORTHINESS, COMPLIANCE WITH SPECIFICATIONS, OPERATION, MERCHANTABILITY, QUALITY, FREEDOM FROM INFRINGEMENT OF PATENT OR OTHER PROPRIETARY RIGHTS, THE ACCURACY, VALIDITY, TRACEABILITY OR COMPLETENESS OF ANY AIRCRAFT DOCUMENTS, THE FITNESS FOR ANY PARTICULAR USE OR PURPOSE, VALUE, DURABILITY, CONDITION, OR DESIGN, OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP, THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE, OR AS TO ANY OTHER MATTER WHATSOEVER, EXPRESS OR IMPLIED (INCLUDING ANY IMPLIED WARRANTY ARISING FROM A COURSE OF PERFORMANCE OR DEALING OR USAGE OR TRADE) WITH RESPECT TO THE AIRCRAFT, ANY ENGINE OR ANY PART OR ANY SERVICES PROVIDED BY LESSOR UNDER THIS AGREEMENT; PROVIDED THAT THIS CLAUSE A SHALL NOT APPLY TO LESSOR'S REPRESENTATION AND WARRANTY SET FORTH IN CLAUSE 2(vii) OF SCHEDULE 2; AND
- (b) NEITHER LESSOR NOR ANY OTHER INDEMNITEE SHALL HAVE ANY OBLIGATION OR LIABILITY WHATSOEVER TO LESSEE (WHETHER ARISING IN CONTRACT OR IN TORT, AND WHETHER ARISING BY REFERENCE TO NEGLIGENCE OR STRICT LIABILITY OR OTHERWISE) FOR:
 - (i) ANY LIABILITY, LOSS OR DAMAGE CAUSED OR ALLEGED TO BE CAUSED DIRECTLY OR INDIRECTLY BY THE AIRCRAFT OR ANY ENGINE OR BY ANY INADEQUACY THEREOF OR DEFICIENCY OR DEFECT THEREIN OR BY ANY OTHER CIRCUMSTANCE IN CONNECTION THEREWITH (UNLESS LESSEE IS DEPRIVED OF POSSESSION OF THE AIRCRAFT AS A RESULT OF A LESSOR PARTY'S BREACH OF ITS QUIET ENJOYMENT COVENANT IN CLAUSE 8.1 HEREOF);
 - (ii) THE USE, OPERATION OR PERFORMANCE OF THE AIRCRAFT OR ANY RISKS RELATING THERETO (UNLESS LESSEE IS DEPRIVED OF POSSESSION OF THE AIRCRAFT AS A RESULT OF A LESSOR PARTY'S BREACH OF ITS QUIET ENJOYMENT COVENANT IN CLAUSE 8.1 HEREOF);
 - (iii) ANY INTERRUPTION OF SERVICE, LOSS OF BUSINESS OR ANTICIPATED PROFITS OR ANY OTHER DIRECT, INDIRECT OR

CONSEQUENTIAL LOSS OR DAMAGE (UNLESS DUE TO A LESSOR PARTY'S BREACH OF ITS QUIET ENJOYMENT COVENANT IN CLAUSE 8.1 HEREOF); OR

- (iv) THE DELIVERY, OPERATION, SERVICING, MAINTENANCE, REPAIR, IMPROVEMENT OR REPLACEMENT OF THE AIRCRAFT, ANY ENGINE OR ANY PART.

17.2 Waiver

LESSEE HEREBY WAIVES, AS BETWEEN ITSELF AND LESSOR AND EACH OTHER INDEMNITEE, ALL ITS RIGHTS IN RESPECT OF ANY WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, ON THE PART OF LESSOR OR ANY OTHER INDEMNITEE AND ALL CLAIMS AGAINST LESSOR AND ANY OTHER INDEMNITEE HOWSOEVER AND WHENEVER ARISING AT ANY TIME IN RESPECT OF OR OUT OF THE MATTERS EXPRESSLY WAIVED IN CLAUSE 17.1 (*EXCLUSION*). LESSEE FURTHER AGREES THAT, SUBJECT TO CLAUSE 7.3(e) HEREOF, ITS ONLY RIGHT WITH RESPECT TO A DEFAULT BY LESSOR UNDER THIS AGREEMENT IS TO MAKE A CLAIM AGAINST LESSOR FOR ACTUAL DAMAGES RESULTING DIRECTLY THEREFROM. LESSEE HEREBY WAIVES ANY AND ALL OTHER RIGHTS OR REMEDIES IT MAY HAVE UNDER ARTICLE 2A OF THE UCC (INCLUDING WITHOUT LIMITATION 2A-211, 2A-406 AND 2A-508 THROUGH 2A-522) AS IN EFFECT IN THE STATE OF NEW YORK, OR OTHERWISE.

17.3 Disclaimer of Consequential Damages

EACH PARTY HEREBY AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH HEREIN, IT SHALL NOT BE ENTITLED TO RECEIVE AND HEREBY DISCLAIMS AND WAIVES ANY RIGHT THAT IT MAY OTHERWISE HAVE TO RECOVER LOST PROFITS, LOST REVENUE OR OTHER CONSEQUENTIAL, SPECIAL INCIDENTAL, INDIRECT OR PUNITIVE DAMAGES AS A RESULT OF ANY BREACH OR ALLEGED BREACH BY ANY OTHER PARTY OF ANY OF THE AGREEMENTS CONTAINED IN THIS AGREEMENT OR THE OTHER OPERATIVE DOCUMENTS.

17.4 No Duties

LESSEE ACKNOWLEDGES AND AGREES THAT LESSOR HAS NO FIDUCIARY OR OTHER DUTIES TO LESSEE WHATSOEVER, AND THAT LESSOR'S ONLY OBLIGATIONS TO LESSEE ARE THOSE OBLIGATIONS EXPRESSLY SET FORTH HEREIN.

17.5 Confirmation

LESSEE CONFIRMS THAT IT IS FULLY AWARE OF THE PROVISIONS OF THIS CLAUSE 17 (*DISCLAIMERS*) AND ACKNOWLEDGES THAT RENT AND OTHER AMOUNTS PAYABLE UNDER THIS AGREEMENT HAVE BEEN CALCULATED TAKING ITS PROVISIONS INTO ACCOUNT.

18. **REDELIVERY**

18.1 **Redelivery**

- (a) The Lessee and the Lessor shall undertake the redelivery procedure in compliance with the conditions set forth in Schedule 8 (*Redelivery Conditions*).
- (b) On the Required Redelivery Date, Lessee shall (unless a Total Loss has occurred) redeliver the Aircraft and Aircraft Documents (which shall include each of the documents referred to in Schedule 7 (*Aircraft Documents at Redelivery*)) to Lessor at Lessee's expense (with all customs and export duties payable in the State of Registration and all navigation and airport fees and charges incurred with respect to the Aircraft (other than such charges that have been invoiced but are not yet due for payment) paid in full by Lessee) at the Redelivery Location in accordance with the procedures, and in compliance with the conditions set forth, in Schedule 8 (*Redelivery Conditions*). At Redelivery, the Aircraft will be in a condition (the "**Redelivery Condition**") that demonstrates that the Aircraft is in the condition referred to in Schedule 8 (*Redelivery Conditions*).
- (c) On the Redelivery Date, Lessee shall pay to Lessor the Redelivery Maintenance Payment due and owing pursuant to and calculated in accordance with Part B of Schedule 4 (*Redelivery Maintenance Payment*). For the avoidance of doubt, no Redelivery Maintenance Payment is payable in the event of an Aircraft or Airframe Total Loss.
- (d) Notwithstanding any other provision hereof to the contrary, Lessee shall [REDACTED] Lessee has [REDACTED].

18.2 **Non-Compliance**

- (a) If on the Required Redelivery Date, the condition of the Aircraft does not comply with this Agreement (regardless of the circumstance), then:
 - (i) Lessee shall rectify the non-compliance at its own expense and/or compensate Lessor as contemplated by Schedule 8 (*Redelivery Conditions*) and to the extent that the non-compliance (including failure to pay any sum in lieu of compliance as permitted by the terms of Schedule 8 (*Redelivery Conditions*)) extends beyond the Expiry Date, the Term will be automatically extended solely for the purpose of enabling such non-compliance to be rectified;
 - (ii) Lessee shall not use the Aircraft in commercial passenger operations during any Holdover Period (as defined below) except such operations directly related to the redelivery of the Aircraft to Lessor;
 - (iii) all Lessee's obligations and covenants under this Agreement will remain in full force until Lessee so redelivers the Aircraft; and
 - (iv) Lessee shall pay to Lessor monthly in arrears Rent in an amount equal to the Rent due immediately before the Required Redelivery Date for the first [REDACTED] days of delay and [REDACTED]% of Rent thereafter, prorated to reflect the actual days elapsed in respect of the period during which the Term is so extended (the "**Holdover Period**").

- (b) If on the Required Redelivery Date, the condition of the Aircraft does not comply with this Agreement (regardless of the circumstance), then Lessor may, in its absolute discretion, elect (either on first tender of the Aircraft for redelivery or at any time during a period of extension pursuant to Clause 18.2(a)(i)) to accept redelivery of the Aircraft notwithstanding non-compliance with Clause 18.1 (*Redelivery*) and Schedule 8 (*Redelivery Conditions*) by executing and delivering to the Lessee a Redelivery Acceptance Certificate, on which shall be noted a description of the non-compliance with the Redelivery Conditions, in which case Lessee shall pay Lessor on demand its reasonable and documented costs of putting the Aircraft into the condition required by this Agreement. Any discrepancies between the condition of the Aircraft and Aircraft Documents and the Redelivery Conditions resolved by payment of compensation pursuant to the third paragraph of Schedule 8 (*Redelivery Conditions*) or Clause I of Schedule 8 (*Redelivery Conditions*) shall not constitute non-compliance for purposes of this Clause.

18.3 **Export Documents**

After redelivery of the Aircraft, and if requested by Lessor and subject to Lessor's cooperation therewith, Lessee shall provide to Lessor, at Lessee's cost and expense, all documents necessary to enable the Lessor to deregister and export the Aircraft from the State of Registration (including, without limitation, a valid and subsisting (x) export license, and (y) if provided by the State of Registration, an export certificate of airworthiness for the Aircraft, at Lessee's cost and expense) required in relation to the deregistration of the Aircraft with the Aviation Authority or the re registration of the Aircraft with another aviation authority and the Lessee shall provide such assistance with deregistration and export of the Aircraft as the Lessor may request (acting reasonably).

18.4 **Acceptance and Acknowledgement**

When the Aircraft complies with the conditions set forth in Schedule 8 (*Redelivery Conditions*) and provided that the Lessee has complied with this Section 18 and has tendered the Aircraft to Lessor at the Redelivery Location, Lessor shall accept redelivery and Lessor shall execute and deliver to Lessee the Redelivery Acceptance Certificate confirming that Lessee has redelivered the Aircraft to Lessor in accordance with this Agreement; provided that Lessor's [REDACTED].

18.5 **Cooperation with Remarketing**

During the [REDACTED] months immediately preceding the Expiry Date, Lessee shall co-operate in all reasonable respects with the efforts of Lessor to lease or sell the Aircraft, including, without limitation, permitting potential lessees or purchasers to inspect the Aircraft and the records relating thereto **provided** that the same shall not interfere with Lessee's use or maintenance of the Aircraft or require Lessee to incur out-of-pocket expenses for which it is not reimbursed and Lessor shall use commercially reasonable efforts to minimize the number and frequency of such inspections.

19. **EVENTS OF DEFAULT**

19.1 **Events**

Each of the following events will constitute an Event of Default, a "default" under the Cape Town Convention and a breach of this Agreement by Lessee:

- (a) **Non-payment:** Lessee fails to make any payment of Rent under this Agreement within [REDACTED] Business Days after such payment is due, or Lessee fails to make any other payment when due hereunder within [REDACTED] Business Days (i) of the due date or (ii) in the case of an unscheduled payment, after the earlier of the date that Lessee actually knew or should have known that such unscheduled payment is due or the date Lessee receives written notice that such unscheduled payment is due and has not been paid in accordance with the terms hereof; or
- (b) **Insurance:**
- (i) Lessee fails to maintain or cause to be maintained the Insurances as required by Clause 15 (*Insurance*); or
- (ii) A notice of cancellation is given in respect of any Insurances required by Clause 15 (*Insurance*) and the same is not rescinded or renewed or replaced in satisfaction of the requirements of Clause 15 (*Insurance*) at least [REDACTED] Business Days prior to such cancellation, *provided that* it shall not constitute an Event of Default under this sub-clause (iii) if the following exceptional circumstances are applicable and the Aircraft is grounded for the period for which such insurances are not in place:
- (A) any failure by Lessee to comply with the terms of Clause 15 (*Insurance*) for reasons other than any act or omission of Lessee (including but not limited to failure to pay any premium for, or to comply with any other condition of, such insurances);
- (B) the cancellation of the insurances is part of a wider program of cancellations by the insurer as a result of an event or series of events affecting the aviation insurance market generally;
- (C) the Aircraft continues to be covered by ground risk insurance (for at least the Agreed Value) approved by Lessor (acting reasonably);
- (D) Lessee continues to maintain legal liability insurances to the extent available with a minimum liability coverage of \$[REDACTED] or such lower amount as approved by Lessor (acting reasonably); and
- (E) as soon as such cover becomes generally available in the aviation insurance market, Lessee effects replacement insurances complying with the requirements of Clause 15 (*Insurance*).
- (iii) The Aircraft is operated at a time or in a place where any insurance required by Clause 15 (*Insurance*) is not in effect, unless such operation is temporary in nature and due to an emergency situation.
- (c) **Breach:** Lessee fails to comply with any other provision of this Agreement or any Obligor fails to comply with any other provision of any other Operative Document (other than (i) the Prior Lease or (ii) any failure that relates to a period of time before the execution of this Agreement) and such failure continues for [REDACTED] days after the earlier of the date that Lessee actually knew or should have known about such failure or the date of written notice from Lessor to Lessee; provided, that the relevant Obligor shall have an

additional [REDACTED] days to remedy such failure if such breach is capable of remedy and such Obligor is diligently seeking to rectify the breach; or

- (d) **Representation:** any representation or warranty made by any Obligor in or pursuant to this Agreement or any other Operative Document (other than (i) the Prior Lease or (ii) any failure that relates to a period of time before the execution of this Agreement) is or proves to have been incorrect in any material respect when made or deemed made and such incorrectness has a materially adverse effect on the rights or interests of Lessor or the ability of such Obligor to perform its obligations hereunder and the circumstances giving rise to the breach of such representation or warranty are not remedied to Lessor's satisfaction within [REDACTED] days after notice to Lessee from Lessor requiring such remedy; provided that such Obligor shall have an additional [REDACTED] days to remedy such breach if the breach is capable of remedy and such Obligor is diligently seeking to remedy the breach; or

(e) **Authorizations:**

- (i) any authorization required by any Obligor to authorize, or required in connection with, the execution, delivery, validity, enforceability or admissibility in evidence of this Agreement or the performance by such Obligor of its obligations under the Operative Documents; or
- (ii) the registration of the Aircraft or the Aircraft's certificate of airworthiness; or
- (iii) any airline license or air transport license required by Lessee;

is withheld, or is revoked, suspended, cancelled, withdrawn, terminated or not renewed, or otherwise ceases to be in full force and is not, as applicable, restored, replaced, returned, re-granted or renewed within [REDACTED] Business Days; provided that in the case of any consent, authorization, license, certificate, approval, registration or declaration necessary to enable Lessee to operate as a commercial air carrier, the Aircraft is not operated by Lessee until the circumstances are so remedied; or

(f) **Insolvency:**

Other than in respect of the Bankruptcy Cases, either Obligor is, or is deemed for the purposes of any relevant Law to be, unable to pay its debts as they fall due or to be insolvent, or admits in writing its inability to pay its debts generally as they fall due; or

(g) **Liquidation and Similar Proceedings:** Other than in respect of the Bankruptcy Cases:

- (i) [REDACTED], any order (including an order for relief) is made or resolution passed or petition filed for any such composition, assignment, arrangement, rehabilitation, administration (whether out of court or otherwise), custodianship, reorganization, liquidation, dissolution or insolvency or bankruptcy proceedings, or either Obligor becomes subject to or enters into any of the foregoing; provided that if a creditor of either Obligor files an involuntary petition for either Obligor's bankruptcy or liquidation, such petition has been in effect and unstayed for at least [REDACTED] days; or

- (ii) any liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator, examiner or similar officer (in each case, whether out of court or otherwise) is appointed, or an assignment for the benefit of creditors is made, or an order for relief under the bankruptcy laws of any jurisdiction is requested by either Obligor and granted or entered, in respect of either Obligor or any of its assets; or
 - (iii) an administrative or other receiver or manager or other insolvency officer (in each case, whether out of court or otherwise) is appointed at the request of either Obligor in respect of either Obligor or any material part of its assets; or
 - (iv) an involuntary case or proceeding is commenced in a court of competent jurisdiction against either Obligor seeking liquidation, reorganization, control, supervision or other relief with respect to either Obligor or its debts under any insolvency law or seeking the appointment of a trustee, examiner, liquidator, administrator, receiver, custodian or similar official of either Obligor or any material part of the business or assets of either Obligor and such involuntary case or other proceeding shall remain un-dismissed and un-stayed for a period of [REDACTED] days.
- (h) **Other Jurisdiction:** there occurs in relation to either Obligor any event in any jurisdiction which corresponds with any of the events mentioned in Clause 19.1(g), other than in respect of the Bankruptcy Cases; or
- (i) **Rights and Remedies:** either Obligor or any other Person lawfully claiming by or through either Obligor successfully challenges the existence, validity, enforceability or priority of the rights of Lessor as owner or lessor of the Aircraft or the Financing Parties under any Security Interest or assignment in respect of the Aircraft or of this Agreement; or
- (j) **Guarantee:** Guarantor fails to make payment under the Guarantee when due thereunder within [REDACTED] Business Days after Guarantor receives written notice that such payment is due and has not been paid in accordance with the terms hereof; or
- (k) **Cessation of business:**
 - (i) either Obligor suspends or ceases or threatens to suspend or cease to carry on all or the substantial part of its business as it exists on the date of this Agreement; or
 - (ii) either Obligor ceases to carry on its business as a commercial airline operating on scheduled routes; or
- (l) **Disposal of assets:** Either Obligor disposes, conveys or transfers, or otherwise disposes of, all or substantially all of its assets other than in accordance with Clause 9.7; or
- (m) **Associated Event of Default:** An event of default (however described) has occurred under any Associated Lease; or
- (n) **Abandonment:** The Lessee abandons the Airframe or any Engine.

Notwithstanding anything herein to the contrary, Lessor agrees that the existence or continuance of the Bankruptcy Cases shall not be considered as an Event of Default for the purposes of this Clause 19.1 of this Agreement.

19.2 Lessor's Rights

- (a) **Lessor Rights and Remedies:** If an Event of Default occurs and for so long as it continues, Lessor may at its option (and without prejudice to any of its other rights or remedies under this Agreement or available under applicable Law, including under the Cape Town Convention as adopted and implemented in the State of Registration, including, all rights and remedies under Chapter III of the Cape Town Convention and Chapter II of the Protocol as adopted and implemented in the State of Registration), at any time thereafter while such Event of Default is continuing (and subject to compliance with any mandatory requirement of applicable Law then in effect):
- (i) by notice to Lessee and with immediate effect, terminate or cancel the leasing of the Aircraft or, if such leasing has not yet commenced, terminate or cancel Lessor's obligations under this Agreement (but, in each case, without prejudice to any continuing obligations of Lessee under this Agreement (including to provide Insurance, maintain and repair the Aircraft and/or redeliver the Aircraft at the location and in the condition required hereunder)), whereupon all rights of Lessee under this Agreement shall cease; and/or
 - (ii) prohibit Lessee from removing any Engine, Part or Equipment Change from the Aircraft without the prior written consent of Lessor or on such terms and conditions as Lessor may provide in writing to Lessee (the right to issue such prohibition order contained in this Clause 19.2(a)(ii) shall be exercisable by written notice from Lessor to Lessee while an Event of Default is continuing and such prohibition order shall cease automatically once all Events of Default have been cured); and/or
 - (iii) proceed by appropriate court action or actions to enforce performance of this Agreement and/or to recover damages for the breach of this Agreement; and/or
 - (iv) without terminating the leasing of the Aircraft, either:
 - (x) to the extent permitted by Law take possession of the Aircraft, for which purpose and to the extent permitted by Law, Lessor may enter any premises belonging to or in the occupation of or under the control of Lessee where the Aircraft may be located, or cause the Aircraft to be redelivered to Lessor at the Redelivery Location (or such other location as Lessor may require), and Lessor is hereby irrevocably by way of security for Lessee's obligations under this Agreement appointed attorney for Lessee in causing the redelivery or in directing the pilots of Lessee or other pilots to fly the Aircraft to that airport and will have all the powers and authorizations necessary for taking that action, and acknowledges that neither any Lessor Party nor any Financing Party shall be responsible for any loss or damage caused by it when doing so; or
 - (y) require Lessee to redeliver the Aircraft to Lessor at the Redelivery Location [REDACTED], whereupon the Lessee's right to possession of the Aircraft shall be suspended until further notice from the Lessor;

provided that, irrespective of which remedy or remedies Lessor pursues, Lessee shall not be relieved of its obligations under Clause 18 (*Redelivery*).

[REDACTED].

- (b) **Sale or Re-Lease of Aircraft:** If an Event of Default occurs and the leasing of the Aircraft hereunder is terminated, Lessor may sell or re-lease or otherwise deal with the Aircraft at such time and in such manner as Lessor considers appropriate in its sole discretion, free and clear of any interest of Lessee, as if this Agreement had never been entered into.
- (c) **Deregistration/Removal of Lease from Registry:** If an Event of Default occurs and for so long as it continues and the leasing of the Aircraft hereunder has been terminated, Lessor may, to the extent permitted by applicable law and regulations, and Lessee shall at the request of Lessor promptly assist Lessor to, take all steps necessary to remove this Agreement from the registry of the Aviation Authority and to effect deregistration of the Aircraft and its export from the country where the Aircraft is for the time being situated and any other steps necessary to enable the Aircraft to be redelivered to and re-leased or sold by Lessor in accordance with this Agreement.
- (d) **Payments:** If an Event of Default occurs, Lessor may require that Lessee pay to Lessor, and Lessee shall be liable for and immediately pay to Lessor, and Lessor may proceed by appropriate court action or actions to recover, any or all of the following amounts:

[REDACTED]
- (e) **Interest:** Require Lessee to pay, and Lessee shall pay to Lessor, interest on all unpaid amounts at the Default Rate, from the due date until the date of payment in full.
- (f) **No Exclusive Remedy:** No remedy referred to in this Clause 19.2 (*Lessor's Rights*) is intended to be exclusive, but, to the extent permissible under this Agreement or under applicable Law and provided that there shall be no duplication, each shall be cumulative and in addition to any other remedy referred to above or otherwise available to Lessor at law or in equity or under the Cape Town Convention and in Lessor's sole and absolute discretion; and the exercise by Lessor of any one or more of such remedies shall not preclude the simultaneous or later exercise by Lessor of any or all of such other remedies. No waiver by Lessor of any Event of Default shall in any way be, or be construed to be, a waiver of any future subsequent Event of Default.

19.3 **Lessor's Right To Remedy**

Following the occurrence of an Event of Default, Lessor may, without being in any way obliged to do so or responsible for so doing and without prejudice to the ability of Lessor to treat such non-compliance as an Event of Default, effect compliance on behalf of Lessee, whereupon Lessee shall indemnify the Lessor and become liable to pay immediately on demand any sums expended by Lessor together with all costs and expenses (including legal costs) in connection with the non-compliance.

19.4 **Mitigation**

Lessor shall use commercially reasonable efforts to mitigate any of its losses, costs or expenses for which Lessee is liable under this Clause 19 (*Events of Default*) in accordance with the law of the

State of New York, provided that Lessor shall not be obliged to take any step that, in its reasonable opinion, is likely to prejudice Lessor nor is Lessor obliged to achieve any particular result from taking any steps under this Clause 19.4 (*Mitigation*).

19.5 **Illegality**

- (a) If at any time there is a Change in Law binding upon Lessee or Lessor in its jurisdiction of incorporation or where it has its principal office or in any jurisdiction in which any action is required to be performed by it for the purposes of any Operative Document which renders, or which will render, it unlawful for (x) Lessee to perform any of its material obligations or to exercise any of its material rights under any Operative Document or (y) Lessor to lease the Aircraft to Lessee or perform its quiet enjoyment obligation or any payment obligation hereunder (an “**Illegality Event**”), Lessor or Lessee (as the case may be) shall forthwith provide written notice of the Illegality Event to the other party.
- (b) Lessor and Lessee shall, for a period of [REDACTED] days from the date of such notice, or such shorter period ending on the Business Day prior to the date on which such Illegality Event takes place, negotiate in good faith to mitigate the effects of such Illegality Event with a view to restructuring the transaction in a manner such that the leasing of the Aircraft to Lessee may continue on the same commercial terms as under the Operative Documents, including, without limitation, by way of amendment, novation or replacement to any Operative Document.
- (c) If Lessor and Lessee are unable to restructure the transaction as contemplated in Clause 19.5(b) within the time period set forth therein, either party may by notice in writing to the other party terminate the leasing of the Aircraft under this Agreement, such termination to take effect on the latest date on which the relevant party may continue to perform such obligations or be a party to such document without being in breach of applicable Laws or regulations, [REDACTED].
- (d) Lessor and Lessee shall bear their own costs and expenses arising out of any negotiations or restructuring pursuant to this Clause 19.5 (*Illegality*).

20. **TAXATION**

20.1 **Gross-up**

- (a) All payments by Lessee under or in connection with this Agreement shall be made without set-off or counterclaim, free and clear of and without deduction for or on account of all Taxes unless Lessee is required by Law to make any such deduction or withholding.
- (b) All Taxes (other than Lessor Taxes) in respect of payments under this Agreement shall be for the account of Lessee and shall be paid by Lessee within the period for payment permitted by Law.
- (c) If any Taxes are required to be deducted or withheld from any amount payable hereunder, Lessee shall:
 - (i) if such Tax is not a Lessor Tax, pay such additional amounts, in the same currency as such payment as may be necessary in order that the amount of such payment received on the date of such payment, after deduction or withholding for all such

Taxes (including any deduction or withholding with respect to such additional amount), will be equal to the amount that such Tax Indemnitee would have received if such Taxes had not been deducted or withheld;

- (ii) pay to the relevant authority within the period for payment permitted by applicable Laws the amount necessary to comply with its legal obligations in respect of such deduction or withholding; and
 - (iii) furnish to each Tax Indemnitee evidence of payment to the relevant authority of all amounts deducted or withheld as aforesaid, which evidence may be provided by certification of such payment by a responsible officer of Lessee if it is not possible to obtain a receipt from the relevant Tax authority.
- (d) If any payment is made by Lessee under Clause 20.1(c) or Clause 20.3, and a Tax Indemnitee in good faith determines that it has actually received a credit against, or relief or remission for, or repayment or a refund of, any Tax paid or payable by such Tax Indemnitee in respect of or calculated with reference to Taxes or deduction or withholding giving rise to such payment, such Tax Indemnitee shall, to the extent that it can do so without prejudice to the retention of the amount of such credit, relief, remission or repayment and without leaving such Tax Indemnitee in any worse position than that in which it would have been had such deduction or withholding not been required to be made, pay to Lessee such amount as such Tax Indemnitee shall in good faith have determined to be attributable to the relevant Taxes, deduction or withholding.

Nothing in this Clause 20.1(d) shall:

- (i) interfere with the right of Lessor to arrange its tax affairs in whatever manner it thinks fit and, in particular, but without limitation, Lessor shall not be under any obligation to claim credit, relief, remission or repayment from or against its corporate profits or similar Tax liability in respect of the amount of any such deduction or withholding in priority to any other claims, reliefs, credits or deductions available to Lessor; or
- (ii) oblige Lessor to disclose any information relating to its Tax affairs or any computations in respect thereof.

20.2 Covenant to Pay Taxes

Lessee shall promptly pay when due:

- (a) all Taxes (other than Lessor Taxes) imposed by any Government Entity with respect to the Aircraft, including without limitation the ownership, presence, delivery, leasing, possession, use, operation, maintenance, storage, registration, redelivery, import, export, sale or other disposition of the Aircraft; and
- (b) all Taxes (other than Lessor Taxes) in respect of any premises where the Aircraft, any Engine or any Part thereof is located from time to time,

except to the extent that such payment is being contested in good faith by appropriate proceedings, in respect of which adequate resources have been provided by Lessee and non-payment of which

does not give rise to any material risk of the Aircraft or any interest therein being sold, forfeited or otherwise lost or any risk of criminal liability on the part of Lessor or any Financing Party.

20.3 Tax Indemnity

- (a) Lessee agrees to be liable for, and to indemnify and hold harmless each Tax Indemnatee against all Taxes (other than Lessor Taxes) levied or imposed against or upon any Tax Indemnatee or Lessee or the Aircraft and relating to or attributable to Lessee, this Agreement, or the Aircraft or directly or indirectly in connection with the possession, delivery, purchase, sale, transfer, location, existence, importation, transportation, pooling, interchange, leasing, subleasing, wet leasing, chartering, storage, registration, insurance, replacement, maintenance, modification, refurbishment, condition, service, repair, overhaul, control, management, ownership, presence, use, operation, exportation or redelivery of the Aircraft, any Engine or any Part or any part thereof or any rent, receipts, insurance proceeds, income or other amounts arising therefrom, or the making of any Equipment Change.
- (b) The provisions of Clause 20.3(a) shall not apply to, and Lessee shall have no liability to any Tax Indemnatee in respect of, any Tax to the extent that such Tax (a “**Lessor Tax**”):
 - (i) arises solely as a result of the Gross Negligence or willful misconduct any Tax Indemnatee; or
 - (ii) is imposed as a result of a Lessor Lien; or
 - (iii) is imposed with respect to any period commencing or event occurring before the Aircraft has been delivered to Lessee or after the Aircraft has been redelivered to Lessor and is no longer subject to this Agreement unless such Tax is attributable to any act, omission, event or circumstance which occurred during the Term and would not have constituted a “Lessor Tax” had it arisen during the Term; or
 - (iv) arises solely from the breach by any Tax Indemnatee of this Agreement but excluding any such breach which is attributable to or arises out of any Event of Default; or
 - (v) is imposed as a result of any connection between that Tax Indemnatee and the jurisdiction imposing the Tax that is unrelated to the transactions contemplated by this Agreement or the use or operation of the Aircraft by Lessee or any Permitted Sublessee, or the location or registration of the Aircraft by Lessee or any Permitted Sublessee; or
 - (vi) is imposed or levied on or measured by or with respect to the net income, profits, capital gains, capital, net worth or franchise tax of any Tax Indemnatee by any Government Entity in the United States of America or Ireland or any jurisdiction where any Tax Indemnatee (x) is organized or incorporated, (y) is a resident under the Law of that jurisdiction for Tax purposes or (z) has a principal place of business; or
 - (vii) is imposed in connection with the sale, transfer, assignment (whether legal or equitable) or other disposition by any Tax Indemnatee or Lessor Party of any or all

of its rights, title and interest in or with respect to the Aircraft, the Airframe, any Engine or any Part or this Agreement or any other Operative Document; or

- (viii) is imposed on such Tax Indemnatee due to the failure of any Tax Indemnatee to file any relevant tax return or tax computation that such Tax Indemnatee was obliged to file by the applicable law in its jurisdiction of organization unless relating to a Tax otherwise indemnified pursuant to this Clause 20.3 (*Tax Indemnatee*) and imposed as a result of Lessee's breach of Clause 20.3(c); or
 - (ix) is imposed on such Tax Indemnatee with respect to its employees or independent contractors; or
 - (x) results from a change by any Tax Indemnatee or Lessor Party of its principal place of business, participating office, jurisdiction of organization or tax residence; or
 - (xi) is imposed on any Assignee (i) if such Tax would not have been imposed on the Lessor, or (ii) to the extent such Tax exceeds the Tax that would have been imposed on the Lessor; or
 - (xii) is imposed on or payable by any Tax Indemnatee that would not have been imposed or payable but for the existence of the Financing Documents except Taxes imposed as a result of (A) the Gross Negligence or willful misconduct of Lessee or any other user of the Aircraft or (B) a breach by Lessee of any of its representations or covenants under this Agreement.
- (c) Lessee will provide each Tax Indemnatee such information as may reasonably be requested by such Tax Indemnatee to enable it to fulfill its Tax filing or other information reporting requirements with respect to the transactions contemplated by this Agreement. If any report, return or statement is required to be made with respect to any Tax which is subject to indemnification under this Clause 20.3 (*Tax Indemnatee*), Lessee will promptly notify Lessor of the requirement, and:
- (i) if permitted by applicable Law, make and file in a timely manner such report, return or statement (except for any report, return or statement that Lessor has notified Lessee that Lessor or any other Tax Indemnatee intends to prepare and file), prepare such return in such manner as will indicate Lessor as owner and lessor of the Aircraft if required or appropriate, and provide Lessor upon request with a copy of each such report, return or statement filed by Lessee, or
 - (ii) if Lessee is not permitted by applicable Law to file any such report, return or statement, Lessee will prepare and deliver to Lessor a proposed form of such report, return or statement within a reasonable time prior to the time such report, return or statement is to be filed.

20.4 Notice and Contest Rights.

- (a) If a written notice of any claim is made against any Tax Indemnatee for any Taxes for which Lessee is required to pay or against which Lessee is required to indemnify such Tax Indemnatee pursuant to Clause 20.3(a) or Clause 20.1, such Tax Indemnatee shall promptly notify Lessee thereof in writing; provided that a failure to so notify will not diminish, or relieve Lessee of, any obligations thereunder, except to the extent Lessee's or such Tax

Indemnatee's successful defense of such claim is prejudiced thereby or Lessee's liability for costs or Taxes is increased. If reasonably requested by Lessee in writing within [REDACTED] days of Lessee's receipt of notice of such claim, and to the extent that there are means available by which to do so, such Tax Indemnatee shall, provided that no Event of Default shall have occurred and be continuing, in good faith diligently contest by pursuing all administrative appeals in the name of such Tax Indemnatee or, in such Tax Indemnatee's discretion if requested by Lessee, contest in the name of Lessee (or permit Lessee, in such Tax Indemnatee's discretion if requested by Lessee, to contest in the name of Lessor) the validity, applicability or amount of such Taxes by (i) resisting payment thereof, if practicable, (ii) paying the same only under protest, if protest is necessary and proper or (iii) if payment shall be made, seeking a refund thereof in appropriate administrative proceedings; provided that (A) prior to taking such action Lessee shall have agreed to indemnify, and shall indemnify on demand, such Tax Indemnatee in a manner reasonably satisfactory to such Tax Indemnatee for all costs and expenses which such Tax Indemnatee may incur in connection with contesting such claim (including all reasonable legal and accountants' fees and disbursements and the amount of any interest, penalties or additions to tax which may be payable as a result of contesting such claim), (B) such Tax Indemnatee shall have determined in good faith that such contest shall not result in any material risk of sale, forfeiture or loss of, or creation of any Lien on, the Aircraft, (C) if such contest is to be initiated by the payment of, and the claiming of a refund for, such Taxes, Lessee shall have advanced to such Tax Indemnatee sufficient funds (on an interest-free basis and, if such Tax Indemnatee shall have determined in good faith that such advance results in taxable income to such Tax Indemnatee, on an after-tax basis) to make such payment, (D) such Tax Indemnatee shall have received an opinion of independent tax counsel selected by such Lessee and reasonably acceptable to Tax Indemnatee that a reasonable basis exists for such contest, (E) in the case of a contest conducted by a Tax Indemnatee and not Lessee, the amount of the potential indemnity for which Lessee may be liable to pay such Tax Indemnatee under Clause 20.3(a) exceeds US\$[REDACTED] or the equivalent thereof and (F) the contest is not for a Tax, the imposition of which has been previously contested by Lessee or such Tax Indemnatee, and such contest (including all allowable appeals) was decided adversely to Lessee or such Tax Indemnatee and no change in facts or Law has occurred since then. Nothing contained in this Clause 20.4(a) shall require any Tax Indemnatee to contest, or permit Lessee to contest in the name of such Tax Indemnatee, a claim which such Tax Indemnatee would otherwise be required to contest pursuant to Clause 20.3(a) if such Tax Indemnatee shall waive payment by Lessee of any amount that might otherwise be payable by Lessee under Clause 20.3(a) in connection with such claim.

- (b) Each Tax Indemnatee agrees that it shall, as soon as reasonably practicable after it becomes aware of any circumstances which shall, or could reasonably be expected to, become the subject of a claim for indemnification by such Tax Indemnatee pursuant to Clause 20.3(a) or require Lessee to indemnify or pay an amount under Clause 20.5 (*Value Added Tax*) or make an increased payment pursuant to Clause 20.1 (*Gross-Up*), notify Lessee in writing accordingly, provided that a failure to so notify will not diminish, or relieve Lessee of, any obligations hereunder or diminish the rights of the Tax Indemnatee. Similarly, Lessee shall, as soon as reasonably practicable after it becomes aware of any circumstances which shall, or would reasonably be expected to, result in a claim for indemnification under Clause 20.3(a) or require Lessee to indemnify or pay an amount under or Clause 20.5 (*Value Added Tax*) or make an increased payment pursuant to Clause 20.1 (*Gross-up*), notify Lessor in writing accordingly. Provided no Event of Default is then continuing, Lessor and Lessee shall then consult with one another in good faith, for a period of up to [REDACTED] days

in order to determine what action (if any) may reasonably be taken to mitigate or avoid the incidence of the relevant Taxes (and Lessee shall pay Lessor's reasonable out of pocket expenses (including legal fees) in relation to any such consultations). Lessor shall then take such steps as it agreed during such consultation to take for that purpose, provided always that (i) it is fully indemnified by Lessee to Lessor's satisfaction (acting reasonably) for so doing, (ii) it shall not be required to take, or omit to take, any action, if the effect of such action or omission would reasonably be expected to adversely affect Lessor or would be contrary to applicable law, (iii) Lessor shall not be responsible for or obliged to achieve any particular result from the taking of such steps and (iv) nothing in this Clause 20.4(b) shall require Lessor to disclose or interfere with its tax affairs.

20.5 Value Added Tax

- (a) For the purposes of this Clause 20.5 (*Value Added Tax*):
 - (i) “VAT” means value added tax and any goods and services, sales or turnover tax, imposition or levy of a like nature; and
 - (ii) “supply” includes anything on or in respect of which VAT is chargeable.
- (b) Lessee shall pay to each Tax Indemnitee (without duplication) or the relevant taxing authority, as the case may be, the amount of any VAT chargeable in respect of any supply for VAT purposes under this Agreement except to the extent such VAT is a Lessor Tax.
- (c) Each amount stated as payable by Lessee under this Agreement is exclusive of VAT (if any), and if VAT is payable in respect of any amount as aforesaid, Lessee shall pay all such VAT and shall indemnify each Tax Indemnitee against any claims for the same (and where appropriate Lessee shall increase the payments which would otherwise be required to be made under this Agreement so that such Tax Indemnitee is left in the same position as it would have been in had no VAT been payable); and Lessee shall provide evidence to such Tax Indemnitee, if available, in respect of payment of any such VAT.

20.6 Information regarding Taxes

- (a) If Lessee is required by any applicable Laws, or by any third party, to deliver any report or return in connection with any Taxes, Lessee shall complete the same and shall state therein (if appropriate) that Lessee is exclusively responsible for the use and operation of the Aircraft and for any Taxes arising therefrom, and Lessee shall, on request supply a copy of the report or return to Lessor.
- (b) Lessee shall within [REDACTED] days after Lessor's written request, furnish to Lessor evidence reasonably satisfactory to Lessor of payment of all Taxes arising in connection with or as a result of the transactions contemplated by this Agreement requiring payment within any PBH Rent Period or Fixed Rent Period, including, without limitation, copies of receipts from the relevant Government Entities for payments of withholding taxes, any Sales Taxes, any VAT and payment of customs duties.
- (c) Prior to the Lease Commencement Date and as soon as practicable following a request from Lessee, but in any case within the first [REDACTED] days of each calendar year during the Term, Lessor or if different, the Rent beneficiary, shall deliver to Lessee a certification from the appropriate governmental tax authority confirming Lessor's (or, if

applicable, such Rent beneficiary's) residency for tax purposes in its jurisdiction of tax residence, being in a jurisdiction with which Mexico has an income tax treaty for the avoidance of double taxation, and provided it remains the practice of the relevant governmental tax authority to provide such certification. In addition to the foregoing, Lessor agrees to furnish, and to procure that any other relevant Tax Indemnatee furnishes, from time to time to Lessee or to such other Person as Lessee may designate, at Lessee's request and expense, such other duly executed and properly completed forms by each Tax Indemnatee as such Tax Indemnatee may be permitted and legally able to deliver and as may be necessary or appropriate in order to claim any reduction of, or exemption from any Tax which Lessee may be required to indemnify against hereunder, unless such Tax Indemnatee determines that furnishing such forms would or could reasonably be expected to have an adverse effect on the business or operations of such Tax Indemnatee.

20.7 **Taxation of Indemnity Payments**

- (a) If and to the extent that any sums payable to any Indemnatee or any Tax Indemnatee by Lessee under this Agreement by way of indemnity or otherwise under this Agreement are insufficient, by reason of any Taxes payable in respect of those sums, for such Indemnatee or such Tax Indemnatee to discharge the corresponding liability to the relevant third party (including any taxation authority), or to reimburse such Indemnatee or such Tax Indemnatee for the cost incurred by it to a third party (including any taxation authority), Lessee shall pay to such Indemnatee or such Tax Indemnatee such sum as will after the tax liability has been fully satisfied leave that Indemnatee or such Tax Indemnatee with the same after-tax amount as it would have been entitled to receive in the absence of that liability.
- (b) If and to the extent that any sums constituting (directly or indirectly) an indemnity or other payment under this Agreement to an Indemnatee or a Tax Indemnatee but paid by Lessee to any Person other than such Indemnatee or such Tax Indemnatee are treated as taxable in the hands of such Indemnatee or such Tax Indemnatee, Lessee shall pay to such Indemnatee or such Tax Indemnatee such sum as will, after the tax liability has been fully satisfied at the applicable marginal rate in such jurisdiction, indemnify such Indemnatee or such Tax Indemnatee to the same extent as it would have been indemnified in the absence of such liability.

20.8 **Notification**

Each Tax Indemnatee shall notify Lessee in writing of any Taxes of which such Tax Indemnatee has received written notice from a Tax authority as being payable and for which Lessee is obligated to indemnify or pay under this Clause 20 (each a "**Tax Claim**"); provided, however, the delay or failure of such Tax Indemnatee to give notice to Lessee in accordance with this Clause 20.8 (*Notification*) will not discharge or release Lessee from any of its indemnity obligations under Clause 20 (*Taxation*) except, and only to the extent, that such delay or failure results in additional amounts payable by Lessee which amounts would not have been imposed in the absence of such delay.

20.9 **Verification**

At Lessee's written request within thirty (30) days following Lessee's receipt of any Tax Indemnatee's claim for an indemnity pursuant to this Clause 20 (*Taxation*), or of an amount otherwise payable on an after-Tax basis pursuant to this Agreement, the amount of such claim shall be subject to confidential verification in writing by an internationally recognized firm of certified

public accountants selected by Lessee and reasonably acceptable to such Tax Indemnatee. The accounting firm shall be requested to complete its review within thirty (30) days of Lessee's request for such verification. The computations of such accounting firm shall (i) be delivered simultaneously to Lessee and such Tax Indemnatee and (ii) absent prima facie error, be final, binding and conclusive upon Lessee and such Tax Indemnatee. If Lessee pays any indemnity in whole or in part before completion of the verification procedure, appropriate adjustments will be made promptly after completion of the verification procedure to take into account any redetermination of the indemnity by the accounting firm. The fee and disbursements of such accounting firm shall be paid by Lessee unless such verification shall disclose an error in such Tax Indemnatee's claimed indemnity amount in favor of such Tax Indemnatee exceeding ten percent, in which case such fee and disbursements shall be paid by such Tax Indemnatee. Lessee and such Tax Indemnatee shall cooperate with such accounting firm and (subject to such accounting firm's execution of a confidentiality agreement reasonably satisfactory to Lessee and such Tax Indemnatee) shall supply such accounting firm with all information reasonably necessary to permit such review and determination.

20.10 Duration

The obligations and indemnities contained in this Clause 20 (*Taxation*) shall continue in full force after the expiration, cancellation or termination of this Agreement notwithstanding any breach or repudiation of this Agreement by Lessor or Lessee or the termination of the leasing of the Aircraft under this Agreement.

21. ASSIGNMENT AND TRANSFER

21.1 By Lessee

Except as expressly permitted by the terms hereof (including without limitation, Clause 10.3 (*Subleasing*)) Lessee may not assign, delegate or otherwise transfer (voluntarily, involuntarily, by operation of law or otherwise) any of its rights or obligations under this agreement or create or permit to exist any Security Interest over any of its rights under this Agreement, and any attempt to do so will be null and void unless the Lessor has first given its written consent in its absolute discretion.

21.2 Lessor Transfer

- (a) Without any consent of Lessee other than as provided in Clause 21.2(d), Lessor may at its own expense assign or grant a Security Interest over the Aircraft or any interest therein and/or Lessor may assign or grant a Security Interest over all or any part of its rights under this Agreement and any other Operative Document or any interest therein, in either case, by way of security to any other Person (an "**Assignee**"); provided that:

[REDACTED].

- (b) Without any consent of Lessee other than as provided in Clause 21.2(d), Lessor may at its own expense transfer the Aircraft and its interest therein and/or transfer and/or assign all or any part of its rights and obligations under this Agreement and any other Operative Document to any Person (a "**Transferee**"); provided that:

- (i) [REDACTED].

- (c) Lessee shall upon request from Lessor and at the expense of Lessor cooperate in effecting any assignment or transfer referred to in subclause (a) or (b) above and will execute any agreements or other instruments reasonably requested by Lessor in form and substance reasonably satisfactory to Lessee (including, without limitation, (i) any supplement or amendment to or novation of this Agreement, (ii) any acknowledgment of any assignment of Lessor's rights under this Agreement in favour of Owner or any relevant Financing Party, on terms customary in aircraft financing transactions, and (iii) any amendments to the Insurances effected in respect of the Aircraft to ensure continued compliance with the requirements of Clause 15 with regard to the interests of Owner and such Financing Party, and shall provide to Lessor updated documentation evidencing such amendments) and if the transfer involves the assumption by the Transferee of any of Lessor's obligations under this Agreement or the other Operative Documents to which Lessee is a party, release Lessor from the obligations so assumed and will execute such certificates and shall provide such corporate documents as shall be reasonably requested by Lessor for the purposes of Lessor obtaining a legal opinion in respect of Lessee's due execution and due authorization of the transfer documents. Lessor agrees to reimburse Lessee for its reasonable and documented out-of-pocket costs and expenses (including legal fees) and any Taxes thereon, in connection with any assignment or transfer referred to in subclause (a) or (b).
- (d) For the purpose of Article 33(1) of the Cape Town Convention and Article XV of the Protocol, and without prejudice to the preceding provisions of this Clause 21.2 (*Lessor Transfer*) to the extent applicable, Lessee hereby consents in advance to the transfer of the associated rights and related international interests in respect of any assignment or sale by Lessor or the granting of any Security Interest by Lessor in accordance with this Agreement.
- (e) For the avoidance of doubt, subject to Lessor complying with the requirements of Clause 21.2(a), Lessor may at any time enter into any financing arrangements with respect to the Aircraft pursuant to which (A) Lessor may assign its rights under this Agreement and the other Operative Documents (by way of security) to Owner or to the Financing Parties, and (B) Owner may execute a mortgage over the Aircraft in favour of the Financing Parties; and Lessor agrees to reimburse Lessee for its reasonable and documented out-of-pocket costs and expenses (including legal fees) and any Taxes thereon, in connection with any such assignment or transfer referred to in subclause (e).
- (f) Except as permitted in this Clause 21.2 (*Lessor Transfer*), none of Lessor will assign or otherwise transfer (voluntarily, involuntarily, by operation of law or otherwise) any of its rights in and to the Aircraft or any of its rights and obligations under or any Operative Document or permit to exist any Security Interest over any of the foregoing, and any attempt to do so will be null and void *ab initio*.

22. MISCELLANEOUS PROVISIONS

22.1 Rights Cumulative, Waivers

The rights of Lessor under this Agreement may be exercised as often as Lessor considers appropriate (except as otherwise expressly stated herein), are cumulative and are in addition to its rights under any Law. The rights of Lessor against Lessee or in relation to the Aircraft (whether arising under this Agreement or any Law) cannot be waived or varied other than by an express waiver or variation in writing. 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 Lessor'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.

22.2 Delegation

Lessor may delegate to any Person or Persons all or any of its rights, powers or discretions vested in it by this Agreement, and any such delegation may be made upon such terms and conditions and subject to such regulations (including power to sub-delegate) as Lessor deems fit; provided, however, that notwithstanding any such delegation, Lessor shall at all times remain primarily liable for the obligations of "Lessor" hereunder.

22.3 Expenses

Each of Lessor and Lessee shall pay its own costs and expenses (including legal fees) in connection with the negotiation of this Agreement and the other Operative Documents. Lessee shall pay to Lessor on demand all expenses (including legal, professional, and out-of-pocket expenses) incurred or payable by Lessor in connection with the enforcement or preservation of any of Lessor's rights or remedies under this Agreement in connection with and following any Event of Default. On the Lease Commencement Date, Lessee will issue, at no cost to Lessor, a customary in-house legal opinion as to Mexican law matters. If Lessor requires an external Mexican legal opinion, Lessor shall be responsible for the cost of obtaining such legal opinion from Mexican counsel of its choosing. For the avoidance of doubt, the cost of registering the Aircraft (if not already registered) will be borne by Lessee.

22.4 Provisions of Cape Town Convention

Except to the extent expressly provided herein, any terms of this Agreement which expressly incorporate any provisions of the Cape Town Convention shall prevail in the case of any conflict with any other provision contained herein. Each of the parties hereto acknowledges and agrees that for purposes of the Cape Town Convention (to the extent applicable hereto), separate rights may exist with respect to the Airframe and Engines.

22.5 Time of Essence

The time stipulated in this Agreement for all payments by Lessee to Lessor and for the prompt performance of Lessee's other obligations under this Agreement are of the essence of this Agreement.

22.6 Entire Agreement

This Agreement and the other Operative Documents constitute the sole and entire agreement between Lessor and Lessee in relation to the leasing of the Aircraft and supersede all previous agreements in relation to that leasing. Any amendments to this Agreement must be in writing and signed on behalf of Lessor and Lessee.

22.7 Rights of Third Parties

- (a) All rights expressed to be granted to each Indemnatee or Tax Indemnatee (other than Lessor) under this Agreement are given to Lessor on behalf of that Indemnatee or Tax Indemnatee,

and each Indemnitee or Tax Indemnitee is an express third party beneficiary hereof. Except for Lessor, each Indemnitee and each Tax Indemnitee, no other Person shall be a third party beneficiary of this Agreement.

- (b) Any Tax Indemnitee or Indemnitee who is not a party to this Agreement may enforce the terms of this Agreement expressed to be for its benefit or given by Lessee to or in favor of such Tax Indemnitee or Indemnitee.
- (c) All terms of this Agreement may be varied, amended or otherwise released by an agreement between Lessor and Lessee without reference to any Indemnitee or Tax Indemnitee.
- (d) If an Indemnitee or Tax Indemnitee is not a party to this Agreement, Lessee may require such Indemnitee or Tax Indemnitee to agree in writing, in a form reasonably acceptable to Lessee, to the terms of Clause 14 (*Indemnities*) and Clause 20 (*Taxation*), as the case may be, prior to making any payments to such Indemnitee or Tax Indemnitee under Clause 14 (*Indemnities*) or Clause 20 (*Taxation*), as the case may be.

22.8 Counterparts

This Agreement may be executed in two or more counterparts each of which will be deemed an original but all of which together will constitute one and the same agreement.

22.9 Language

All notices, requests, direction and other communications to be given under this Agreement will be in English. Unless otherwise provided herein, all documents delivered to Lessee and Lessor pursuant to this Agreement will be in English or, if not in English, will be accompanied by a certified English translation (except for Lessee's organizational documents, corporate approvals and other authorizations or documents issued by any authority). If there is any inconsistency between the English version of this Agreement and any version in any other language, the English version will prevail.

22.10 Confidentiality

This Agreement, the terms hereof and all non-public information obtained by a party about any party are confidential and are among Lessor, and Lessee only. Lessor, and Lessee shall not, and shall procure that their respective officers, employees and agents shall not, disclose the contents of this Agreement or such nonpublic information to any third party (other than (a) to such party's or its Affiliates' insurer or insurance broker, auditors, legal advisors, regulators, financial advisors and rating agencies; (b) in connection with any filing or disclosure of this Agreement in accordance with, or as required by, any applicable Regulation; (c) in connection with Lessor's potential sale, financing, refinancing of or related to the Aircraft and/or transfer or assignment of this Agreement; provided that any recipient of any such confidential information in such case shall be subject to a duty of confidentiality to a Lessor Party or as a condition precedent to receipt of the information execute and deliver a confidentiality agreement containing terms no less stringent than the terms of this Clause 22.10 (*Confidentiality*); or (d) as required for enforcement by either party of its rights and remedies with respect to this Agreement), without the prior written consent of the other party. If any disclosure will result in the Agreement becoming publicly available, Lessor and Lessee will cooperate with one another to obtain confidential treatment or limit the scope of disclosure as to the commercial terms and other material provisions of this Agreement. Notwithstanding the foregoing, Lessee may disclose this Agreement (i) as may be required to obtain the Bankruptcy

Court's approval of this Agreement; or (ii) to the U.S. Trustee, the Unsecured Creditors Committee or the entities providing the debtor-in-possession financing to Lessee, its Affiliates and any of their respective related persons.

22.11 Invalidity of any Provision

If any provision of this Agreement becomes invalid, illegal or unenforceable in any respect under any Law, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

22.12 Survival

All indemnities, representations and warranties of Lessee and Lessor shall survive, and remain in full force and effect, notwithstanding the expiration or other termination of this Agreement and/or the leasing of the Aircraft hereunder.

22.13 Further Assurance

- (a) Each of the parties agrees to perform (or procure the performance of) all further acts and things within its control, and execute and deliver (or procure the execution and delivery of) such further documents, as may be required by applicable Laws or as may be necessary or reasonably desirable to implement and/or give effect to this Agreement and the transactions contemplated by this Agreement.
- (b) Except as otherwise expressly set forth herein, the out-of-pocket costs and expenses of performing the acts contemplated by sub-clause (a) above shall be borne by the requesting party.

22.14 No Brokers

Except for SkyWorks Capital, LLC (whose fees and expenses are the sole responsibility of Lessee), each of the parties represents and warrants to the other that it has not paid, agreed to pay, or caused to be paid directly or indirectly to any Person in any form, any commission percentage contingent fee, brokerage or other similar payments of any kind, in connection with the establishment or operation of this Agreement. Each party agrees to indemnify and hold the other harmless from and against any and all claims, suits, damages, costs and expenses (including, reasonable legal fees and expenses) asserted by any agent, broker or other third party for any commission or compensation of any nature whatsoever based upon this Agreement or the Aircraft, if such claim, suit, damage, cost or expense arises out of any breach by the indemnifying party, its employees or agents of this Clause 22.14 (*No Brokers*).

22.15 Chattel Paper

To the extent, if any, that this Agreement constitutes chattel paper (as such term is defined in the UCC as in effect in any applicable jurisdiction), no Security Interest in this Agreement may be created through the transfer or possession of any counterpart other than the original counterpart, which shall be identified as the counterpart designated as the "chattel paper original" on the signature page of this Agreement by the Financing Parties Representative (if any) or Lessor, as the case may be.

22.16 True Lease

The parties intend and agree that this Agreement:

- (a) constitutes a “true lease”, and not a “security interest” as defined in Section 1-201(37) of the UCC;
- (b) to the extent applicable, constitutes a “true lease” for United States federal income tax purposes; and
- (c) confers only a leasehold interest on Lessee in and to the Aircraft on and subject to the terms of this Agreement, and no ownership or other interest with respect to the Aircraft is provided to Lessee under this Agreement.

Lessee shall not file a tax return that is inconsistent with the provisions of this Clause 22.16 (*True Lease*).

22.17 Know Your Customer/OFAC Compliance

- (a) Each party represents, warrants and agrees that neither it nor any of its Affiliates is in violation of any Law relating to terrorism or money laundering enacted or promulgated by the United Nations, the European Union, the United States of America or Mexico (“**Anti-Terrorism Laws**”), including Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the “**Executive Order**”), and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56 (the “**Patriot Act**”).
- (b) Each party represents, warrants and agrees that it is not any of the following:
 - (i) a person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;
 - (ii) a person owned or controlled by, or acting for or on behalf of, any person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;
 - (iii) a person that commits, threatens or conspires to commit or supports “terrorism” as defined in the Executive Order; or
 - (iv) a person that is named as a “special designated national and blocked person” on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control (“**OFAC**”) at its official website or any replacement website or other replacement official publication of such list.
- (c) Each party represents, warrants and agrees that it does not and for the Term shall not
 - (i) conduct any business or engage in making or receiving any contribution of funds, goods or services to or for the benefit of any person described in the preceding clause (b), (ii) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order or any similar laws of Mexico, or (iii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading

or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

22.18 USA Patriot Act Notice

Lessee agrees that pursuant to the requirements of the Patriot Act, Lessor may obtain, verify, and record information from Lessee that identifies Lessee, which information may include the name and address of Lessee, and its officers, directors and shareholders, and other information that will allow Lessor to identify Lessee in accordance and for purposes of compliance with the Patriot Act.

22.19 Prepetition General Unsecured Damage Claims

Notwithstanding anything to the contrary set forth herein or in any other Operative Document, the parties agree and stipulate that (i) the Lessor Parties shall be deemed to hold an allowed general unsecured non-priority prepetition claim against the bankruptcy estate of Lessee in the amount of \$9,278,740 (the “**Prepetition Damages Claim**”) as damages for any prepetition breach, default or termination event under the Prior Lease (the “**Prepetition Breaches**”) or for any modification as contemplated herein of the Prior Lease, (ii) no breach, default, termination event or other like consequence will arise hereunder based upon the Prepetition Breaches or based upon the filing or continuance of the Bankruptcy Cases themselves, and (iii) the Prepetition Damages Claim is freely transferable by the Lessor Parties, in whole or in part, at any time before or after the confirmation of Lessee’s Chapter 11 plan of reorganization.

23. NOTICES; ELECTRONIC SIGNATURES

23.1 Every notice, request, direction or other communication under this Agreement shall be in English and be in writing delivered personally or sent with an internationally recognized courier service or by electronic mail (including PDF) and shall be deemed to have been received:

- (a) in the case of a letter when delivered personally or where sent with an internationally recognized courier service, on the date shown as the delivery date (or, if delivery was refused, the date of such refusal) in the records of the Person who effected such delivery; or
- (b) in the case of an electronic mail, at the time of dispatch with confirmed receipt,

provided always that where delivery by hand or by electronic email occurs after 6:00 p.m. on a Business Day, or on a day which is not a Business Day, service shall be deemed to occur at 9:00 a.m. on the next Business Day.

23.2 Every notice, request, direction or other communication under this Agreement shall be sent:

To Lessor at:

Address:	No. 1 Grants Row Lower Mount Street Dublin 2 Ireland
Attention:	The Directors
Email:	assetmanagement@truenoord.com

with a copy to:

TrueNoord Holdings B.V.
Schiphol Boulevard 381
1118 BJ Schiphol
The Netherlands

Email: assetmanagement@truenoord.com
For the attention of: Management

To Lessee at:

Address: Aerovías de México, S.A. de C.V.
Paseo de la Reforma, No. 243, Piso 25
Colonia Cuauhtémoc
Alcaldía Cuauhtémoc
Mexico City, 06500
Mexico
Attention: Legal Department and Fleet Department
Facsimile: 52-55-9132-5079
Email: malvarez@aeromexico.com
amnotificacionesjuridico@aeromexico.com

or any substitute address, email address or fax number or department or officer as the relevant party may notify to the other party by not less than five (5) Business Days' notice.

- 23.3 In connection with the performance of their respective duties hereunder, each party may give notices, consents, directions, approvals, instructions and requests to, and otherwise communicate with, each other using electronic means, including email transmission to such email addresses as each such party shall designate to the other parties, and, if necessary or if requested by the other party or parties, with an "electronic signature" or other "electronic record" (as such terms are defined in the New York State Electronic Signatures and Records Act). Delivery of an executed counterpart of this Agreement or any other Operative Document by facsimile, email, "electronic signature" or other "electronic record" will be deemed as effective as delivery of an originally executed counterpart. Any party delivering an executed counterpart of this Agreement or any other Operative Document by facsimile, email, "electronic signature" or other "electronic record" will also deliver an originally executed counterpart thereof, but the failure of any party to deliver an originally executed counterpart of this Agreement or any other Operative Document will not affect the validity or effectiveness of this Agreement or such other Operative Document.

24. GOVERNING LAW, JURISDICTION AND WAIVER OF JURY TRIAL

24.1 Governing Law

PURSUANT TO AND IN ACCORDANCE WITH SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW, THE PARTIES HERETO AGREE THAT THIS AGREEMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT, AND ALL ISSUES CONCERNING THE RELATIONSHIP OF THE PARTIES HEREUNDER AND THE ENFORCEMENT OF THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK AS

APPLIED TO CONTRACTS TO BE PERFORMED WHOLLY WITHIN THE STATE OF NEW YORK (EXCLUSIVE OF SECTION 7-101 OF THE NEW YORK GENERAL OBLIGATIONS LAW WHICH IS INAPPLICABLE TO THIS AGREEMENT) WITHOUT REGARD TO ANY CONFLICTS OF LAW PRINCIPLES. THE PARTIES AGREE THAT THIS AGREEMENT WAS DELIVERED IN THE STATE OF NEW YORK.

THE FOREGOING ELECTION OF THE LAWS OF THE STATE OF NEW YORK IS WITHOUT PREJUDICE TO THE RIGHT OF LESSOR TO APPLY THE LAWS OF THE FEDERAL DISTRICT OF MEXICO TO ANY REPOSSESSION OR OTHER ENFORCEMENT OF RIGHTS UNDER THIS AGREEMENT WHILE THE AIRCRAFT IS LOCATED IN MEXICO.

24.2 Jurisdiction

Pursuant to and in accordance with Section 5-1402 of the New York General Obligations Law, Lessee and Lessor each irrevocably agrees that (i) the United States District Court for the Southern District of New York sitting in The Borough of Manhattan and any New York state court sitting in the County of New York, New York, and all related appellate courts, and (ii) the courts of the jurisdictions in which the Aircraft at the relevant time is located in the case of enforcement proceedings in respect of remedies hereunder, have exclusive jurisdiction to settle any disputes arising out of or relating to this Agreement or any of the other Operative Documents and submits itself and its property to the jurisdiction of the foregoing courts with respect to such dispute, hereby waiving any other jurisdictions which may be available thereto by reason of domicile or otherwise.

24.3 Process Agent

(a) Without prejudice to any other mode of service, Lessee:

- (i) appoints Cogency Global Inc., at 10 E. 40th Street, 10th Floor, New York, New York 10016, as its agent for service of process relating to any proceedings before the New York courts described in Clause 24.2 (*Jurisdiction*) in connection with this Agreement and agrees to maintain the process agent in New York notified to Lessor;
- (ii) agrees that failure by a process agent to notify Lessee of the process shall not invalidate the proceedings concerned; and
- (iii) consents to the service of process relating to any such proceedings by prepaid mailing or by personal delivery of a copy of the process to Lessee's agent at the address identified in Clause 24.3(a)(i) above or by facsimile or prepaid mailing by air mail, certified or registered mail, or by personal delivery, of a copy of the process to Lessee at the address set forth in Clause 23.2.

(b) Without prejudice to any other mode of service, Lessor:

- (i) appoints Corporate Creations Network Inc., 600 Mamaroneck Avenue #400, Harrison, NY 10528, Westchester County, as its agent for service of process relating to any proceedings before the New York courts described in Clause 24.2 (*Jurisdiction*) in connection with this Agreement and agrees to maintain the process agent in New York notified to Lessee;

- (ii) agrees that failure by a process agent to notify Lessor of the process shall not invalidate the proceedings concerned; and
- (iii) consents to the service of process relating to any such proceedings by prepaid mailing or by personal delivery of a copy of the process to Lessor's agent at the address identified in Clause 24.3(b)(i) above or by facsimile or prepaid mailing by air mail, certified or registered mail, or by personal delivery, of a copy of the process to Lessor at the address set forth in Clause 23.2.

24.4 **Waiver of Objections**

Each of Lessee and Lessor:

- (a) waives to the fullest extent permitted by Law any objection which it may now or hereafter have to the courts referred to in Clause 24.2 (*Jurisdiction*) on grounds of inconvenient forum or otherwise as regards proceedings in connection with this Agreement;
- (b) waives to the fullest extent permitted by Law any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement brought in the courts referred to in Clause 24.2 (*Jurisdiction*); and
- (c) to the extent permitted by applicable law, agrees that a judgment or order of any court referred to in Clause 24.2 (*Jurisdiction*) in connection with this Agreement is conclusive and binding on it and may be enforced against it in the courts of any other jurisdiction as if made by the highest court in that other jurisdiction and accordingly neither Lessee nor Lessor will seek to, nor be entitled to, contest and/or delay and/or obstruct registration or enforcement of any such judgment and/or award and/or order on grounds of public policy or otherwise.

24.5 **No Alternative Jurisdictions**

This Clause 24 (*Governing Law, Jurisdiction and Waiver of Jury Trial*) shall survive, continue to take full effect and not merge in any order or judgment and this Clause 24.5 (*No Alternative Jurisdictions*) prohibits either party to bring proceedings against the other in connection with this Agreement or any other Operative Document in any court other than as provided in Clause 24.2 (*Jurisdiction*) above.

24.6 **Waiver of Sovereign Immunity and Other Defenses**

Each of Lessee and Lessor irrevocably and unconditionally:

- (a) agrees that if the other brings legal proceedings against it or its assets in relation to this Agreement no sovereign or other immunity from such legal proceedings (which will be deemed to include suit, court jurisdiction, attachment prior to judgment, attachment in aid of execution of a judgment, other attachment, the obtaining of judgment, execution of a judgment or other enforcement or legal process or remedy) will be claimed by or on behalf of itself or with respect to its assets;
- (b) waives any such right of immunity which it or its assets now has or may in the future acquire and agrees that the foregoing waiver shall have the fullest extent permitted under

the Foreign Sovereign Immunities Act of 1976 of the United States of America and is intended to be irrevocable for the purposes of such Act; and

- (c) waives any requirement, of any kind whatsoever, for the other party to provide any form of security in respect of the payment of any damages, costs, expenses or any other financial obligation resulting from the commencement or prosecution of proceedings or the making of or service of any order and Lessee undertakes (x) not to challenge the validity of any proceedings or the making of any orders without any requirement for the provision of such security, (y) to advise any court upon the other party's request that it requires no such security, and (z) to provide security itself for any third party claims arising out of or in connection with such proceedings and/or orders.

24.7 Waiver of Jury Trial

EACH OF LESSEE AND LESSOR HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY AND ALL RIGHTS TO A JURY TRIAL IN RESPECT OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THE LESSOR/LESSEE RELATIONSHIP BEING ESTABLISHED, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND OTHER COMMON LAW AND STATUTORY CLAIMS. EACH OF LESSOR AND LESSEE REPRESENTS AND WARRANTS THAT EACH HAS REVIEWED AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH ITS LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT. IN THE EVENT OF LITIGATION, THIS CLAUSE MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

[Signature Page Follows]

IN WITNESS WHEREOF Lessor and Lessee have executed and delivered this Agreement in the State of New York, U.S.A., both as of the date shown at the beginning of this Agreement.

Aerolitoral, S.A. de C.V.,
Lessee

TrueNoord Nazas Limited,
Lessor

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

By: _____

Name: _____

Title: _____

TO THE EXTENT IF ANY THAT THIS DOCUMENT CONSTITUTES CHATTEL PAPER UNDER THE UNIFORM COMMERCIAL CODE, NO SECURITY INTEREST IN THIS DOCUMENT MAY BE PERFECTED THROUGH THE POSSESSION OF ANY ORIGINAL OR COPY HEREOF OTHER THAN THAT MARKED "CHATTEL PAPER ORIGINAL".

CHATTEL PAPER ORIGINAL

IN WITNESS WHEREOF Lessor and Lessee have executed and delivered this Agreement in the State of New York, U.S.A., both as of the date shown at the beginning of this Agreement.

Aerolitoral, S.A. de C.V., Lessee

TrueNoord Nazas Limited,
Lessor

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

By: _____

Name: _____

Title: _____

TO THE EXTENT IF ANY THAT THIS DOCUMENT CONSTITUTES CHATTEL PAPER UNDER THE UNIFORM COMMERCIAL CODE, NO SECURITY INTEREST IN THIS DOCUMENT MAY BE PERFECTED THROUGH THE POSSESSION OF ANY ORIGINAL OR COPY HEREOF OTHER THAN THAT MARKED "CHATTEL PAPER ORIGINAL".

SCHEDULE 1 DEFINITIONS AND CONSTRUCTION

1. Defined Terms

The following words and expressions have the respective meanings set forth below:

“Acceptance Certificate” means the acceptance certificate dated the Original Delivery Date delivered to Lessor by Lessee.

“AFAC” means the *Agencia Federal de Aviación Civil* of the *Secretaría de Comunicaciones y Transportes de México* and each other Mexican governmental airworthiness authority having authority with respect to the Aircraft that is comparable to the authority of the FAA and any successor thereto.

“Affiliate” means, in relation to any Person, any Person directly or indirectly controlling, controlled by, or under common control with such first Person; and a Person shall be deemed to control another Person if such first Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, contract or otherwise.

“Agreed Form” means the form agreed between Lessor and Lessee.

“Agreed Value” has the meaning provided in Part A of the Financial Terms Annex.

“Agreement” means this Amended and Restated Aircraft Lease Agreement together with its Schedules.

“Aircraft” means the aircraft described in Schedule 6 (*Description of Aircraft*), including all buyer furnished equipment and in-flight entertainment equipment installed thereon (which term includes where the context admits a separate reference to all Engines, Parts and Aircraft Documents) and any Replacement Engine and or Replacement Part installed in accordance with this Agreement title to which is vested in Lessor in accordance with this Agreement.

“Aircraft Documents” means (a) all log books, records, manuals and other data or documents described in Attachment 1 to the Acceptance Certificate, (b) all other log books, records (including, without limitation, records relating to the operation, service, inspection, maintenance, modification, testing, overhaul and repair of the Aircraft, the Engines and all Parts installed therein or thereon, including any EASA Form One or FAA 8130-3 or ANAC form SEGV00 003 serviceability tags, or which are required to substantiate the airworthiness, age, use and or utility of the Aircraft, any Engine or any Part), manuals (including, without limitation, operating, maintenance, repair, overhaul or parts manuals), data, drawings, certificates, licences, commitment letters received from the Airframe Manufacturer at delivery or other documents that are required to be maintained under the Prior Lease and during the Term under the terms of this Agreement, by the Aviation Authority, including without limitation, the Certificate of Registration and the Airworthiness Certificate, by the Maintenance Program, or those that are otherwise provided to Lessee at Delivery or during the Term with respect to the Aircraft or any Engine or any Part, (c) the documents, data, aircraft manuals and technical records relating to the Aircraft on the Original Delivery Date and any other documents and records referred to in Clause 11.2 (*Aircraft Documents*) and Schedule 7 (*Aircraft Documents at Redelivery*) and (d) all updates and additions to any of the foregoing and renewals, revisions and replacements thereof from time to time made in accordance with this Agreement or

applicable law or otherwise. Any document described above that Lessee is no longer required to retain or maintain by the Aviation Authority or under the Maintenance Program shall not remain part of the Aircraft Documentation for the purposes of this Agreement.

“Aircraft Object” has the meaning given to such term in the Consolidated Text.

“Airframe” means the Aircraft, excluding the Engines and the Aircraft Documents.

“Airframe 20,000 Cycles Check Rate” means the rate set forth in the column titled “Compensation Rate” opposite the Airframe 20,000 Cycles Check on the table set forth in Exhibit A to the Financial Terms Annex, as adjusted in accordance with Clause 2 of such Exhibit A.

“Airframe 72 Month Check Rate” means the rate set forth in the column titled “Compensation Rate” opposite the Airframe 72 Month Check on the table set forth in Exhibit A to the Financial Terms Annex, as adjusted in accordance with Clause 2 of such Exhibit A.

“Airframe 96 Month Check Rate” means the rate set forth in the column titled “Compensation Rate” opposite the Airframe 96 Month Check on the table set forth in Exhibit A to the Financial Terms Annex, as adjusted in accordance with Clause 2 of such Exhibit A.

“Airframe 120 Month Check Rate” means the rate set forth in the column titled “Compensation Rate” opposite the Airframe 120 Month Check on the table set forth in Exhibit A to the Financial Terms Annex, as adjusted in accordance with Clause 2 of such Exhibit A.

“Airframe Manufacturer” means Embraer S.A.

“Airframe Warranty Assignment” means the airframe warranty assignment entered into or to be entered into between Lessor and Lessee, and the related consent and agreement between Lessor, Lessee and the Airframe Manufacturer, in respect of the Aircraft in the Agreed Form.

“Airworthiness Directive” or **“AD”** means any and all State of Manufacture airworthiness directives and/or State of Registration airworthiness directives and/or airworthiness directives issued by the AFAC.

“AMM” means, from time to time, the latest revision of the Airframe Manufacturer’s approved maintenance manual for the Aircraft.

“Anti-Terrorism Laws” has the meaning given to it in Clause 22.17 (*Know Your Customer/OFAC Compliance*).

“Approved Maintenance Performer” means (a) for all Heavy Maintenance Events, any shop visit for an Engine, the APU or any Landing Gear or the overhaul of any serialized components and all major modifications, any maintenance facility approved by (i) the Aviation Authority and (ii) either EASA or the FAA and (b) for all lower-level checks, repairs and maintenance, any maintenance facility approved by the Aviation Authority which may be Lessee so long as Lessee has the requisite licenses and approvals.

“APU” means the auxiliary power unit installed on the Aircraft on the Lease Commencement Date and any replacement auxiliary power unit installed in accordance with this Agreement title to which is vested in Lessor in accordance with this Agreement.

“APU Equivalency Charge” shall mean the APU Equivalency Charge, if any, calculated pursuant to Part B of the Financial Terms Annex (*Redelivery Maintenance Payment*).

“APU Hour” means each hour or part thereof (rounded to the nearest minute) elapsing from the moment the APU is started to the moment when the APU is shut down.

“APU Manufacturer” means Hamilton Sunstrand.

“APU Medium Repair Shop Visit” means, with respect to the APU, a level of work that includes, at a minimum, [REDACTED].

“APU Medium Repair Rate” means the rate set forth in the column titled “Compensation Rate” opposite the APU Medium Repair Shop Visit on the table set forth in Exhibit A to the Financial Terms Annex, as adjusted in accordance with Clause 2 of such Exhibit A.

“Assignee” has the meaning given to it in Clause 21.2(a).

“Associated Lease” means, if applicable, any aircraft or engine lease agreement between TrueNoord Nazas Limited (**“TrueNoord”**) or any Affiliate of TrueNoord and the Lessee or any Affiliate of the Lessee, and any other agreement between them designated as an “Associated Lease”; provided that if TrueNoord transfers its rights under this Agreement then there shall be no Associated Leases for purposes of this Agreement.

“Aviation Authority” means the AFAC and the RAM for so long as the State of Registration is Mexico, and, if the Aircraft is registered in another State of Registration, the authorities, government departments, committees or agencies which under the laws of that State of Registration shall from time to time:

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

“B Check” means a block **“Basic”** check in accordance with the Maintenance Program or equivalent check in effect on the date when such check is carried out containing at least all airframe tasks included in the Manufacturer’s Maintenance Planning Document which will become due within the next [REDACTED] Flight Hours or [REDACTED] Cycles (or the corresponding interval applicable at the time of Redelivery).

“Back to Birth Traceability” means in respect of any Part or part, original documentary evidence specifying the part number and the unique serial number of such Part or part, and providing a detailed full operational history record acceptable to an FAA or EASA regulatory standard but in any event having the following: (i) the Original Delivery Document where “Original Delivery Document” means (x) for a part delivered new as a spare part, the manufacturer’s airworthiness document (FAA Form 8130–3 or EASA Form One (to the extent such EASA form is permitted by the FAA and the Maintenance Program)) showing the part number and serial number, (y) for a part delivered new installed on an assembly, the manufacturer’s assembly bill of material listing showing part number, serial number, assembly serial number and where relevant the as-delivered model and thrust rating; and (ii) a removal/installation (‘on/off’) transaction history detailing an unbroken record of the Flight Hours and Cycles elapsed at each relevant thrust rating (for Engine Life Limited Parts) from new up to current.

“Bankruptcy Cases” means the Chapter 11 cases and proceedings initially filed by Lessee and its affiliates on July 1, 2020 under the lead case no. 20-11563 with the Bankruptcy Court and all affiliated and associated filings and proceedings in any other court or jurisdiction relating to such cases.

“Bankruptcy Court” means the United States Bankruptcy Court for the Southern District of New York.

“Base Lease Term” has the meaning given to such term in Part A of the Financial Terms Annex.

“Business Day” means any day (other than a Saturday or Sunday) on which banks are open for business in New York City, Dublin and Mexico City.

“Cape Town Convention” means The Convention on International Interests in Mobile Equipment, concluded in Cape Town, South Africa, on November 16, 2001 (utilizing the English-language version thereof as in effect in Mexico on the Lease Commencement Date), and references to the Cape Town Convention will include the Protocol as appropriate, and for so long as the Aircraft is registered in Mexico, references to the Cape Town Convention refer to the Cape Town Convention as adopted and implemented in Mexico.

“Change in Law” means any enactment, introduction, adoption, abolition, making or variation of, or any change in, deletion from or amendment or addition to, any applicable law, treaty, order or regulation, in each case in any applicable jurisdiction or any change in or any new or further or different interpretation or application of any thereof in any court, and in each case from that existing as at the Lease Commencement Date.

“Claim” has the meaning given to it in Clause 14.2 (*Notification and Contest*).

“Conditions Precedent” means the conditions specified in Schedule 3 (*Conditions Precedent*).

“Consolidated Text” means the Consolidated Text of the Cape Town Convention and the Protocol attached to Resolution No. 1 of the Final Act of the Diplomatic Conference to adopt the Cape Town Convention and the Protocol held under the auspices of ICAO and UNIDROIT at Cape Town, South Africa from 29 October to 16 November 2001;

“CPCP” means corrosion prevention and control program.

“Cycle” means one take-off and landing of the Aircraft or, in respect of any Engine or Part temporarily installed on another airframe, one take-off and landing of that other airframe, and in respect of any Engine only, one "touch and go" take-off and landing (if required by the OEM).

“Damage Notification Threshold” has the meaning provided in Part A of the Financial Terms Annex.

“Default Rate” has the meaning given such term in Part A of the Financial Terms Annex.

“Deregistration Power of Attorney” means the irrevocable power of attorney from Lessee or, as the case may be, a Permitted Sublessee, in favor of each Lessor, Owner and any other relevant Financing Party (or such of them as Lessor may from time to time request) authorizing such party to do anything or act or to give any consent or approval which may be required to obtain

deregistration of the Aircraft and export the Aircraft from the State of Registration upon termination of the Lease as a result of an Event of Default in the Agreed Form.

“Discount Rate” has the meaning set forth in Part A of the Financial Terms Annex.

“Dollars”, **“\$”** and **“US\$”** means the lawful currency of the United States of America and, in relation to all payments in dollars to be made under or pursuant to this Agreement, in immediately available funds.

“EASA” means the European Aviation Safety Agency and any successor thereof.

“Engine” means, whether or not for the time being installed on the Aircraft:

- (a) the engines specified in the Acceptance Certificate; or
- (b) any Replacement Engine which has replaced that engine, title to which has, or should have, passed to Lessor in accordance with this Agreement,

and in each case includes all modules and Parts from time to time belonging to or installed in that engine but excludes any properly replaced engine title to which has, or should have, passed to Lessee pursuant to this Agreement.

“Engine Core Modules” means, at any time, any of the major modules of an Engine that are defined as core modules in the Engine Manufacturer’s Maintenance Manual as in effect at that time.

“Engine Equivalency Charge” shall mean the Engine Equivalency Charge calculated pursuant to Part B of the Financial Terms Annex (*Redelivery Maintenance Payment*).

“Engine LLP Equivalency Charge” shall mean the Engine LLP Equivalency Charge, if any, calculated pursuant to Part B of the Financial Terms Annex (*Redelivery Maintenance Payment*).

“Engine Major Module” means, at any time, any of the major modules of an Engine and which are defined as Engine Major Modules in the Engine Manufacturer’s Maintenance Manual as in effect at that time.

“Engine Manufacturer” means General Electric Company.

“Engine Performance Restoration” means in respect of an Engine, the performance of off wing engine maintenance and repair accomplished [REDACTED].

“Engine Performance Restoration Rate” means the rate set forth in the column titled **“Compensation Rate”** opposite the Engine Performance Restoration on the table set forth in Exhibit A to the Financial Terms Annex, as adjusted in accordance with Clause 2 of such Exhibit A.

“Engine Warranties Assignment” means the engine warranty and/or product support assignment entered into or to be entered into between Lessor and Lessee, and the related consent and agreement between Lessor, Lessee and the Engine Manufacturer, in respect of the Engines in the Agreed Form.

“Equipment Change” means any modification in or alteration and addition to the Aircraft.

“Event of Default” means any event or circumstance specified as such in Clause 19.1 (*Events*).

“Excluded Country” means any country to which the export and/or use of Embraer aircraft is not permitted under any sanctions, orders or legislation from time to time promulgated by any of the United Nations, the European Union, the United States of America or any Government Entity of the State of Registration, or the respective governmental institutions and agencies of any of the foregoing, including, without limitation, the Office of Foreign Assets Control of the US Department of Treasury, the United States Department of State, and Her Majesty's Treasury the effect of which prohibits or restricts the export and/or use of Embraer aircraft to and from and within to such country.

“Executive Order” has the meaning given to it in Clause 22.17 (*Know Your Customer/OFAC Compliance*).

“Expiry Date” means [REDACTED] or if a Renewal Lease Term is then in effect, the scheduled last day thereof, in each case as may be extended by an Operational Extension.

“FAA” means the Federal Aviation Administration of the United States of America and any successor thereof.

“FAR” means the Federal Aviation Regulations set forth in Title 14 of the United States Code of Federal Regulations.

“Financial Terms Annex” means Schedule 4, which contains financial terms that shall be redacted in the counterpart of this Agreement that is filed for recordation with any Aviation Authority or any other Government Entity.

“Financing Documents” means each present and/or future agreement, deed, instrument or other document which is from time to time related to any financing of the Aircraft (including for such purpose any mortgage or leasing arrangements whether or not constituting a financing and any documents ancillary thereto).

“Financing Parties” means any Person or Persons from time to time notified by Lessor to Lessee as providing financing to Lessor in respect of Lessor's or Owner's acquisition, ownership or leasing of the Aircraft, whether by way of loan, head lease or otherwise and shall include the Financing Parties Representative.

“Financing Parties Representative” means the Person or Persons that from time to time represent the Financing Parties as agent, trustee, secured party, security trustee, or in another similar capacity, the identity of which Lessor from time to time notifies Lessee as being a Financing Parties Representative.

“Fixed Rent” has the meaning given to it in Clause 1 of Part A of the Financial Terms Annex.

“Fixed Rent Date” means the last day of each Fixed Rent Period.

“Fixed Rent Period” has the meaning given to it in Clause 5.1 (*Fixed Rent Periods*).

“Flight Hour” means each hour or part thereof (rounded to the nearest minute) elapsing from the moment at which the wheels of the Aircraft leave the ground on the take-off of the Aircraft until the wheels of the Aircraft touch the ground on the landing of the Aircraft following such take-off, or in the case of any Engine or Part installed on another aircraft means each hour or part thereof (rounded to the nearest minute) elapsing from the moment at which the wheels of that aircraft leave

the ground on take-off of that aircraft until the wheels of that aircraft touch the ground on the landing of that aircraft following such take-off.

“FM Rent” has the meaning given to it in Clause 4.2.2(b).

“Geneva Convention” means the Convention on the International Recognition of Rights in Aircraft signed at Geneva, Switzerland on 19 June 1948, and amended from time to time.

“Government Entity” means:

- (a) any national government, political subdivision thereof, or local jurisdiction therein;
- (b) any instrumentality, board, commission, court, or agency of any thereof, however constituted;
- (c) any association, organization, or institution of which any of the above is a member or to whose jurisdiction any of the above is subject or in whose activities any of the above is a participant; and
- (d) to the extent that an airport, ground handling or air navigation service is not run or provided by an entity which falls within sub-paragraph (a) – (c) above, such relevant entity, body, corporate, organization or institution.

“Gross Negligence” means gross negligence as determined under New York Law.

“Grupo Aeromexico” means Grupo Aeroméxico S.A.B. de C.V. and any entity of which Grupo Aeroméxico S.A.B. de C.V. owns directly or indirectly more than fifty per cent (50%) of the voting share capital.

“Guarantee” means the guarantee dated the date of this Agreement granted by Guarantor in favour of Lessor in respect of the obligations of Lessee under the Operative Documents.

“Guarantor” means Aerovias de Mexico S.A. de C.V., a company incorporated and existing under the laws of Mexico.

“Heavy Maintenance Event” means a B Check, a Structural Check, an Engine Performance Restoration, replacement of an Engine LLP, APU Medium Repair Shop Visit and a Landing Gear Overhaul.

“IDERA” means an irrevocable deregistration and export request authorization by the Lessee or Permitted Sublessee pursuant to and for the purposes of and in the form specified in the Cape Town Convention, or required by the Aviation Authority.

“Illegality Event” has the meaning given to it in Clause 19.5(a).

“Indemnitees” means each of Lessor Parties, the Financing Parties and each of their respective shareholders, members, managers, partners, Affiliates, contractors, trustees, beneficiaries, directors, officers, servants, agents, representatives, employees, successors, assigns and transferees.

“Insurances” means any and all contracts or policies of insurance (or reinsurance) required to be maintained from time to time under this Agreement.

“**International Interest**” has the meaning given to such term in the Consolidated Text.

“**International Registry**” has the meaning given to such term in the Consolidated Text.

“**Landing Gear**” means the complete strut assembly, consisting of the inner and outer cylinders of each main landing gear and nose landing gear and all associated parts that comprise each landing gear assembly, as listed in the Aircraft Documents including side struts, braces, and uplock and downlock mechanisms but excluding, without limitation, rotatable parts such as wheels, tires, brakes, transducers and switch assemblies, title to which is vested in Lessor.

“**Landing Gear Equivalency Charge**” shall mean the Landing Gear Equivalency Charge, if any, calculated pursuant to Part B of the Financial Terms Annex (*Redelivery Maintenance Payment*).

“**Landing Gear Overhaul**” means an overhaul of a Landing Gear assembly in accordance with the Landing Gear Manufacturer’s repair manual [REDACTED].

“**Landing Gear Overhaul Rate**” means the rate set forth in the column titled “Compensation Rate” opposite the Landing Gear Overhaul on the table set forth in Exhibit A to the Financial Terms Annex, as adjusted in accordance with Clause 2 of such Exhibit A.

“**Law**” includes common or customary law and any constitution, decree, judgment, legislation, order, ordinance, regulation, statute, treaty or other legislative measure in any jurisdiction or any present or future directive, regulation, request or requirement (in each case, whether or not having the force of law but, if not having the force of law, the compliance with which is in accordance with the general practice of Persons to whom the directive, regulation, request or requirement is addressed).

“**Lease Commencement Date**” shall mean the date Lessor and Lessee execute the Lease Commencement Date Confirmation.

“**Lease Commencement Date Confirmation**” means a lease commencement date confirmation to be executed and delivered by the parties substantially in the form appearing in Schedule 9.

“**Lessee Conditions Precedent**” means the Conditions Precedent to be satisfied by Lessee, listed at Clause 1 of Schedule 3 (*Conditions Precedent*).

“**Lessor Conditions Precedent**” means the Conditions Precedent to be satisfied by Lessor, listed at Clause 3 of Schedule 3 (*Conditions Precedent*).

“**Lessor Guarantee**” means the New York law guarantee of the obligations of Lessor under this Agreement and the other Operative Documents, substantially in the form of Schedule 12 hereto, granted by the Lessor Guarantor in favor of Lessee.

“**Lessor Guarantor**” means TrueNoord Investments 3 B.V., a Dutch limited liability company.

“**Lessor Lien**” means:

- (a) any Security Interest in respect of the Aircraft from time to time created by, through or under any Lessor Party or any Affiliate of any Lessor Party in connection with the financing of the Aircraft;

(b) any other Security Interest in respect of the Aircraft which results from (x) acts of or claims against any Lessor Party, any Affiliate of any Lessor Party, any Financing Party or any Affiliate of any Financing Party not related to the transactions contemplated by or permitted under this Agreement or the other Operative Documents, or (y) any indebtedness, liability or other obligation arising by, through or under any Lessor Party, any Affiliate of any Lessor Party, any Financing Party or any Affiliate of any Financing Party that is not the subject of any Lessee's indemnity, payment or reimbursement obligation under this Agreement; and

(c) any Security Interest in respect of the Aircraft for Lessor Taxes.

[REDACTED]

"Lessor Party" means each of Lessor, Owner and Lessor Guarantor.

"Lessor Taxes" means Taxes specified in Clause 20.3(b) (*Tax Indemnity*).

"Life Limited Part" or **"LLP"** means any Part that has a pre-determined life limit as mandated by Manufacturer, the Aviation Authority, the FAA or EASA which requires any such Part to be discarded upon reaching such life limit.

"Loss" means any loss (including loss of profit), liability, action, claim, proceeding, judgment, penalty, fine, damages, fee, charge, demand, royalty or other sanctions of a monetary nature, calls, cost or expense (including legal fees and expenses, including legal fees and expenses incurred to enforce any applicable indemnity).

"Maintenance Program" has the meaning given to it in Clause 11.5 (*Maintenance Program*).

"Mandatory Orders" means all and any Aviation Authority and FAA mandatory orders and Regulations applicable to the Aircraft, any Engine or any Part.

"Manufacturer" means, in relation to the Airframe, the Airframe Manufacturer or, in relation to the Engines, the Engine Manufacturer or in relation to any Part, the manufacturer of that Part.

"Manufacturer's Maintenance Manual" means the individual manuals or maintenance data sets published by the Aircraft, Engine and Parts Manufacturer (as the case may be).

"Manufacturer's Maintenance Planning Document" or **"MPD"** means the planning document relating to recommended maintenance of the Aircraft issued by Manufacturer, including the airworthiness limitation section, as the same may from time to time be amended, modified or supplemented.

"Maximum Deductible Amount" has the meaning provided in Part A of the Financial Terms Annex.

"Mexico" means the United Mexican States.

"Minimum Liability Coverage" has the meaning provided in Part A of the Financial Terms Annex.

[REDACTED]

"Obligor" means each of Lessee and Guarantor.

“**OEM**” means in relation to any Part or part the original equipment manufacturer or the original type certification bidder of such Part or part.

“**OFAC**” has the meaning given to it in Clause 22.17 (*Know Your Customer/OFAC Compliance*).

“**Operational Extension**” has the meaning set forth in Clause 4.2.1(a) (*Renewal Notice*)

“**Operative Documents**” means (a) this Agreement, the Guarantee, the Acceptance Certificate, the Lease Commencement Date Confirmation, any Renewal Notice, the Airframe Warranty Assignment, the Engine Warranties Assignment, any IDERA issued pursuant to the terms hereof, the Deregistration Power of Attorney and the Lessor Guarantee, the Financing Documents, together with (b) any schedules, documents, notices or certificates from time to time executed or issued by an Obligor pursuant hereto or thereto and (c) any side letters, supplements, amendments or modifications to any of the foregoing from time to time executed or agreed to by an Obligor which (other than in the case of amendments to Operative Documents, which shall automatically be Operative Documents), are agreed in writing by Lessor and an Obligor to be Operative Documents for the purposes of this Agreement.

“**Original Delivery Date**” means [REDACTED].

“**Other Aircraft**” has the meaning given to it in Clause 12.5(a).

“**Owner**” means Lessor or such other person as Lessor may notify to Lessee in writing from time to time as being the owner of the Aircraft.

“**Part**” means, whether or not for the time being installed on the Aircraft:

- (a) any component, furnishing or equipment (other than a complete Engine) furnished with the Aircraft on the Lease Commencement Date; and
- (b) any other component, furnishing or equipment (other than a complete Engine) title to which has, or should have, passed to Lessor pursuant to this Agreement;

but excludes any such items title to which has, or should have, passed to Lessee pursuant to this Agreement. For the avoidance of doubt, Part includes the APU and Landing Gear.

“**Patriot Act**” has the meaning given to it in Clause 22.17 (*Know Your Customer/OFAC Compliance*).

“**PBH Period**” has the meaning given to it in Clause 5.2 (*PBH Period*).

“**PBH Rent**” has the meaning given to it in Clause 1 of Part A of the Financial Terms Annex.

“**PBH Rent Date**” has the meaning given to it in Clause 5.2 (*PBH Period*).

“**Permitted Lien**” means:

- (a) any lien for Taxes not assessed or, if assessed, not yet due and payable, or being contested in good faith by appropriate proceedings; or
- (b) any lien of a repairer, mechanic, carrier, hangarkeeper, airport, air navigation authority or other similar lien arising in the ordinary course of business by operation of law in respect

of obligations which are not overdue or are being contested in good faith by appropriate proceedings; or

- (c) any Lessor Lien; or
- (d) any lien arising out of any judgment or award against Lessee provided such judgment or award is discharged, vacated or the execution thereof stayed pending appeal within thirty (30) days of the date of entry thereof and so long as during any such period such judgment or award does not involve any material risk of the sale, forfeiture or other loss of the Aircraft or any risk of criminal or material civil liability against Lessor or any other Indemnites;
- (e) any lien arising from the Operative Documents; and
- (f) any rights of a Permitted Sublessee under a sublease or a Person participating in a pooling arrangement contemplated by Clause 10.4;

but only if (in the case of both (a) and (b)) (i) adequate reserves have been taken by Lessee for the payment of such Taxes or obligations; and (ii) such proceedings, or the continued existence of such lien, do not give rise to any material likelihood of the sale, forfeiture or other loss of the Aircraft or any interest therein or any material risk of criminal liability or material civil liability against Lessor or any other Indemnitee.

“Permitted Sublessee” means a sublessee permitted pursuant to the terms of Clause 10.3 (*Subleasing*).

“Person” means any individual, firm, partnership, joint venture, trust, corporation, Government Entity, corporate or business association, committee, department, authority or any other entity, incorporated or unincorporated, whether having distinct legal personality or not, or any member of the same and Persons shall be construed accordingly.

“Pool Aircraft” has the meaning given to it in Clause 10.4(a)(ii)(A).

“Post-Closing Authorizations and Filings” means the authorizations, registrations, documents, filings and other items to be delivered or provided by Lessee after the Lease Commencement Date pursuant to Clause 5 of Schedule 3 (*Conditions Precedent and Post-Closing Matters*).

“Prepetition Breaches” has the meaning given to the term in Clause 22.19 of this Agreement.

“Prepetition Damages Claim” has the meaning given to the term in Clause 22.19 of this Agreement.

“Prior Lease” has the meaning given to the term in Clause 2 of this Agreement.

[REDACTED]

“Protocol” means the Protocol to the Convention on Matters Specific to Aircraft Equipment, signed in Cape Town, South Africa on 16 November 2001.

“RAM” means the Mexican Aeronautical Registry (*Registro Aeronáutico Mexicano*) or any other Mexican Government Entity succeeding to its functions.

“Redelivery Acceptance Certificate” means a redelivery acceptance certificate to be executed and delivered by the parties at redelivery of the Aircraft to Lessor substantially in the form appearing at Schedule 14.

“Redelivery Check” means Lessee’s next due Embraer: “base” check in accordance with the Maintenance Program during the Term and the revision of the MPD in effect [REDACTED] months prior to the Expiry Date, and includes all inspections, checks and work up to and including those required every [REDACTED].

“Redelivery Conditions” means the condition set forth in Schedule 8 (*Redelivery Conditions*).

“Redelivery Date” means the date on which the Aircraft is redelivered by Lessee to Lessor in accordance with the terms of this Agreement.

“Redelivery Location” means a maintenance or storage facility in Mexico selected by Lessee or such other location as may be agreed by Lessor and Lessee.

“Redelivery Maintenance Payment” has the meaning set forth in Part B of the Financial Terms Annex.

“Regulation” means any Law or regulation (including any internal corporate regulation), official directive or recommendation, requirement or contractual undertaking which applies to Lessee or the Aircraft.

“Removed Engine” means any Engine not installed on the Airframe so long as title thereto remains vested in Lessor in accordance with the terms of this Agreement.

“Removed Part” means any Part not installed on the Aircraft so long as title thereto remains vested in Lessor in accordance with the terms of this Agreement.

“Renewal Lease Term” means, if applicable, any renewal of the Term pursuant to Clause 4.2 (*Renewal Option*) for a period of [REDACTED] months duration.

“Renewal Notice” a notice substantially in the form of Schedule 10 delivered by Lessee to Lessor pursuant to Clause 4.2.1 (*Renewal Notice*).

“Rent” means the PBH Rent and the Fixed Rent.

“Replacement Engine” means in respect of any Engine to be replaced under this Agreement, an engine that (i) is of the same manufacturer and model (or at Lessee’s option an improved model) as that Engine; (ii) taking into account [REDACTED]; (iii) is capable of being installed on the Airframe without impairing the value or utility of the Airframe; and (iv) is delivered with the FAA Form 8130-3, EASA Form One or similar form identifying the serial number of such engine and a non-incident statement in respect of such engine, and in respect of which Lessee has relevant details of the source and maintenance records for all parts installed on such engine [REDACTED]; and in respect of which title is capable of passing to Lessor free and clear of all Security Interests other than Permitted Liens.

“Replacement Part” means in respect of any Part to be replaced under this Agreement, a component furnishing or part that (i) is certified in accordance with FAR Part 145 or its equivalent successor for installation on the Aircraft; (ii) is [REDACTED]; (iii) has [REDACTED]; (iv)

[REDACTED]; and (v) [REDACTED]; and in respect of which title is capable of passing to Lessor free and clear of all Security Interests other than Permitted Liens.

“Required Redelivery Date” means the Termination Date (other than a Termination Date of the type described in Clause 4.1(b)) without regard to any extension of the Term pursuant to Clause 18.2 (*Non-Compliance*).

“Sales Taxes” means sales, use, rental, value added, goods and services and similar Taxes.

“Security Interest” means any mortgage, charge, pledge, lien, encumbrance, assignment, lease, sublease, hypothecation, right of set-off or any other agreement or arrangement having the effect of conferring security or creating an encumbrance.

“State of Incorporation” means Mexico.

“State of Manufacture” means Brazil.

“State of Registration” means Mexico or any other country in which the Aircraft is from time to time registered in accordance with Clause 9.5 (*Registration and Protection*).

“Structural Checks” means, with respect to the Airframe, either the Airframe 20,000 Cycles Check, the Aircraft 72 Month Check, the Airframe 96 Month Check and the Airframe 120 Month Check (or the equivalent Structural Check if such Airframe 20,000 Cycles Check, the Aircraft 72 Month Check, the Airframe 96 Month Check and the Airframe 120 Month Check are no longer applicable), where:

- (a) **“Airframe 20,000 Cycles Check”** means a structural, zonal and systems inspection of the Aircraft (and resulting repairs, if any) which accomplishes all tasks having an interval of 20,000 Cycles as per the current revision of the Maintenance Program based upon the performance intervals set out in the then-current revision of the Maintenance Program or if the Maintenance Program has been revised in respect of such Structural Check, an inspection which Lessor agrees in writing is equivalent in scope and content to the foregoing in accordance with the then-current revision of the Maintenance Program;
- (b) **“Airframe 72 Month Check”** means a structural, zonal and systems inspection of the Aircraft (and resulting repairs, if any) which accomplishes all tasks having an interval of 72 months as per the current revision of the Maintenance Program based upon the performance intervals set out in the then-current revision of the Maintenance Program or if the Maintenance Program has been revised in respect of such Structural Check, an inspection which Lessor agrees in writing is equivalent in scope and content to the foregoing in accordance with the then-current revision of the Maintenance Program;
- (c) **“Airframe 96 Month Check”** means a structural, zonal and systems inspection of the Aircraft (and resulting repairs, if any) which accomplishes all tasks having an interval of 96 months as per the current revision of the Maintenance Program based upon the performance intervals set out in the then-current revision of the Maintenance Program or if the Maintenance Program has been revised in respect of such Structural Check, an inspection which Lessor agrees in writing is equivalent in scope and content to the foregoing in accordance with the then-current revision of the Maintenance Program; and

- (d) **“Airframe 120 Month Check”** means a structural, zonal and systems inspection of the Aircraft (and resulting repairs, if any) which accomplishes all tasks having an interval of 120 months as per the current revision of the Maintenance Program based upon the performance intervals set out in the then-current revision of the Maintenance Program or if the Maintenance Program has been revised in respect of such Structural Check, an inspection which Lessor agrees in writing is equivalent in scope and content to the foregoing in accordance with the then-current revision of the Maintenance Program.

“Structural Check Equivalency Charge” shall mean the Structural Check Equivalency Charge, if any, calculated pursuant to Part B of the Financial Terms Annex (*Redelivery Maintenance Payment*).

“Subsidiary” means, in reference to any Person:

- (a) in relation to any reference to accounts, any company whose accounts are consolidated with the accounts of such Person in accordance with accounting principles generally accepted under accounting standards of such Person’s jurisdiction of organization; and
- (b) for any other purpose, an entity from time to time over which such Person has direct or indirect control and owns directly or indirectly more than 50 per cent of the voting share capital of such entity or of which it has the ability directly or indirectly to appoint or remove more than 50 per cent of the directors with voting rights or officers of such entity or of which it has the ability to give effective directions with respect to and control the management and operational and financial policies and decisions of such entity which the directors or other equivalent officers of such entity are obliged to comply.

“Surviving Entity” has the meaning given to it in Clause 9.7(b).

“Tax Claim” has the meaning given to it in Clause 20.8 (*Notification*).

“Tax Indemnatee” means a Lessor Party.

“Taxes” means all present and future taxes, levies, imposts, duties or charges of any nature whatsoever, and wheresoever imposed, including (without limitation) value added tax or any similar tax and any franchise, transfer, sales, use, business, occupation, excise, personal property, real property, stamp, gross income, personal property, fuel, leasing, occupational, turnover, excess profits, excise, gross receipts, franchise, registration, license, corporation, capital gains, export/import, income, levies, imposts, withholdings or other taxes or duties of any nature whatsoever (or any other amount corresponding to any of the foregoing) now or hereafter imposed, levied, collected, withheld or assessed by any national or regional taxing or fiscal authority or agency, together with any penalties, additions to tax, fines or interest thereon, and Tax and Taxation shall be construed accordingly.

“Term” means the period commencing on the Lease Commencement Date and ending on the Termination Date and shall include the Base Lease Term and, if applicable, any Renewal Lease Term or Operational Extension.

“Termination Date” means the date determined in accordance with Clause 4.1 (*Expiry Date*).

“Total Loss” means, with respect to the Aircraft (including for the purposes of this definition the Airframe) or an Engine:

- (a) the actual, constructive, compromised, arranged or agreed total loss of the Aircraft or any Engine (including any damage to the Aircraft or any Engine or requisition for use or hire which results in an insurance settlement on the basis of a total loss); or
- (b) the Aircraft or any Engine being destroyed, damaged beyond economic repair or permanently rendered unfit for normal use for any reason whatsoever; or
- (c) the requisition of title, confiscation, forfeiture or other compulsory acquisition of title for any reason of the Aircraft or any Engine by the government of the State of Registration or any other authority (whether de jure or de facto); or
- (d) the hi-jacking, theft, disappearance, seizure (other than any seizure resulting from a breach by Lessor of its covenant of quiet enjoyment set forth in Clause 8.1) or requisition for use or hire of the Aircraft or any Engine which deprives any Person permitted by this Agreement to have possession and/or use of the Aircraft of its possession and/or use for more than seventy five (75) consecutive days or one hundred twenty (120) days beyond the scheduled Expiry Date in the case of requisition for use or hire by the government of the State of Registration.

“Total Loss Date” means with respect to the Aircraft (including for the purposes of this definition, the Airframe) or an Engine:

- (a) in the case of an actual total loss or destruction, damage beyond economic repair of the Aircraft or any Engine, or the Aircraft or an Engine being rendered permanently unfit, the date on which such loss, destruction, damage or rendition occurs (or, if the date of loss or destruction is not known, the date on which the Aircraft or Engine was last heard of);
- (b) in the case of a constructive, compromised, arranged or agreed total loss of the Aircraft or any Engine, whichever shall be the earlier of (i) the date being [REDACTED] days after the date on which notice claiming such total loss is issued to the insurers or brokers, and (ii) the date on which such loss is agreed or compromised by the insurers;
- (c) in the case of requisition for title, confiscation, forfeiture or other compulsory acquisition or similar event of the Aircraft or any Engine by the government of the State of Registration or any other authority, the date on which the same takes effect; or
- (d) in the case of hi-jacking, theft, disappearance, seizure or requisition for use or hire of the Aircraft or any Engine, the earlier of (i) the last day of the period referred to in clause (d) of the definition of Total Loss and (ii) the date on which the insurers make payment on the basis of a Total Loss.

“Total Loss Proceeds” means the proceeds of any insurance required to be maintained by Lessee hereunder, or any compensation or similar payment arising, in respect of a Total Loss.

“Transferee” has the meaning given to it in Clause 21.2(b).

“Transition Date” has the meaning given to it in Clause 5.1(b).

“UCC” means the Uniform Commercial Code as enacted in the State of New York or, if the laws of another state of the United States of America so provide, as enacted in such state.

“VAT” has the meaning given to it in Clause 20.5 (*Value Added Tax*).

2. Construction and Usage

(i) References in this Agreement to:

- (a) any statutory or other legislative provision shall be construed as including any statutory or legislative modification or re-enactment thereof, or any provision enacted in substitution therefor;
- (b) “Lessor”, “Lessor Guarantor”, “Lessee” or “Obligor” includes any assignee or successor in title to Lessor, Lessor Guarantor or Lessee respectively (subject to the provisions of Clause 21 (*Assignment and Transfer*));
- (c) any deed, agreement or instrument shall include any such deed, agreement or instrument as may from time to time be amended, supplemented or substituted;
- (d) an “agreement” also includes a concession, contract, deed, franchise, license, treaty or undertaking (in each case, whether oral or written);
- (e) the “assets” of any Person shall be construed as a reference to the whole or any part of its business, undertaking, property, assets and revenues (including any right to receive revenues);
- (f) “month” is a reference to a period which starts on one day in a calendar month and ends on the day immediately preceding the numerically corresponding day in the next calendar month, except that if there is no numerically corresponding day in that next month it shall end on the last day of that next month (and references to “months” shall be construed accordingly); and
- (g) “includes,” “including”, “include” or similar terms shall not be construed as limiting and shall mean “including, without limitation”.

(ii) Headings are for ease of reference only.

(iii) Where the context so admits, words importing the singular number only shall include the plural and vice versa, and words importing neuter gender shall include the masculine or feminine gender.

SCHEDULE 2 REPRESENTATIONS AND WARRANTIES

1. Lessee's Representations and Warranties

Lessee represents and warrants to Lessor on the date of execution of this Agreement by reference to the facts and circumstances existing on such date that:

- (i) **Status:** Lessee is a company duly incorporated and validly existing under the laws of the State of Incorporation;
- (ii) **Power and Authority:** subject to approval by the Bankruptcy Court of the transactions contemplated by this Agreement, (i) Lessee has the company power and authority to carry on its business as presently being conducted and to enter into and perform its obligations under this Agreement and each other Operative Document to which Lessee is a party, (ii) Lessee has taken all necessary company action to authorize the entry into, performance and delivery of, this Agreement and each other Operative Document to which Lessee is a party, and (iii) this Agreement and each other Operative Document to which Lessee is a party has been duly executed and delivered by Lessee;
- (iii) **Legal validity:** subject to approval by the Bankruptcy Court of the transactions contemplated by this Agreement, this Agreement and each other Operative Document to which Lessee is a party constitutes (or when executed and delivered will constitute) legal, valid and binding obligations of Lessee, enforceable against Lessee in accordance with its terms, except insofar as enforceability may be limited by (i) applicable bankruptcy and/or similar laws affecting creditors' rights generally, or (ii) general principles of equity;
- (iv) **Non-conflict:** the entry into and performance by Lessee of, and the transactions contemplated by, this Agreement and each other Operative Document to which Lessee is a party do not: (i) conflict with any Laws or Regulations applicable to Lessee; or (ii) conflict with the organizational documents of Lessee; or (iii) conflict with or result in default under any document which is binding upon Lessee or any of its assets nor result in the creation of any Security Interest over any of its assets (other than as contemplated hereby and thereby);
- (v) **Licenses and permits:** Lessee holds all material licenses, certificates, permits and approvals necessary for the conduct of its business and the performance of its obligations under this Agreement and each other Operative Document to which Lessee is a party;
- (vi) **Approvals and Consents:** subject to approval by the Bankruptcy Court of the transactions contemplated by this Agreement, all authorizations, approvals, consents and notifications required by Lessee in connection with the entry into, performance, validity and enforceability of, this Agreement and each other Operative Document to which Lessee is a party and the transactions contemplated by this Agreement and each other Operative Document to which Lessee is a party, have been obtained or effected (as appropriate) and are in full force and effect;
- (vii) **Registrations and Filings:** except for the Post-Closing Authorizations and Filings, no filing or recording of any instrument or document is necessary under the laws of the State of Incorporation or the State of Registration in order to ensure the validity, effectiveness

and enforceability of this Agreement or to establish, perfect or protect the rights and interests of Lessor in the Aircraft and this Agreement against Lessee;

- (viii) **Excluded Countries:** Lessee does not hold a contract or other obligation to operate the Aircraft to or from any country which is an Excluded Country unless applicable consents, exemptions or licenses have been obtained or apply in respect of such contracts, obligations or operations;
- (ix) **No Litigation:** except as related to the Bankruptcy Cases, no litigation, arbitration or administrative proceedings are pending or, to Lessee's knowledge, threatened before any court or administrative agency against Lessee which, could reasonably be expected to have a material adverse effect upon Lessee's ability to perform its obligations under this Agreement or any other Operative Document;
- (x) **No Event of Default:** other than in respect of any Event of Default as it relates to (1) the period of time before the Bankruptcy Cases or (2) the filing or continuance of the Bankruptcy Cases, no Event of Default has occurred and is continuing or will result from the entry into or performance of this Agreement by Lessee;
- (xi) **Pari Passu:** the obligations of Lessee under this Agreement or any other Operative Document are direct, general and unconditional obligations and rank at least *pari passu* with all other present and future unsecured and unsubordinated obligations (including contingent obligations) of Lessee, with the exception of such obligations as are mandatorily preferred by Law and not by virtue of any contract; and
- (xii) **No Immunity:** Lessee is subject to civil commercial law with respect to its obligations under this Agreement and each other Operative Document, neither Lessee nor any of its assets are entitled to any right of immunity and the entry into and performance of this Agreement or any other Operative Document by Lessee constitute private and commercial acts.

2. Lessor's Representation and Warranties

Each of Lessor represents and warrants to Lessee on the date of execution of this Agreement by reference to the facts and circumstances existing on such date that:

- (i) **Status:** (i) The Trust Company is a trust company duly organized and validly existing under the laws of the State of Delaware and is in good standing under the laws of the United States of America and each of the Trust Company and the Trust is a tax resident of the United States of America for purposes of the United States-Mexico Tax Treaty, and (ii) Lessor is a statutory trust organized under and subject to the laws of the State of Delaware;
- (ii) **Power and Authority:** (i) each of the Trust Company and Lessor has the power and authority to carry on its business as presently being conducted and to enter into and perform its obligations under the Trust Agreement, this Agreement, and each of other Operative Document to which it is a party, (ii) the Trust Company has taken all necessary corporate action to authorize the entry into, the delivery of, and the performance by it and the Lessor of the Trust Agreement, this Agreement and each other Operative Document to which it or Lessor is a party, and (iii) the Trust Agreement, this Agreement and each other Operative Document to which the Trust Company or Lessor is a party has been duly executed and delivered by the Trust Company in its individual capacity or as Lessor, as applicable;

- (iii) **Legal Validity:** the Trust Agreement, this Agreement and each other Operative Document to which the Trust Company or Lessor is a party constitutes its valid, legal and binding obligation enforceable against it in accordance with its terms except insofar as enforceability may be limited by (i) applicable bankruptcy and similar laws afflicting creditors' rights generally or (ii) general principles of equity;
- (iv) **Non-conflict:** the entry into and performance by each of the Trust Company and Lessor of, and the transactions contemplated by, the Trust Agreement, this Agreement, each other Operative Document to which it is a party, does not and will not: (i) conflict with any Laws or Regulations applicable to the Trust Company or Lessor; or (ii) conflict with the constitutional documents of the Trust Company or Lessor; or (iii) conflict with or result in default under any document which is binding upon the Trust Company or Lessor or any of the Trust Company's or Lessor's assets; or (iv) result in the creation of any Security Interest over any of the Trust Company's or Lessor's assets other than Lessor Liens in favor of the Financing Parties Representative;
- (v) **Approvals and Consents:** no consent, approval, order or authorization of, or giving of notice to, or registration with, or taking of any other action in respect of any state or local governmental authority or agency or any United States federal governmental authority or agency regulating the trust powers of the Trust Company in its individual capacity is required for the execution and delivery of or the carrying out by, the Trust Company, in its individual capacity or as Lessor, as the case may be, of any of the transactions contemplated hereby or by the Trust Agreement, this Agreement or any other Operative Document to which the Trust Company or Lessor is a party, other than any such consent, approval, order, authorization registration, notice or action as has been duly obtained, given or taken;
- (vi) **No Litigation:** no litigation, arbitration or administration proceedings are pending or to Lessor's knowledge or in the case of the Trust Company, to Trust Company's knowledge, threatened before any court or administrative agency against Lessor or the Trust Company which could reasonably be expected to have a material adverse effect upon Lessor's or the Trust Company's ability to perform its respective obligations under the Trust Agreement, this Agreement or any other Operative Document; and
- (vii) **Title:** Lessor has good and marketable title to the Aircraft, free of all Security Interests arising by, through or under any Lessor Party other than Lessor Liens in favor of the Financing Parties Representative.

3. **Survival**

The representations and warranties pursuant to Clauses 1 and 2 of this Schedule 2 (*Representations and Warranties*) shall survive the execution of this Agreement.

SCHEDULE 3
CONDITIONS PRECEDENT AND POST-CLOSING MATTERS

Conditions Precedent to be satisfied by Lessee

1. Lessor's obligations to lease the Aircraft to Lessee on the terms and conditions set forth herein is subject to the satisfaction of the Conditions Precedent set out in Clause 1 of this Schedule 3 (the "**Lessee Conditions Precedent**"). All documents delivered to Lessor pursuant to Clause 1 of this Schedule 3 will be at Lessee's cost and in English (other than any organizational documents and any approvals, consents, filings and other official documents issued by Mexican governmental authorities, which may be in Spanish).
 - (a) On or before the Lease Commencement Date, Lessee shall provide the following each in full force as of the Lease Commencement Date and each in form and substance satisfactory to Lessor (acting reasonably):
 - (i) **Corporate Documents:** a copy of the following items of each Obligor: (a) the organizational documents of such Obligor, (b) an abstract of the resolutions of the board of directors of such Obligor or other written evidence of appropriate corporate action authorizing the execution, delivery and performance of this Agreement and the leasing of the Aircraft thereunder and appointing a specified Person or Persons to execute each Operative Document to which Lessee is a party on its behalf and (c) a specimen of the signature of each Person authorized to execute this Agreement or each Operative Document on behalf of either Obligor;
 - (ii) **Officer's Certificate:** a certificate of an officer or director of each Obligor certifying that on the Lease Commencement Date: (a) the documents provided in Clause 1(a)(i) are true and complete copies of such items and have not be modified or amended and are in full force and effect; (b) no Event of Default has occurred or would be caused by the leasing of the Aircraft to Lessee pursuant to this Agreement; and (c) all of the representations and warranties of such Obligor under the Operative Documents that are entered into on the Lease Commencement Date are true and correct;
 - (iii) **Bankruptcy Court Order:** an order entered by the Bankruptcy Court authorizing each Obligor's entry into the transactions contemplated under this Agreement and the Operative Documents;
 - (iv) **Opinion:** a legal opinion issued by Lessee's in-house legal counsel substantially in the Agreed Form concerning matters relating to the delivery and registration of the Aircraft;
 - (v) **Insurance Documents:** (A) Certificates of Insurance evidencing the Insurances and the Reinsurances; (B) A broker's letter of undertaking issued by each of the insurance broker and the re-insurance broker;
 - (vi) **Approvals and Consents:** evidence of the issue of each authorization, approval, consent and notification other than the Post-Closing Authorizations and Filings which may be required in relation to, or in connection with the performance by Lessee of any of its obligations hereunder or under the other Operative Documents

to which it is a party or, if no such approvals are required, a statement to that effect included in the legal opinion described in Clause 1(a)(iv) of this Schedule; and

- (vii) **Operative Documents:** Lessor shall have received copies of this Agreement, the Guarantee and the other Operative Documents to which Lessee is a party, in each case, duly executed by Lessee.

2. **Waiver:** Each of the Conditions Precedent set out in Clause 1 of this Schedule 3 is for the sole benefit of Lessor and may be waived or deferred by Lessor in whole or in part with or without conditions.

3. **Conditions Precedent to be Satisfied by Lessor:** Lessee's willingness to lease the Aircraft from Lessor on the terms and conditions set forth herein is subject to the satisfaction of the Conditions Precedent set out in this Clause 3 to this Schedule 3 (the "**Lessor Conditions Precedent**"). All documents delivered to Lessee pursuant to this Clause 3 of this Schedule 3 will be at Lessor's cost and in English.

- (a) On or before the Lease Commencement Date, Lessor shall provide the following each in full force as of the Lease Commencement Date and each in form and substance satisfactory to Lessee (acting reasonably):

- (i) **Corporate Documents:** (1) a copy of (x) the organizational documents of Lessor, (y) an abstract of the resolutions of the board of directors of Lessor which may be standing resolutions sufficient to authorize officers or others to execute and deliver the Operative Documents entered into as of the Lease Commencement Date to which Lessor is a party and this Agreement and each other Operative Document entered into as of the Lease Commencement Date to which Lessor is a party on behalf of Lessor and (z) a specimen of the signature of each Person authorized to execute the Agreement and each other Operative Document entered into as of the Lease Commencement Date on behalf of Lessor; and (2) a copy of (x) the organizational documents of the Lessor Guarantor, (y) an abstract of the resolutions of the board of directors of the Lessor Guarantor or other written evidence of appropriate corporate action authorizing the execution, delivery and performance of the Operative Documents entered into as of the Lease Commencement Date to which the Lessor Guarantor is party and appointing a specified Person or Persons to execute the same on their behalf, and (z) a specimen of the signature of each Person authorized to execute the Operative Documents entered into as of the Lease Commencement Date on behalf of the Lessor Guarantor;

- (ii) **Officer's Certificate:** (i) a certificate of an officer or director of Lessor certifying that on the Lease Commencement Date: (a) the documents provided in Clause 3 (a)(i)(1) by the Trust Company are true and complete copies of such items and have not be modified or amended and are in full force and effect; and (b) all of the representations and warranties of Lessor in the Operative Documents entered into as of the Lease Commencement Date are true and correct and (ii) a certificate of an officer or director of the Lessor Guarantor certifying that on the Lease Commencement Date: (a) the documents provided in Clause 3(a)(2) are true and complete copies of such items and have not be modified or amended and are in full force and effect; and (b) all of the representations and warranties of the Lessor

Guarantor in the Operative Documents entered into as of the Lease Commencement Date are true and correct;

- (iii) **Approvals and Consents:** evidence of the issue of each authorization, approval, consent and notification other than the Post-Closing Authorizations and Filings which may be required in relation to, or in connection with the performance by Lessor, Lessor Guarantor of any of their obligations hereunder or any Operative Document (if any);
- (iv) **Opinion:** opinions issued by counsel to each of Lessor and Lessor Guarantor, in each case addressed to Lessee and confirming the existence of such Person, the due execution by such Person, of this Agreement and each other Operative Document entered into as of the Lease Commencement Date to which such Person is a party and as to such other matters as may reasonably be requested;
- (v) [REDACTED]; and
- (vi) **Operative Documents.** Lessee shall have received: (i) a copy of this Agreement duly executed by Lessor, (ii) a copy of the Lessor Guarantee duly executed by the Lessor Guarantor, and (iii) copies of the other Operative Documents duly executed by the parties thereto (other than Lessee).

4. **Waiver:** Each of the Conditions Precedent set out in Clause 3 of this Schedule 3 is for the sole benefit of Lessee and may be waived or deferred by Lessee in whole or in part with or without conditions.

5. **Post-Closing Matters:** Lessee shall:

- (a) within [REDACTED] Business Days after the later of: (i) Lease Commencement Date, and (ii) receipt by Lessee of necessary documents from Lessor, including, if required, a ratified and apostilled copy of this Agreement, provide evidence to Lessor of the filing of this Agreement with the AFAC;
- (b) within [REDACTED] Business Days after the Lease Commencement Date, provide to Lessor a certified translation of this Agreement;
- (c) within [REDACTED] Business Days of delivery of the updated permanent certificate of registration in accordance with Clause (d) of Schedule 3, a copy of the official letter(s) granting registration issued by the AFAC with respect of the Aircraft and approving the recordation of this Agreement with the RAM;
- (d) deliver to Lessor not later than [REDACTED] days after the Lease Commencement Date (or such longer period as may be required giving consideration to any delays or closures arising from COVID-19), a copy of an updated permanent certificate of registration (*Certificado de Matrícula Definitivo*) in the name of Lessee as lessee and also noting the interests of the Lessor as owner; and
- (e) as soon as reasonably practicable and in any event not later than [REDACTED] Business Days after the Lease Commencement Date effect the registrations relating to the Aircraft with the International Registry in accordance with Clause 9.5 (*Registrations and Protections*) and provide to Lessor copies of the AEP Codes issued by the RAM in respect of each International Interest to be registered with the International Registry pursuant to

this Agreement and a copy of the priority search certificates of the International Registry in respect of the Airframe and each Engine evidencing such registrations.

SCHEDULE 4
FINANCIAL TERMS ANNEX (CONFIDENTIAL)

(NOT FOR FILING WITH THE AVIATION AUTHORITY)

PART A
BASE LEASE TERM RENT AND CERTAIN DEFINITIONS

1. Base Lease Term and Rent

The Base Lease Term shall commence on the Lease Commencement Date and end on [REDACTED].

Fixed Rent

For each Fixed Rent Period during the Base Lease Term, the amount of \$[REDACTED] shall be payable on each Fixed Rent Date during the Base Lease Term (the “**Fixed Rent**”):

PBH Rent

During the PBH Period, PBH Rent for a calendar month will be calculated in accordance with the following formula:

[REDACTED]

2. [REDACTED]

[REDACTED]

3. Damage Notification Threshold

For the purposes of Clause 9.2(b) (*Information – General and Financial*) and Clause 13(b) of this Agreement

“**Damage Notification Threshold**” means US\$[REDACTED].

4. Insurance and Default Matters

“**Agreed Value**” means [REDACTED].

“**Minimum Liability Coverage**” means no less than \$[REDACTED], each and every occurrence;

“**Maximum Deductible Amount**” means no more than \$[REDACTED].

“**Default Rate**” means [REDACTED].

“**Discount Rate**” means [REDACTED].

5. [REDACTED]

[REDACTED].

6. [REDACTED]

[REDACTED].

[REDACTED]

7. [REDACTED]

[REDACTED].

8. [REDACTED]

[REDACTED].

PART B
REDELIVERY MAINTENANCE PAYMENT

1. Redelivery Maintenance Payment

A. Redelivery Maintenance Payment

On the Redelivery Date, Lessee shall pay Lessor an amount equal to the total net sum of the Structural Check Equivalency Charge, Engine Equivalency Charge, Engine LLP Equivalency Charge, APU Equivalency Charge and Landing Gear Equivalency Charge (each, a “**Redelivery Maintenance Payment**”). If a Redelivery Maintenance Payment is a negative number, such Redelivery Maintenance Payment will be set off against the other Redelivery Maintenance Payments. If the aggregate of all Redelivery Maintenance Payments is a negative number, no Redelivery Maintenance Payments will be due and payable by Lessor to Lessee or by Lessee to Lessor hereunder.

For all calculation below it has been agreed that if E/I is greater than one, then E/I shall be one.

B. Structural Check Equivalency Charge

- (a) The Structural Check Equivalency Charge for the Airframe 20,000 Cycles Check shall be calculated pursuant to the following formula:

$$A = W \times (C - E)$$

Where:

A is the Structural Check Equivalency Charge for the Airframe 20,000 Cycles Check

W is the Airframe 20,000 Cycles Check Rate.

C is, as applicable, the actual number of calendar months, Cycles or Flight Hours (as applicable) elapsed as of the Redelivery Date since the last Airframe 20,000 Cycles Check (or if there has not been any Airframe 20,000 Cycles Check prior to the Redelivery Date, then since new).

E is, as applicable, the actual number of Cycles as of the Lease Commencement Date since the last Airframe 20,000 Cycles Check (or if there has not been any Airframe 20,000 Cycles Check prior to the Lease Commencement Date, then since new); [REDACTED]

- (b) The Structural Check Equivalency Charge for the Airframe 72 Month Check shall be calculated pursuant to the following formula:

$$A = W \times (C - E)$$

Where:

A is the Structural Check Equivalency Charge for the Airframe 72 Month Check

W is the Airframe 72 Month Check Rate.

C is, as applicable, the actual number of calendar months, Cycles or Flight Hours (as applicable) elapsed as of the Redelivery Date since the last Airframe 72 Month Check (or if there has not been any Airframe 72 Month Check prior to the Redelivery Date, then since new).

E is, as applicable, the actual number of calendar months as of the Lease Commencement Date since the last Airframe 72 Month Check (or if there has not been any Airframe 72 Month Check prior to the Lease Commencement Date, then since new); [REDACTED]

- (c) The Structural Check Equivalency Charge for the Airframe 96 Month Check shall be calculated pursuant to the following formula:

$$A = W \times (C - E)$$

Where:

A is the Structural Check Equivalency Charge for the Airframe 96 Month Check

W is the Airframe 96 Month Check Rate.

C is, as applicable, the actual number of calendar months, Cycles or Flight Hours (as applicable) elapsed as of the Redelivery Date since the last Airframe 96 Month Check (or if there has not been any Airframe 96 Month Check prior to the Redelivery Date, then since new).

E is, as applicable, the actual number calendar months as of the Lease Commencement Date since the last Airframe 96 Month Check (or if there has not been any Airframe 96 Month Check prior to the Lease Commencement Date, then since new); [REDACTED]

- (d) The Structural Check Equivalency Charge for the Airframe 120 Month Check shall be calculated pursuant to the following formula:

$$A = W \times (C - E)$$

Where:

A is the Structural Check Equivalency Charge for the Airframe 120 Month Check

W is the Airframe 120 Month Check Rate.

C is, as applicable, the actual number of calendar months, Cycles or Flight Hours (as applicable) elapsed as of the Redelivery Date since the last Airframe 120 Month Check (or if there has not been any Airframe 120 Month Check prior to the Redelivery Date, then since new).

E is, as applicable, the actual number of calendar months as of the Lease Commencement Date since the last Airframe 120 Month Check (or if there has not been any Airframe 120 Month Check prior to the Lease Commencement Date, then since new); [REDACTED]

C. Landing Gear Equivalency Charge

The Landing Gear Equivalency Charge shall be calculated pursuant to the following formula:

$$A = W \times (C - E)$$

Where:

A is the Landing Gear Equivalency Charge

W is the Landing Gear Overhaul Rate.

C is, as applicable, the actual number of calendar months, Cycles or Flight Hours (as applicable) elapsed as of the Redelivery Date since the last Landing Gear Overhaul (or if there has not been any Landing Gear Overhaul prior to the Redelivery Date, then since new).

E is, as applicable, the actual number of calendar months (or Cycles or Flight Hours, if applicable) elapsed as of the Lease Commencement Date since the last Landing Gear Overhaul (or if there has not been any Landing Gear Overhaul prior to of the Lease Commencement Date, then since new); [REDACTED]

D. Engine LLP Equivalency Charge

The Engine LLP Equivalency Charge in respect of an Engine LLP shall be calculated pursuant to the following formula:

$$A = (W/B) \times (C - E)$$

Where:

A is the Engine LLP Equivalency Charge for that Engine LLP.

W is the lower of (a) Engine Manufacturer's published list price for that Engine LLP at the time of redelivery, less any discounts to which Lessor has access and (b) the actual cost of the LLP if replaced during the Lease taking into account applicable discounts (including in respect of warranted ultimate life from the OEM) received by Lessee.

B is the then-current Cycle life limit for that Engine LLP as referenced in the Engine Manufacturer's Maintenance Manual Chapter 5; provided however, if Lessor has accepted an extended hard life Cycle limit pursuant to Clause E of Schedule 8 (*Redelivery Conditions*) for that Engine LLP, then such extended hard life Cycle limit shall be used instead.

C is the actual number of calendar months, Cycles or Flight Hours (as applicable) accumulated by that Engine LLP since new.

E is, as applicable, the actual number of Cycles as of the Lease Commencement Date; [REDACTED].

E. Engine Equivalency Charge

The Engine Equivalency Charge with respect to an Engine shall be calculated pursuant to the following formula:

$$A = W \times (C - E)$$

Where:

A is the Engine Equivalency Charge

W is the Engine Performance Restoration Rate.

C is, as applicable, the actual number of calendar months, Cycles or Flight Hours (as applicable) elapsed as of the Redelivery Date since the last Engine Performance Restoration (or if there has not been any Engine Performance Restoration prior to the Redelivery Date, then since new).

E is, as applicable, the actual number of calendar months elapsed (or Cycles or Flight Hours, if applicable) as of the Lease Commencement Date (or, if a Near-Term Engine Performance

Restoration has occurred and Lessor has provided Lessee with an Exchange Engine in replacement of such Engine in accordance with “Option C” of Part C of this Financial Terms Annex, the date Lessor provided Lessee with such Exchange Engine) since the last Engine Performance Restoration (or if there has not been any Engine Performance Restoration prior to the Lease Commencement Date, then since new); [REDACTED]

F. APU Equivalency Charge

The APU Equivalency Charge shall be calculated pursuant to the following formula:

$$A = W \times (C - E)$$

Where:

A is the APU Equivalency Charge

W is the APU Medium Repair Rate.

C is, as applicable, the actual number of calendar months, Cycles or APU Hours (as applicable) elapsed as of the Redelivery Date since the last APU Medium Repair Shop Visit (or if there has not been any APU Medium Repair Shop Visit prior to the Redelivery Date, then since new).

E is, as applicable, the actual number of APU Hours as of the Lease Commencement Date since the last APU Medium Repair Shop Visit (or if there has not been any APU Medium Repair Shop Visit prior to the Lease Commencement Date, then since new); [REDACTED]

PART C
LESSOR MAINTENANCE PAYMENTS

1. Near-Term Heavy Maintenance Event (Excluding Engine Performance Restoration)

During the initial [REDACTED] month period after the Lease Commencement Date (the “**Near-Term Period**”), if any Heavy Maintenance Event (excluding an Engine Performance Restoration) falls due, Lessee shall promptly notify Lessor and provide Lessor with information in relation to the status of the relevant Airframe or APU or Landing Gear that will undergo such Heavy Maintenance Event.

Lessor shall, upon completion of the Heavy Maintenance Event and upon Lessee’s request, compensate Lessee for [REDACTED]% of the cost of such Heavy Maintenance Event (excluding an Engine Performance Restoration) falling due during the Near-Term Period (each, a “**Lessor Maintenance Payment**”), whether from [REDACTED] or from Lessor’s own funds or as otherwise agreed. Any [REDACTED] for each applicable Heavy Maintenance Event held by Lessor from the Prior Lease shall be applied until fully liquidated to reimburse Lessee for the next-due Heavy Maintenance Event of any kind across any Associated Lease.

2. Near-Term Engine Performance Restoration

During the Near-Term Period, if any Heavy Maintenance Event is to be undertaken in respect of an Engine Performance Restoration (a “**Near-Term Engine Performance Restoration**”):

- (i) Lessee shall promptly notify Lessor and provide Lessor with information in relation to the detailed status of such Engine that will undergo such Near-Term Engine Performance Restoration; and
- (ii) Lessee shall consult in good faith with Lessor to mutually agree the work scope to be performed for the Near-Term Engine Performance Restoration.

Subsequently Lessor may at its sole discretion choose any of the following options listed below; [REDACTED]

3. Lease Term Heavy Maintenance Event

In the event that [REDACTED] in respect of any Heavy Maintenance Event (including an Engine Performance Restoration or a Near-Term Engine Performance Restoration) or if [REDACTED], the corresponding calculation for the Redelivery Maintenance Payment shall be adjusted proportionally to account for such [REDACTED], up to a maximum equivalent of [REDACTED].

Exhibit A to Financial Terms Annex

Heavy Maintenance Event

1. [REDACTED]

Airframe Checks consist of the performance of all airframe tasks with the specified interval listed in Lessee's Maintenance Program (AMP) including the related defect rectification.

2. **Adjustments to Rates.** In the event that Lessor makes a Lessor Maintenance Payment or Lessor Engine Maintenance Payment in respect of a Heavy Maintenance Event in accordance with Part C of the Financial Terms Annex that is higher than the amount shown in the column titled "Agreed Cost" in the table above with respect to that Heavy Maintenance Event, then such amount will be increased to the amount so paid by Lessor and the corresponding Compensation Rate shown in the table above will be adjusted accordingly.

The above rates (except for the Engine LLP replacement rate) shall be escalated by [REDACTED]% per annum starting [REDACTED].

Exhibit B to Financial Terms Annex

Specified Engine Work Scope

Engine Module	Workscope as defined in the latest edition of GE's WorkScope Planning Guide pub
Fan:	Performance
HP-Compressor:	Performance
Combustion:	Performance
HP Turbine:	Performance – new HPT blades to be installed
LP Turbine:	Performance
Gearboxes:	Min

Service Bulletins to be incorporated during the Specified Engine Work Scope:

1) Estimated material and repair costs include the incorporation of the following SBs: 72-0278, 72-0296, 72-0298, 72-0311, 72-0317, 72-0322, 72-0323, 72-0335, 72-0340, 72-0341, 72-0344, 72-0351, 72-0353, 72-0359, 72-0371, 72-0375.

Exhibit C to Financial Terms Annex

Excluded Items

- [REDACTED]

SCHEDULE 5
[RESERVED]

**SCHEDULE 6
DESCRIPTION OF AIRCRAFT**

GENERAL DESCRIPTION (MINIMUM REQUIREMENTS)

Aircraft Type	Embraer E190-100 LR
MTOW	[REDACTED]
MLW	[REDACTED]
MZFW	[REDACTED]
Engines (2)	GE34-[REDACTED]
Configuration	[REDACTED]
[Winglets	[REDACTED]
ETOPS	[REDACTED]
Alternate C.G.	[REDACTED]
Landing Category	[REDACTED]

SCHEDULE 7
AIRCRAFT DOCUMENTS AT REDELIVERY

The following documentation and information is part of the Aircraft, and is the property of Lessor. All documentation shall have the necessary stamps, endorsements, certifications and signatures where appropriate. All documentation requiring a quality control certification shall be signed by Lessee's quality control representative.

Lessee may maintain all Aircraft Documents (or any subset thereof) in electronic format; provided that Lessee shall send to Lessor all documentation requiring necessary stamps, endorsements, certifications and signatures in hard copy format. For the avoidance of doubt, any electronic format that has been approved by the Aviation Authority will be acceptable instead of hard copies.

All records listed in this Part shall be provided notwithstanding any policies of the Aviation Authority that may allow the disposal of such records.

All records should cover the period from the delivery under the Prior Lease on the Original Delivery Date (or, in the case of any Replacement Part or Replacement Engine in accordance with Clauses 12.1 and 12.6, all such records from time to time relating to the Replacement Part or Replacement Engine that are equivalent to the Aircraft Documents that would have been provided at Redelivery had such Engine or Part not been replaced) until the Redelivery Date.

1. Certificates

- (a) Certificate of Airworthiness;
- (b) Certificate of Registration;
- (c) Aircraft De-Registration Confirmation (if applicable);
- (d) Export Certificate of Airworthiness issued by the last country of registry (if applicable);
- (e) Noise Limitation Certificate (AFM page) (if applicable);
- (f) Radio License Certificate;
- (g) Type Certificate Data Sheet (TCDS);
- (h) Material Flammability Certification;
- (i) Latest Maintenance Release Certificate;
- (j) Burn Certificates (Cabin Interiors)

2. Manuals (but only to the extent that the below was supplied by the Manufacturer on or prior to the Original Delivery Date)

- (a) Aircraft Flight Manual;
- (b) Weight and Balance Control and Cargo Loading Manual and Supplements;
- (c) Operations Manual (Manufacturer's generic);

- (d) Quick Reference Handbook (Manufacturer's generic);
- (e) Structural Repair Manual;
- (f) Aircraft Maintenance Manual;
- (g) Component Overhaul Manuals, (MM, IPC, SRM) for the following cabin BFE, if such BFE is not factory installed and included in the Aircraft Documents:
 - (i) Galleys;
 - (ii) Coffee Makers, Ovens, Hot Jugs and other galley equipment;
 - (iii) Lavatories;
 - (iv) Toilet Assemblies;
 - (v) Closets;
 - (vi) Class Dividers;
 - (vii) Passenger Seats;
- (h) Aircraft Illustrated Parts Catalog (I.P.C.) (operator customized);
- (i) Operator part number to manufacturer part number cross reference, if operator maintains its own part numbering system;
- (j) Aircraft Wiring Diagrams/Wiring Diagram Manual & Wiring Practices Manual;
- (k) Electrical Standard Practice Manual;
- (l) Troubleshooting Manual;
- (m) Engine shop manual;
- (n) APU shop manual;
- (o) Fault Isolation Manual;
- (p) Schematics Manual;
- (q) Summary of Lessee's Maintenance Program;
- (r) List of Certification Maintenance Requirements;
- (s) Master Minimum Equipment List;
- (t) Configuration Deviation List;
- (u) Fault Reporting Manual (if applicable);

- (v) Maintenance Planning Document;
- (w) Aircraft Fueling Manual;
- (x) Maintenance Task Cards
- (y) Power Plant Build-up Manual.

3. Airworthiness Directives Documentation

- (a) The Aircraft shall have all records associated with AD compliance:
 - (i) A complete and current applicable AD status list of the Airframe and each appliance, Engine and APU Airworthiness Directive applicable to the Aircraft. This list shall include, but not be limited to:
 - (A) AD number and revision number;
 - (B) AD title;
 - (C) Aircraft serial number, Engine serial number, APU serial number, as applicable;
 - (D) Engineering documentation reference;
 - (E) Manufacturer's Service Bulletin reference and cross-references where appropriate;
 - (F) Specify terminated or repetitive status;
 - (G) Date of initial accomplishment;
 - (H) Date of last maintenance accomplishment, if repetitive;
 - (I) The means by which compliance was accomplished (either by means of repetitive inspections, modifications or terminating action); and
 - (J) Details of any alternate means of compliance, including references, intervals, and applicability;
- (b) The list shall be typed, [REDACTED];
- (c) Legible copies of the [REDACTED] and the operator's internal maintenance form used to document accomplishment of the A.D;
- (d) Exemptions or deviations granted by the Aviation Authority (or other applicable civil aviation authority with jurisdiction over the Aircraft) on AD compliance, including copy of exemption request; and
- (e) Items c) and d) will be provided in document packages for each AD. Each package will contain all documents relative to the AD/Aircraft combination, and include copies of the AD.

4. Engineering Documentation

- (a) A current list of Engine and APU Service Bulletins, Engineering Orders, major repairs and Supplemental Type Certificates accomplished on each Engine and the APU. A current list of Airframe Engineering Orders, major repairs and Supplemental Type Certificates accomplished on the Airframe. For appliances, a current list of AD related Service Bulletins, major repairs, Supplemental Type Certificates and Engineering Orders are required;
- (b) Legible copies of the [REDACTED], to include the following:
 - (i) SB number and revision number;
 - (ii) SB title;
 - (iii) Aircraft serial number, Engine serial number, APU serial number, appliance serial number as applicable;
 - (iv) Engineering documentation reference;
 - (v) Manufacturer's Service Bulletin reference and cross-references where appropriate;
 - (vi) Specify terminated or repetitive status;
 - (vii) Date of accomplishment of each portion of such engineering document;
 - (viii) Date of last maintenance accomplishment, if repetitive;
 - (ix) Statement of the means by which compliance was accomplished (e.g., modified, repaired, inspected);

[REDACTED]

5. Aircraft Maintenance Status Summaries

- (a) Certified current Time in Service (Flight Hours & Cycles);
- (b) Certified maintenance status of the Aircraft, including Aircraft serial number, hours, cycles and days since Heavy Maintenance Events and applicable time remaining to Heavy Maintenance Events;
- (c) Certified status of structural tasks, including SSI (including last accomplished and next due);
- (d) Certified status of CPCP (including last accomplished and next due), where the CPCP is not part of the Manufacturer's SSI program;
- (e) Certified current status for all Life Limited Parts and hard time components for the Airframe, Landing Gears, Engines and APU, including back-to-birth history for all Landing Gear and Engine Life Limited Parts and, to the extent any Engine Life Limited Parts ("Engine LLPs") have been used in higher rated engines, a summary of the Flight

Hours and Cycles consumed on each such Engine LLP by use on such higher rated engines(s);

- (f) Certified listing of Aircraft, Landing Gear, Engine and APU hard time components & LLPs status by P/N – S/N – Description Position – TSO - TSN, CSO – CSN, Total time, Total Cycles, next Due Time;
- (g) Certified status of all non-SB and Major Modifications/STC's including acceptable State of Manufacture Certification and/or equivalent FAA or EASA approval;
- (h) List of out of Phase Checks, Service Bulletins requiring continuous surveillance and Special Requirements (if any); and
- (i) Declaration of Aircraft Accident/Incident Report, if applicable.

6. Aircraft Maintenance Records

- (a) Aircraft & Pilot maintenance log from the past [REDACTED];
- (b) Cabin maintenance log (if maintained separately from the Aircraft maintenance log) from the past [REDACTED];
- (c) B Checks- Complete work card packages, tally sheets, material data sheets and maintenance releases for the last complete cycle of B Checks (or equivalent);
- (d) Complete work card packages, tally sheets, material data sheets and maintenance releases for all Structural Checks;
- (e) Documentation and records concerning the last Aircraft major structural inspection including CPCP Tasks and Structural Sampling Inspection;
- (f) Last Weight & Balance Report including Schedule;
- (g) Compass Swing Report (if applicable);
- (h) Last Test Flight Report (if applicable);
- (i) [REDACTED];
- (j) [REDACTED];
- (k) Weighing reports; and
- (l) All Airframe Manufacturer documentation received at the Original Delivery Date.

7. Configuration Status

- (a) FAA or EASA approved and certified LOPA;
- (b) [REDACTED];

- (c) Emergency, Safety and Loose Equipment Layout/Listing showing description, quantity, manufacturer, part number and location;
- (d) Inventory Listing of Avionics installed units;
- (e) List of applicable STC's;
- (f) Aircraft Inspection Record;
- (g) Buyer Furnished Equipment List (if applicable and including, but not limited to seats, galley, lavatories, entertainment, cargo handling, emergency equipment.); and
- (h) Electrical Load Analysis documents and data but only if supplied by the Manufacturer on or prior to the Original Delivery Date.

8. Engine Records

- (a) Engine Data Submittal;
- (b) Current Disk Sheet (LLP Sheet) [REDACTED];
- (c) Complete historical engine/ module shop visit reports and Engine Module Performance Restoration reports, for all Engine Module Performance Restorations;
- (d) [REDACTED];
- (e) On Wing Repair records;
- (f) Master Records of Installation/Removals;
- (g) Last Borescope Report, including video if available;
- (h) Test Cell Run Report (if applicable);
- (i) Certified Statement that Engines are not involved in an accident/incident;
- (j) Certified "On-Watch" statement;
- (k) [REDACTED];
- (l) List of repetitive inspections that are not required by AD;
- (m) Engine Trend Monitoring data for the last 12 months of operation (if applicable);
- (n) Last engine run and power assurance report;
- (o) [REDACTED];
- (p) Each LLP will have [REDACTED]. Notwithstanding, any LLPs replaced during the term of the lease will have the most recent FAA Form 8130-3 tag or EASA Form One, as applicable, used to install such LLP into the applicable Engine or module;

(q) [REDACTED]

9. APU

- (a) Certified Statement on Status of APU;
- (b) [REDACTED];
- (c) Approved Release to Service Certification for installed units;
- (d) APU Log Book/ Master Record of Installation/ Removals;
- (e) APU shop visit reports & reason for removal, for all APU shop visits;
- (f) [REDACTED];
- (g) Statement of APU hours to Aircraft Flying hours (if applicable);
- (h) APU Borescope Report;
- (i) Last Test Run Report;
- (j) [REDACTED]

10. Components

- (a) FAA Form 8130-3 or EASA Form One for Hard Time Components;
- (b) FAA Form 8130-3 or EASA Form One for on-condition and condition monitored components;
- (c) Certified Quick Engine Change (QEC) rotatable parts list and FAA Form 8130-3 or EASA Form One for each QEC rotatable part;

11. Landing Gear

- (a) [REDACTED];
- (b) [REDACTED];
- (c) Last shop visit report; and
- (d) LLP status report.

12. Damage and Repairs

- (a) [REDACTED];
- (b) All repairs will be in accordance with the Manufacturer's Maintenance Manual and Manufacturer's Structural Repair Manual, or will have Manufacturer's or FAA or EASA approved data.

- (c) [REDACTED]
- (d) Copies of applicable Engineering Orders (EOs);
- (e) Copies of applicable Supplemental Type Certificates (STCs);
- (f) Copies of applicable Alternative Means of Compliance (AMOC).

13. Software

- (a) A certified listing of onboard loadable software and databases to include the following:
 - (i) ATA chapter;
 - (ii) nomenclature;
 - (iii) part number;
 - (iv) revision date;
 - (v) expiration date; and
- (b) Procedures for obtaining downloadable software from the internet, if applicable.

SCHEDULE 8 REDELIVERY CONDITIONS

Lessee shall redeliver the Aircraft to Lessor for technical acceptance ("Technical Acceptance") by delivering the Aircraft to a maintenance facility in [REDACTED] as selected by [REDACTED] (the date of such delivery, the "Redelivery Date"), or any other location as agreed between Lessee and Lessor, in compliance with the conditions specified below, and Lessor shall execute and deliver to Lessee a certificate of Technical Acceptance confirming delivery of the Aircraft to Lessor. After the Technical Acceptance and at Lessor's cost, expense and risk, Lessee will ferry the Aircraft to a storage location in [REDACTED] as determined by Lessor. For the avoidance of doubt, there shall be no requirements for Technical Acceptance other than those specified in this Schedule 8.

During the period commencing [REDACTED] months and ending no less than [REDACTED] months prior to the Expiry Date, Lessee and Lessor will agree to conduct a pre-redelivery meeting for the purpose of reviewing and agreeing upon the workscope for the Redelivery Check and, if applicable, any Engine, APU, or Landing Gear shop visit. Lessor and Lessee shall each commit sufficient resources to the Redelivery process to achieve Redelivery by the Expiry Date.

With respect to any discrepancies in the Redelivery Conditions described herein [REDACTED], Lessee and Lessor agree, subject to the provisions outlined in Section I – Maintenance Carry-Overs, that Lessee will have the option of either correcting such discrepancy at its own expense or providing compensation in lieu of such correction in an amount to be mutually agreed upon by Lessee and Lessor.

A. Registration & Certification, Maintenance Program & Airworthiness Directives

The Aircraft shall be registered with the AFAC of Mexico (the "Aviation Authority") in the name of Lessor unless such registration cannot be maintained because of the failure of the Lessor to comply with the citizenship or other eligibility requirements for registration of the Aircraft. Lessee shall use reasonable efforts to assist the Lessor in de-registering the Aircraft and obtaining a Certificate of De-registration for the Aircraft; however, the obligation to obtain de-registration shall remain with Lessor. Upon redelivery, the Aircraft shall be [REDACTED]. Lessee will provide an Export Certificate of Airworthiness following Technical Acceptance of the Aircraft.

The Aircraft shall be in compliance with the Lessee's maintenance program (the "*Maintenance Program*"), which shall be based on the manufacturer's Maintenance Planning Document and approved by the Aviation Authority.

Lessee will comply with any ADs that require compliance within [REDACTED] days following the last day of the Term, with the cost of performing such AD requiring compliance after the last day of the Term to be for the account of Lessor and paid to Lessee upon execution of the Acceptance Certificate. However, compliance with such ADs due after the last day of the Term shall not be required (i) should the Lessee be unable to acquire, after using its best efforts to do so, the items, material, parts or components necessary to accomplish such compliance before the Expiry Date; (ii) should such compliance be waived in writing by the Lessor; or (iii) where such AD has not been issued by the date that is [REDACTED] months prior to the Expiry Date.

B. General Condition

The Aircraft shall be (a) airworthy, serviceable and in good operating condition, normal wear and tear excepted, (b) clean by international commercial airline standards, (c) in a passenger configuration, (d) with equipment, components and systems fully functional and operating within limits under the Maintenance Program and the Aircraft Maintenance Manual; with all loose and safety equipment installed as is normally installed during Lessee's commercial operation; and (e) equipped with two Engines (which may be Replacement Engines) duly installed thereon. The Aircraft shall be in compliance with Lessee's corrosion prevention and control program. The Aircraft shall have a Release to Service to perform the ferry flight to the storage location.

C. Redelivery Check

The Airframe shall have completed, within [REDACTED] days prior to the Redelivery Date, the Redelivery Check (as defined below), and following such Redelivery Check the Aircraft shall not be used in commercial passenger operations.

“**Redelivery Check**” means Lessee’s next due “base” check in accordance with the Maintenance Program during the Term and the revision of the MPD in effect six months prior to the Expiry Date, and includes all inspections, checks and work up to and including those required within [REDACTED] Flight Hours and [REDACTED] Cycles and [REDACTED] Years of operation.

D. Landing Gear Minimum

Each of the nose and main landing gear assemblies (the “*Landing Gear*”) shall have no fewer than [REDACTED] months and [REDACTED] Cycles remaining (the “*Landing Gear Hard Time Minimum*”) until the next scheduled overhaul under the Maintenance Program (any such visit, a “*Landing Gear Overhaul Visit*”) as measured by hour, cycle or calendar day, whichever is applicable and most limiting. Each tire shall have at least [REDACTED]% tread remaining. The Landing Gear brakes will have an average of at least [REDACTED]% life remaining before their removal with no individual brake having less than [REDACTED] per cent ([REDACTED]%) service life remaining.

E. Engine LLP Minimum

No Engine LLP shall have fewer than [REDACTED] Cycles remaining to reaching the then manufacturer’s published Chapter 5 life limit (the “*Engine LLP Hard Life Cycle Minimum*”). Notwithstanding the foregoing, Lessee may request of Lessor, and Lessor shall consider in good faith, the allowance of an extended hard life cycle limit that may be achieved via the incorporation of a service bulletin or other action that may only be incorporated on-wing post-redelivery.

F. Engine Performance Restoration Hard Time Minimum

Each Engine shall have no fewer than [REDACTED] flight hours remaining (the “*Engine Performance Restoration Hard Time Minimum*”) until the next sequential performance restoration visit of such Engine under the Maintenance Program and based on manufacturer recommendations (any such visit, an “*Engine Performance Restoration Visit*”), as measured by Lessee’s expected time on wing to such next sequential Engine Performance Restoration Visit for engines in Lessee’s fleet of the same make and model. All of the parts in the gas path of each Engine shall be parts that have been produced by or on behalf of an OEM, or that have been approved for use by the OEM and manufactured by another party. Repaired parts in the gas path of the engine shall be OEM approved repairs, except for any DER repair that was previously approved by Lessor.

G. Components

Each time controlled component (as listed in the MPD but excluding any Engine LLP, the APU and Landing Gear) will have no less than [REDACTED] months (with respect to MPD specified calendar limit) or [REDACTED] Flight Hours or [REDACTED] Cycles, whichever is applicable, remaining to next scheduled removal, shop inspection or overhaul. Any such time controlled component having an MPD interval of less than [REDACTED] months or the equivalent flight hours or cycles, whichever is applicable, based on [REDACTED], shall have [REDACTED] remaining until its next shop inspection, removal or overhaul.

H. Auxiliary Power Unit Minimum

The auxiliary power unit (“*APU*”) shall be in serviceable condition, as evidenced by an APU condition test performed in accordance with the Manufacturer’s AMM.

I. [REDACTED]

[REDACTED]. Lessee and Lessor shall agree, acting reasonably, [REDACTED]. Any [REDACTED] which cannot be deferred until the next Structural Check will be corrected or performed by Lessee at its expense prior to the Redelivery Date.

If the Aircraft is scheduled to be redelivered fresh from a Structural Check, any [REDACTED] shall be cleared on a terminating action basis.

J. Paint and Special Markings

The Aircraft paint will be in the condition as removed from airline service, with Lessee's identification marks removed or painted over. Lessee shall at Redelivery pay Lessor an amount equal to [REDACTED].

K. Records

No less than [REDACTED] months prior to the targeted Redelivery Check induction date, Lessee will provide for the review of Lessor all Aircraft Documents and draft redelivery binders in accordance with Annex II of the IATA document "Guidance Material and Best Practices for Aircraft Leases 4th edition and, provided that all such Aircraft Documents are made available to Lessor at the commencement of the six month period, Lessor will provide to Lessee its response and findings on such Aircraft Documents at least [REDACTED] days prior to the targeted Redelivery Check date. After the Redelivery Check Lessee will provide all required updates of the Aircraft Documents and the final version of the redelivery binders. All Aircraft Documents [REDACTED].

L. Borescope Inspections; Power Assurance Runs

A full video borescope inspection of each Engine and all of its Modules in accordance with the Manufacturer's Aircraft Maintenance Manual ("AMM") and a power assurance run for each Engine in accordance with the AMM shall be performed at or before the Redelivery Date by Lessee or its representative [REDACTED]. Lessee will record the Engine power assurance test conditions and results on the redelivery acceptance certificate. Lessee will correct any discrepancies in accordance with the guidelines set out by OEM manufacturer which may be discovered during such inspection. In addition, Lessee will provide [REDACTED]. If the parties cannot reasonably agree on whether such accelerated deterioration will cause the Engine to fail to meet the maintenance condition generated by an Engine Performance Restoration, Lessor and Lessee will request the Engine Manufacturer to provide an opinion on the expected time remaining on wing based on Lessee's operational information and the trend monitoring data, which opinion shall be binding on Lessee and Lessor.

M. Demonstration Flight

At Lessor's request, Lessee will perform, at its expense, and in accordance with an acceptance flight procedure mutually agreed between the Lessor and Lessee and based on the manufacturer's recommended procedure, a demonstration flight [REDACTED] for the purpose of demonstrating the satisfactory operation of the Aircraft with no more than [REDACTED] of Lessor, or of the next operator, on board during such flight, subject to consent of the Aviation Authority. If the demonstration flight reveals any discrepancies from the Redelivery Conditions, Lessee will correct them or pay compensation to Lessor in accordance with the third paragraph of this Schedule 8.

N. Liens

The Aircraft shall be free and clear of liens (other than any Lessor Liens).

O. Fuel

Lessee shall have no obligation to provide any fuel with respect to the Aircraft at redelivery. All oil and hydraulic tanks will be filled to the average level, provided that any fuel or oil remaining on board the Aircraft on the Redelivery Date shall be the property of Lessor without charge.

P. Inspection

The Aircraft inspection shall occur during the Redelivery Check and subsequent demonstration flight. During the Redelivery Check, Lessor and/or its representatives will have an opportunity to observe functional and operational system checks, in accordance with Lessee's procedures, as they are performed, and to perform a visual inspection of the Aircraft only in those areas that are visible during the Redelivery Check and concurrently as the inspection tasks are being performed by Lessee.

SCHEDULE 9
FORM OF LEASE COMMENCEMENT DATE CONFIRMATION

LEASE COMMENCEMENT DATE CONFIRMATION

TrueNoord Nazas Limited (“**Lessor**”) and Aerolitoral, S.A. de C.V., (“**Lessee**”) hereby agree as follows:

1. This Lease Commencement Date Confirmation (the “**Confirmation**”) is entered into for purposes of the Amended and Restated Aircraft Lease Agreement dated [_____] (the “**Lease**”) relating to the Embraer E190LR aircraft bearing manufacturer’s serial number [REDACTED], registration mark [REDACTED] equipped with two CF34-[REDACTED] engines bearing ESNs [REDACTED] and [REDACTED] (the “**Aircraft**”).
2. Terms used in this Confirmation shall have the meanings given them in the Lease.
3. Each of Lessee and Lessor confirms that the conditions precedent on its part contained in the Lease have been satisfied or waived and that the leasing of the Aircraft contemplated in the Lease has commenced and the Lease Commencement Date is this [____] day of [____], 2021.

TrueNoord Nazas Limited
as Lessor

By: _____
Name:
Title:

Aerolitoral, S.A. de C.V.
as Lessee

By: _____
Name:
Title:

SCHEDULE 10

FORM OF RENEWAL NOTICE

[Lessee Letterhead]

To: [●] as Lessor (“**Lessor**”)
[Address]

Cc:

[●] (“**Lessor Guarantor**”)
[Address]

_____, 20__

Re: Renewal Notice in respect of One Embraer E190LR Aircraft bearing Manufacturer’s Serial
Number [REDACTED] (the “**Aircraft**”)

Ladies and Gentlemen:

Reference is made to that certain Amended and Restated Aircraft Lease Agreement dated [●], 20[__] (as further amended, modified or supplemented from time to time, the “**Lease**”) between Lessor and Aerolitoral, S.A. de C.V.] (“**Lessee**”) in respect of the Aircraft. Capitalized terms not defined herein shall have the meanings provided in the Lease.

In accordance with Clause 4.2.1 of the Lease, Lessee hereby exercises its right to extend the Term of the leasing of the Aircraft under the Lease for a Renewal Lease Term of [REDACTED] commencing on [●] and ending [●] which as of the date hereof shall be the Expiry Date.

This notice is a Renewal Notice. It is irrevocable and is an Operative Document.

Aerolitoral, S.A. de C.V.

By: _____

Name: _____

Title: _____

Acknowledged and Agreed:

TrueNoord Nazas Limited

Lessor

By: _____

Name: _____

Title: _____

SCHEDULE 11

[RESERVED]

SCHEDULE 12

FORM OF LESSOR GUARANTEE

TrueNoord Investments 3 B.V.
Schiphol Boulevard 381

1118 BJ Schiphol THE
NETHERLANDS

To: Aerolitoral, S.A. de C.V.

Avenida Paseo de la Reforma 243 Piso
25

Col. Cuauhtémoc

Alcaldía Cuauhtémoc

C.P. 06500

Mexico City, Mexico

Date:_____2021

Dear Sirs

Embraer 190-100 LR aircraft with manufacturer's serial number [REDACTED] (the "Aircraft")

We refer to the Aircraft Lease Agreement dated [REDACTED] between BOC Aviation (Ireland) Limited as lessor and Aerolitoral, S.A. de C.V. as lessee (the "**Lessee**") (as amended, modified and supplemented from time to time in respect of the Aircraft, including, without limitation, as assigned, assumed and amended by an assignment, assumption and amendment agreement dated on [REDACTED] between BOC Aviation (Ireland) Limited, as previous lessor, the Lessee and TrueNoord Nazas Ltd, as new lessor (the "**Lessor**"), and amended by an Amended and Restated Lease Agreement dated [●] between the Lessor and the Lessee, the "**Lease Agreement**"). Terms defined in the Lease Agreement shall, unless otherwise defined herein, have the same meanings when used in this guarantee.

1. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, we unconditionally and irrevocably, as a continuing obligation (as a primary obligor and not merely as a surety) guarantee to you the proper and punctual performance by Lessor of its obligations under the Lease Agreement and the other Operative Documents to

which the Lessor is a party (the “**Lease Documents**”) in accordance with the respective terms thereof (the “**Guaranteed Obligations**”) and we agree to indemnify and hold you harmless from and against any and all losses, costs, or expenses suffered or incurred by you as a consequence resulting from a breach by Lessor of the Guaranteed Obligations. In the event that Lessor fails to perform any Guaranteed Obligation, we will on first demand by you perform or cause to be performed the obligation in question and you agree that where any provision of the Lease Documents imposes an obligation on Lessor, you will accept performance of that obligation by us. You may have recourse under this guarantee without first taking action against Lessor or any other person and the failure by you to file or enforce a claim against Lessor shall not terminate, diminish or otherwise affect our liability, and we hereby waive notice of acceptance of this guarantee, promptness, diligence, protest, notice of non-payment or any other defense to its obligations, other than payment in full of such obligations. No exercise by you or your omission to exercise any right or power under this guarantee shall suspend, discharge, or affect any of our obligations hereunder or give any right of recourse against you. Our obligations are independent of, primary and separate from the Guaranteed Obligations of Lessor. We agree to be liable for the payment of all reasonable fees and expenses, including attorney’s fees, incurred by you in connection with the enforcement of or claims made under this guarantee.

2. Our obligations under this guarantee shall remain in force notwithstanding any act, omission, neglect, event or matter whatsoever, including, without limitation:
 - (a) anything which would have discharged us (wholly or in part) whether as surety, co-obligor or otherwise or which would have afforded us any legal or equitable defence;
 - (b) any winding up, bankruptcy, insolvency, moratorium, dissolution, reconstruction or reorganisation, legal limitation, fraudulent conveyance or similar law, incapacity or lack of corporate power or authority or other circumstances of, or any change in the constitution or corporate identity or ownership or loss of corporate identity by, the Lessor or any other person;
 - (c) anything which renders the Guaranteed Obligations invalid or unenforceable for any reason; or
 - (d) any delay by you in enforcing your rights against the Lessor or us.
3. Without limiting section 2 above, none of our obligations under this guarantee shall be impaired or affected by any event or circumstance, including without limitation, by you:
 - (a) agreeing any amendment, waiver or variation of the Lease Agreement or any other Lease Document or any term thereof, however fundamental; or
 - (b) releasing or granting any time or any indulgence of any kind to the Lessor in respect of amounts owing under the Lease Documents; or
 - (c) claiming, proving for or accepting any payment in respect of the amounts guaranteed hereunder in any winding up of the Lessor.
4. We hereby represent and warrant that (a) we have the power to enter into and perform our

obligations under this guarantee, (b) we have duly authorised the execution and performance of this guarantee and that all consents and authorisations required in The Netherlands in relation to the entry into and enforceability of this guarantee have been obtained, (c) the execution of and performance under this guarantee will not conflict with the provisions of our constituent documents or contravene any applicable laws in The Netherlands, (d) this guarantee constitutes our legal, valid and binding obligations enforceable in accordance with its terms, subject to principles of equity and to bankruptcy laws affecting creditors' rights generally, and (e) as at the date hereof, we hereby confirm we have a [REDACTED].

5. This guarantee shall continue in full force and effect until the performance in full by Lessor of its Guaranteed Obligations. You may assert any claim or claims you may at any time hereafter by written notice to our address above. Our obligations hereunder shall terminate and we shall have no further liability hereunder upon the later of (i) the date that the leasing of the Aircraft to you under the Lease Agreement expires or is terminated in accordance with the terms of the Lease Agreement and (ii) the date the Lessor has paid to you, in full, all amounts, if any, due and payable by the Lessor to you following such expiry or termination.
6. This guarantee shall be binding upon and inure to our and your benefit and to our and your respective successors and permitted assigns, except that we shall not be permitted to assign this guarantee or any interest in this guarantee.
7. This guarantee may be executed in any number of counterparts and all the counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed counterpart of this guarantee by facsimile or email shall be equally as effective as delivery of a manually executed counterpart.
8. THIS GUARANTEE SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.
9. WE HEREBY EXPRESSLY AND IRREVOCABLY AGREE AND CONSENT THAT ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTEE AND THE TRANSACTIONS CONTEMPLATED IN THIS GUARANTEE MAY BE INSTITUTED IN ANY STATE OR FEDERAL COURT SITTING IN THE BOROUGH OF MANHATTAN, COUNTY OF NEW YORK, STATE OF NEW YORK, UNITED STATES OF AMERICA AND, BY THE EXECUTION AND DELIVERY OF THIS GUARANTEE, EXPRESSLY WAIVE ANY OBJECTION THAT WE MAY HAVE NOW OR HEREAFTER TO THE LAYING OF THE VENUE OR TO THE JURISDICTION OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND IRREVOCABLY SUBMIT GENERALLY AND UNCONDITIONALLY TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUCH SUIT, ACTION OR PROCEEDING.
10. NOTHING CONTAINED IN THE FOREGOING SECTION 9 SHALL PRECLUDE ANY PARTY FROM BRINGING ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTEE IN THE COURTS OF ANY PLACE WHERE THE OTHER PARTY TO THIS GUARANTEE OR ANY OF SUCH PARTY'S PROPERTY OR ASSETS MAY BE FOUND OR LOCATED. TO THE EXTENT PERMITTED BY THE APPLICABLE LAWS OF ANY SUCH JURISDICTION, WE EACH HEREBY

IRREVOCABLY SUBMIT TO THE JURISDICTION OF ANY SUCH COURT AND EXPRESSLY WAIVE, IN RESPECT OF ANY SUCH SUIT, ACTION OR PROCEEDING, THE JURISDICTION OF ANY OTHER COURT OR COURTS WHICH NOW OR HEREAFTER, BY REASON OF OUR PRESENT OR FUTURE DOMICILE, OR OTHERWISE, MAY BE AVAILABLE TO US.

11. IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS OR REMEDIES UNDER OR RELATED TO THIS GUARANTEE OR ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR THAT MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THE FOREGOING, EACH OF US HEREBY AGREE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY, AND EACH OF US HEREBY WAIVE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT WE MAY HAVE THAT EACH ACTION OR PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.
12. We agree that (i) to the extent we are not otherwise subject to service of process in the State of New York, to appoint and maintain an agent in the State of New York as our agent for acceptance of legal process and (ii) that service of process may also be made on us by prepaid certified mail with a proof of mailing receipt validated by the United States Postal Service constituting evidence of valid service, and that service made pursuant to (i) or (ii) above shall have the same legal force and effect as if served upon us personally within the State of New York.
13. We hereby irrevocably designate and appoint TMF Group New York, LLC 48 Wall Street, 27th Floor New York, NY 10005 (or its registered address from time to time) as our attorney-in-fact to receive service of process in any action, suit or proceeding with respect to any matter as to which we submit to jurisdiction as set forth above, it being agreed that after such appointment, service upon such attorney-in-fact shall constitute valid service upon us or our successors and permitted assigns.

Yours faithfully,

TrueNoord Investments 1 B.V.

Name:

Title:

Agreed and acknowledged:

Aerolitoral, S.A. de C.V.

By:

Name:

Title:

SCHEDULE 13

[RESERVED]

SCHEDULE 14

FORM OF REDELIVERY ACCEPTANCE CERTIFICATE

This Redelivery Acceptance Certificate (this "Certificate") is delivered at the time and on the date set forth below by TrueNoord Nazas Limited (the "Lessor") to Aerolitoral, S.A. de C.V. (the "Lessee") pursuant to the Amended and Restated Aircraft Lease Agreement dated _____ (as amended, modified or supplemented from time to time, the "Lease") in respect of one (1) Embraer E190LR aircraft bearing manufacturer's serial number [REDACTED] together with two (2) [] engines bearing manufacturer's serial numbers _____ and _____ (the "Aircraft"). The capitalized terms used in this Redelivery Acceptance Certificate shall have the respective meanings given to such terms in the Lease.

Lessor hereby confirms that as at _____ hours on _____ at _____
_____:

- (a) the Aircraft satisfies the redelivery requirements of Schedule 8 of the Lease in all respects;
- (b) redelivery of the Aircraft (including the Engines) has been accepted by Lessor; and
- (c) the Term of the Lease has terminated.

This Redelivery Acceptance Certificate may be executed and delivered by the parties hereto in separate counterparts.

This Redelivery Acceptance Certificate is executed and delivered by the parties at _____
_____.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Redelivery Acceptance Certificate to be executed in their respective corporate names by their duly authorized representatives as of the day and year first above written.

TRUENOORD NAZAS LIMITED

By: _____
Name: _____
Title: _____

AEROLITORAL, S.A. DE C.V.

By: _____
Name: _____
Title: _____

ANNEX I

PAYMENT AND ADJUSTMENT AMOUNTS DUE AT REDELIVERY¹

Upon redelivery, the following is due from the Lessee to the Lessor:

- | | | |
|---|--|----------------|
| 1. | Redelivery Maintenance Payment under Part B of the Financial Terms Annex | \$_____ |
| 2. | Discrepancy compensation under the third paragraph of Schedule 8 | \$_____ |
| 3. | Maintenance carry-over compensation under Clause I of Schedule 8 | \$_____ |
| Net Payments from [Lessee to Lessor] | | \$_____ |

Payments [to Lessor] should be made to the following Account Details:

Beneficiary Name:
Beneficiary Bank:
Swift Code:
Sort Code:
Account No:
IBAN:

¹ Revise Annex for applicable payments.

SCHEDULE 15

FORM OF MAINTENANCE STATUS REPORT

AIRCRAFT SUMMARY REPORT

Report Period from _____ to _____

Aircraft Specification	
Manufacturer	
Type	
Model	
Serial number	
Date of Manufacture	
Current Registration	
Current Operator	
Aircraft Operating Limitation	

Airframe Status	
Total Airframe Hours	
Total Airframe Cycles	

Main Engines (Currently Installed)		
Manufacturer		
Position		
Part number		
Serial number		
Time Since New		
Cycles Since New		
Time Since OH		
Cycles Since OH		
Last OH Date		

Main Engines		
Manufacturer		
Aircraft or Location		
Position		
Part number		
Serial number		
Time Since New		
Cycles Since New		
Time Since OH		
Cycles Since OH		
Last OH Date		

Auxiliary Power Unit	
Manufacturer	
Position	
Part number	
Serial number	
Flight Time Since New	
Flight Cycles Since New	
Time Since OH	
Cycles Since OH	
Last OH Date	
APU Hours Since New	
APU Cycles Since New	

Landing Gears			
Manufacturer			
Position			
Part number			
Serial number			
Time Since New			
Cycles Since New			
Time Since OH			
Cycles Since OH			
Last OH Date			

Exhibit B

Summaries of Terms of the Amended Aircraft Leases

Material Terms: Amended Aircraft Leases	
Leased Aircraft	Two Embraer E-190LR model aircraft
MSNs	MSN 19000672 MSN 19000673
Term	The Base Lease Term shall commence on the Lease Commencement Date and end on [REDACTED].
Power-by-the-Hour Period	PBH Rent shall be paid from the Lease Commencement Date until the earlier of (i) [REDACTED] and (ii) the date that the fleetwide average utilization for the same aircraft type as the Aircraft reaches a minimum of [REDACTED]% of the monthly utilization for each of the [REDACTED] consecutive months corresponding to the same months from January 2019 through December 2019.
Power-by-the-Hour Pricing	During the PBH Period, the PBH Rent for a calendar month will be calculated in accordance with the following formula: $W = [\text{REDACTED}]$ where: W: PBH Rent [REDACTED]
Monthly Rent per Aircraft	For each Fixed Rent Period during the Base Lease Term, the amount of US\$[REDACTED] shall be payable on each Fixed Rent Date during the Base Lease Term.