



**Registration of a Charge**

Company name: **BRITISH AIRWAYS PLC**

Company number: **01777777**

Received for Electronic Filing: **23/09/2016**



X5G60W9M

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**Details of Charge**

Date of creation: **15/09/2016**

Charge code: **0177 7777 0818**

Persons entitled: **WILMINGTON TRUST COMPANY**

Brief description: **ONE BOEING 777-200ER AIRCRAFT WITH REGISTRATION MARK G-YMMP AND MANUFACTURER'S SERIAL NUMBER 30315 INCLUDING TWO ROLLS-ROYCE MODEL RB211-895 AIRCRAFT ENGINES WITH MANUFACTURER'S SERIAL NUMBERS 51344 AND 51345.**

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION**

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL  
INSTRUMENT.**

Certified by:

**NORTON ROSE FULBRIGHT LLP**



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

Company number: 1777777

Charge code: 0177 7777 0818

The Registrar of Companies for England and Wales hereby certifies that a charge dated 15th September 2016 and created by BRITISH AIRWAYS PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 23rd September 2016 .

Given at Companies House, Cardiff on 26th September 2016

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

I certify that, save for material  
redacted pursuant to s.859G  
of the Companies Act 2006,  
this copy instrument is a correct copy  
of the original instrument.

**AIRCRAFT MORTGAGE**

Dated 15 September 2016

Sign & Dated *Norton Rose Fulbright*  
*22/09/16*

**BRITISH AIRWAYS PLC**  
as Mortgagor

and

**WILMINGTON TRUST COMPANY,**  
not in its individual capacity but solely  
as Trustee of  
**BNY-BA 2001 TRUST** under the Trust Agreement  
as Mortgagee

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**AIRCRAFT MORTGAGE**  
relating to  
**One Boeing 777-200ER Aircraft**  
**Registration Mark G-YMMP**

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**Slaughter and May**  
One Bunhill Row  
London EC1Y 8YY

(Ref: ACJ/AEZW/JVZS)

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THIS DEED OF MORTGAGE is made the 15th day of September 2016

**BETWEEN:**

- (1) **BRITISH AIRWAYS PLC**, whose registered office is at Waterside, PO Box 365, Harmondsworth, Middlesex UB7 0GB as mortgagor (the "**Mortgagor**"); and
- (2) **WILMINGTON TRUST COMPANY**, a trust company organised under the laws of Delaware not in its individual capacity, but solely as Trustee of **BNY-BA 2001 TRUST** under the Trust Agreement (the "**Mortgagee**").

**WHEREAS:**

- (A) The Aircraft was leased by the Mortgagee to the Mortgagor pursuant to the Lease Agreement.
- (B) Section 5 of the Lease Agreement granted the Mortgagor, as lessee, certain purchase options in respect of the Aircraft including one by reference to the Third Purchase Option Date which the Mortgagor has exercised with the result that the Mortgagor has acquired title to the Aircraft from the Mortgagee, as the Lessor under the Lease Agreement. In accordance with Section 5(a)(i)(A) of the Lease Agreement, certain instalments of the Purchase Option Price due pursuant to Section 5(a)(i) of the Lease Agreement remain outstanding from the Mortgagor to the Mortgagee.
- (C) The Mortgagor, the Mortgagee and the other parties thereto have entered into the Termination Agreement, dated as of 15 September 2016 (the "**Termination Agreement**") to effect the exercise of the Purchase Option, the payment of the initial instalment of the Purchase Option Price, and related matters.
- (D) The Mortgagor has agreed to grant this Mortgage in favour of the Mortgagee to secure the Secured Indebtedness as required in Section 5(a)(ii) of the Lease Agreement.

**NOW IT IS HEREBY AGREED** as follows:

**1. Definitions and Interpretation**

- (a) In this Mortgage:

**"Aircraft"** means one Boeing 777-200ER aircraft, with manufacturer's serial number 30315 and registration mark G-YMMP together with the Associated Engines, any other equipment or parts of whatever nature from time to time installed upon or attached to such aircraft, other than any equipment leased by Mortgagor from any third-party lessor that may be removed without material damage from the Aircraft and without materially decreasing the value, utility or remaining useful life of the Aircraft and title to which has not passed to the Mortgagor in accordance with the relevant documentation (the "**Leased Equipment**") and any of the same which remain subject to this Mortgage after removal from such aircraft or becomes the property of the Mortgagor, all Manuals and Technical Records and all substitutions, replacements or renewals from time to time made in or to such aircraft, the Associated Engines and any such other equipment or parts or to any

part thereof but Aircraft excludes any item of equipment installed on the Aircraft by way of temporary replacement on a short term basis and, unless the context otherwise requires, references to the "**Aircraft**" include any part thereof;

"**Airframe**" means the Aircraft excluding the Associated Engines;

"**Associated Engines**" means each of the two Rolls-Royce model RB211-895 engines with engine serial numbers identified in **Schedule 1**, each Suitable Replacement and any and all appliances, spare parts, instruments, accessories or other equipment or parts of whatever nature from time to time forming part thereof, other than any Leased Equipment and any of the same which remain subject to this Mortgage when no longer installed on or attached to such engine (excluding any such engine which has been replaced by a Suitable Replacement);

"**Enforcement Notice**" means a notice contemplated by clause 7(a) (*Powers of the Mortgagee*);

"**Expenses**" means all out-of-pocket costs, expenses and fees (including legal fees) incurred by the Mortgagee in the enforcement or preservation of its rights under this Mortgage, including those referred to in the proviso to clause 8 and including, without limitation, legal fees pursuant to Section 8 of the Termination Agreement;

"**Lease Agreement**" means the lease agreement dated as of October 25, 2001 entered into between, amongst others, the Mortgagee, as Lessor and the Mortgagor, as Lessee, in respect of the Aircraft;

"**Mortgaged Property**" means all the property from time to time assigned or charged to the Mortgagee pursuant to clause 2(a) (*Security*) by way of security for the Secured Indebtedness under this Mortgage and includes any part of the same;

"**Participation Agreement**" means the participation agreement dated as of October 25, 2001 entered into between, amongst others, the Mortgagor as Lessee and the Mortgagee as Lessor, in relation to the leasing of the Aircraft from the Mortgagee to the Mortgagor;

"**Permitted Liens**" means (i) the respective rights of Mortgagor and any Permitted Sublessee as provided in the Lease or the other Operative Documents, (ii) the rights of Permitted Sublessee and other Persons under agreements and arrangements to the extent permitted by the terms of Sections 7 and 8 of the Lease, (iii) Liens for Taxes payable by Mortgagor or any Permitted Sublessee either not yet due or being diligently contested in good faith by appropriate proceedings, so long as the likely result thereof will not materially adversely affect the interests of Mortgagee in the Aircraft or any Engine, (iv) (a) materialmen's, mechanics', workmen's, repairmen's, employees' or other like Liens, and (b) Liens for the fees or charges of any airport or air navigation authority, in each case arising in the ordinary course of business for amounts the payment of which is either not yet delinquent or is being diligently contested in good faith by appropriate proceedings, or for which Mortgagor or any Permitted Sublessee is unable to pay because it is restrained from doing so by exchange controls or other applicable regulations, in each case so long as the likely result thereof will not materially adversely affect the interest of any Lessor Person in the Aircraft or any Engine, (v) Liens arising out of judgments or awards against Mortgagor or any Permitted Sublessee with respect to

which at the time an appeal or proceeding for review is being diligently prosecuted in good faith by appropriate proceedings and with respect to which there shall have been secured a stay of execution pending such appeal or proceeding for review and then only for the period of such stay, so long as the likely result thereof will not materially adversely affect the interest of Mortgagor in the Aircraft or any Engine, (vi) the Lien created by this Mortgage, and (vii) any other Lien created with the prior written consent of Mortgagee.

**"Purchase Option Instalment"** means each instalment of the Purchase Option Price falling due after the date of this Mortgage in accordance with Section 5(a) of the Lease Agreement;

**"Receiver"** means any receiver and/or manager of all or any part of the Mortgaged Property appointed pursuant to clause 7(b) (*Powers of the Mortgagee*) (and includes any joint receiver);

**"Requisition Compensation"** means all monies or other compensation from time to time receivable by the Mortgagor or any other person in respect of the requisition for hire, title, acquisition, capture, deprivation, detention, condemnation, confiscation or seizure of the Aircraft;

**"Secured Indebtedness"** means each Purchase Option Instalment, interest due thereon, and all Expenses incurred by Mortgagee;

**"Security Period"** means the period commencing on the date of this Mortgage and terminating upon the earliest of the dates upon which the Mortgagor becomes entitled to request the release of the mortgages and charges created by this Mortgage in accordance with clause 2(d) (*Security*).

- (b) *Clause headings are inserted for convenience of reference only and shall be ignored in this Mortgage.*

In this Mortgage, unless a contrary indication appears:

- (i) references to clauses and Schedules are to be construed as references to the clauses of, and Schedules to, this Mortgage and references to this Mortgage include its Schedules;
- (ii) references to (or to any specified provision of) this Mortgage or any other document shall include this Mortgage, that document or the relevant provision as it may from time to time be amended;
- (iii) a reference to an **"amendment"** includes a supplement, novation, restatement or re-enactment and **"amended"** will be construed accordingly;
- (iv) words importing the plural shall include the singular and vice versa, and words importing a gender include every gender;
- (v) references to a person shall be construed as including references to an individual, firm, company, corporation, unincorporated association or body of persons and any government entity, whether or not having separate legal personality and



references to any party shall be construed so as to include the successors, permitted assignees and permitted transferees of the relevant party;

- (vi) references to any provision of law shall be construed as a reference to such provision as applied, amended, extended or re-enacted and include any subordinate legislation;
  - (vii) a reference to an "**approval**" shall be construed as a reference to any approval, consent, authorisation, exemption, permit, licence, registration, filing or enrolment by or with any competent authority;
  - (viii) a reference to "**including**" shall be construed as a reference to "including without limitation", so that any list of items or matters appearing after the word "including" shall be deemed not to be an exhaustive list, but shall be deemed rather to be a representative list, of those items or matters forming a part of the category described prior to the word "including"; and
  - (ix) references to costs and expenses which are to be reimbursed to or recovered by the person incurring the same shall be construed as references to an amount equal to the amount of such costs and expenses together with any VAT thereon in respect of which that person is unable to claim a credit or repayment pursuant to the Value Added Tax Act 1994 or other similar tax in any jurisdiction in respect of which that person is unable to claim a credit or repayment pursuant to provisions under the laws of that jurisdiction analogous to the said Act.
- (c) Unless otherwise defined in this Mortgage, words and expressions defined in the Participation Agreement have the same respective meanings when used in this Mortgage (including the recitals hereto).

## **2. Security**

- (a) As continuing security for the punctual payment of the Secured Indebtedness, the Mortgagor hereby:
  - (i) with full title guarantee mortgages and charges by way of first fixed charge all its present and future right and title to, and interest in, the Aircraft grants a first priority security interest over the Airframe and the Associated Engines and assigns and agrees to assign and charges by way of first fixed charge all its present and future right and title to, and interest in, the proceeds of sale of the Aircraft, in each case, to and in favour of the Mortgagee;
  - (ii) with full title guarantee assigns and agrees to assign, and charges by way of first fixed charge, to and in favour of the Mortgagee, all its right, title and interest, present and future, to and in respect of proceeds arising, under:
    - (1) all Insurance in respect of all risks of physical loss or damage (including, but not limited to, war risks) effected in relation to the Aircraft (but for the avoidance of doubt this Mortgage does not constitute an assignment of any policies of insurance but only of

the benefit, rights, title, interest and proceeds thereunder insofar as the same relate to the Aircraft);

- (2) any manufacturer warranties relating to the Airframe or Engines; and
- (3) any Requisition Compensation relating to the Aircraft,

and all benefits thereof (including, without limiting the generality of the foregoing, the benefit of all powers and remedies for enforcing all claims relating to such Insurance and to such Requisition Compensation),

**TO HOLD the same unto the Mortgagee as continuing security for the payment and discharge to the Mortgagee of the Secured Indebtedness.**

(b)

- (i) Any item of equipment at any time removed from the Aircraft shall remain subject to the security created by this Mortgage until such time as a replacement or substitute, title to which is vested in the Mortgagor, free of Liens (other than Permitted Liens), shall have been installed in the Aircraft and shall have become subject to the security created by this Mortgage pursuant to clause (ii).
- (ii) Upon installation on the Aircraft, any replacement or substitute item of equipment, other than any Leased Equipment, shall, thereupon and without further act, become subject to the security created by this Mortgage for all purposes as though it had been originally installed in, or attached to, the Aircraft and, subject thereto and to clause (i), the item of equipment replaced or substituted shall be released from the security created by this Mortgage.

(c)

- (i) Any Associated Engine which at any time is not installed on the Aircraft shall remain subject to the security created by this Mortgage until such time as a Suitable Replacement shall have been substituted therefor and shall have become subject to the security created by this Mortgage.
- (ii) Any Suitable Replacement shall, without further act, become subject to the security created by this Mortgage for all purposes as though it had originally been an Associated Engine upon:
  - (A) its installation on the Aircraft; or
  - (B) the Mortgagor obtaining title to an engine installed on the Aircraft complying with the requirements of Section 7(c)(viii) of the Lease Agreement such that it becomes a Suitable Replacement for an Associated Engine not then installed on the Aircraft; or
  - (C) the execution by the Mortgagor of a supplemental deed to this Mortgage, in form and substance satisfactory to the Mortgagee by virtue of which

the definition herein of Mortgaged Property is amended to include such Suitable Replacement,

whereupon the Associated Engine so substituted shall be released from the security created by this Mortgage.

- (d) The Mortgagee shall, at the request and cost of the Mortgagor, release the mortgages and charges created by this Mortgage and reassign any Mortgaged Property assigned to the Mortgagee by this Mortgage upon the payment or other satisfaction in full of the Secured Indebtedness to the satisfaction of the Mortgagee.
- (e) The parties acknowledge that the Associated Engines might not be installed on the Aircraft at the date of this Mortgage. If the Associated Engines are not installed on the Aircraft at the date of this Mortgage, the parties shall execute a supplemental mortgage, substantially in the form set out in Schedule 3, to take effect in relation to each Associated Engine on the date and time that such Associated Engine is first situated at (i) Heathrow and (ii) Derby, England.

### **3. Lease Agreement**

The Mortgagor hereby covenants with the Mortgagee to perform duly and punctually all of the obligations, agreements and undertakings in, under and pursuant to the Lease Agreement which are expressed to be assumed by the Lessee so far as they relate to the maintenance, repair, insurance, operation, registration, possession and subleasing of the Aircraft as if the leasing of the Aircraft to the Mortgagor by the Mortgagee had continued, notwithstanding the exercise by the Mortgagor of the Purchase Option by reference to the Third Purchase Option Date.

### **4. Covenants**

The Mortgagor hereby covenants with the Mortgagee that (i) it will pay and discharge all of the Secured Indebtedness in accordance with the Lease Agreement and the Termination Agreement, and (ii) throughout the Security Period, save as constituted by or permitted under this Mortgage, it will retain such title to the Mortgaged Property as was vested in the Mortgagor by virtue of exercise of the Purchase Option and will not itself, throughout the Security Period, knowingly sell, convey, or transfer or create any Liens (other than Permitted Liens) over the Mortgaged Property or any of it. The Mortgagor further covenants that it will promptly inform the Mortgagee of an occurrence of an event which might materially and adversely affect its ability to perform its obligations under this Mortgage.

### **5. Insurance, Loss and Damage**

- (a) The Mortgagor shall give written notice, or procure that the brokers through whom the Insurance are placed, give written notice to the insurers with whom the Insurance are from time to time effected of the assignment herein contained in the form attached as Schedule 2 (the "Notice of Assignment").

- (b) The proceeds of any Insurance or Requisition Compensation received by the Mortgagee in respect of an Event of Loss of the Aircraft shall be applied in accordance with the provisions of clause 8 (*Application of Moneys*) of this Mortgage.
- (c) If the Aircraft has suffered repairable damage or the loss or destruction of either or both of the Associated Engines (where no Event of Loss of the Aircraft has occurred), all Insurance proceeds in respect of such damage or loss shall be applied in accordance with the provisions of clause 8 (*Application of Moneys*) of this Mortgage.
- (d) The Mortgagee hereby agrees that it shall not notify the insurers as contemplated in paragraph 4 of the Notice of Assignment unless either:
  - (i) the security created by this Mortgage shall have become immediately enforceable as provided in clause 7(a) (*Powers of the Mortgagee*); or
  - (ii) an Event of Loss shall have occurred.

#### **6. Powers of Mortgagee to Protect Security, Remedy Defaults and Delegate**

- (a) The Mortgagee shall, without prejudice to its other rights, powers and remedies under this Mortgage, be entitled (but not bound) at any time and as often as may be necessary to take any such action as it may think fit for the purpose of protecting or maintaining the security created by this Mortgage.
- (b) The Mortgagee shall be entitled at any time and as often as may be expedient to delegate all or any of the power and discretions vested in it by this Mortgage (including the power vested in it by virtue of clause 10) in such manner upon such terms, and to such persons as the Mortgagee in its absolute discretion may think fit.
- (c) Any Expenses suffered or incurred by the Mortgagee in connection with the exercise of any of its rights, powers and remedies under this Mortgage shall, save where the same have been suffered or incurred or have arisen as a result of gross negligence or wilful misconduct on the part of the Mortgagee or any delegate of the Mortgagee as contemplated by clause (b), be charged on the Mortgaged Property.

#### **7. Powers of the Mortgagee**

- (a) The Mortgagee shall have the power of sale upon execution of this Mortgage and the security created by this Mortgage shall become immediately enforceable upon the giving by the Mortgagee of a notice to the Mortgagor (an "Enforcement Notice") declaring that a Purchase Option Instalment has not been paid on the due date and that such non-payment constitutes a Lease Event of Default or that a Lease Event of Default has occurred under Section 14(d) or (e) of the Lease with respect to any of Mortgagor's material representations, warranties, covenants or agreements hereunder or under the Termination Agreement, including, without limitation, failure to insure in the manner provided in clause 3, whereupon the Mortgagee shall become entitled, as and when it may see fit and without further notice and without the restrictions contained in Section 103 of the Law of Property Act 1925, to exercise in relation to the Mortgaged Property all or any of the rights, powers and remedies conferred upon mortgagees by any relevant

law and/or conferred on the Mortgagee by virtue of this Mortgage, and in particular (but without limiting the generality of the foregoing):

- (i) to apply to any authority in the country in which the Aircraft or any part thereof is located for an enforcement and attachment order in respect of the Aircraft;
- (ii) to take possession of the Aircraft or any other Mortgaged Property and for this purpose to enter upon any premises where the same may be located;
- (iii) to require that all policies, contracts and other records relating to the Insurance (including details of and correspondence concerning outstanding claims) be delivered forthwith to such brokers as the Agent may nominate;
- (iv) to collect, recover, compromise and give a good discharge for all claims then outstanding or thereafter arising under the Insurance or any of them and to take over or institute (if necessary using the name of the Mortgagor) all such proceedings in connection therewith as the Mortgagee in its absolute discretion thinks fit and to permit the brokers through whom collection or recovery is effected to charge the usual brokerage therefor;
- (v) to settle, discharge, compound, release or compromise any claims whatsoever in connection with the Aircraft or any other Mortgaged Property or in any way relating to the security created by this Mortgage and execute releases and discharges with respect thereto;
- (vi) to bring, take, defend, compromise, submit to arbitration or discontinue any actions, suits or proceedings whatsoever, civil or criminal, in relation to the Aircraft or any other Mortgaged Property;
- (vii) to repair and keep in repair the Aircraft and generally maintain, preserve and protect the Aircraft and keep the same free from any Lien;
- (viii) to insure the Aircraft against loss and damage and in respect of third party, *passenger and property damage liability*, in such sums, with such insurers, and on such terms as the Mortgagee, in its absolute discretion, deems expedient.
- (ix) to lease or charter or place in safekeeping the Aircraft for such periods, at such rents and generally in such manner and upon such conditions as the Mortgagee, in its absolute discretion, deems expedient;
- (x) to sell and give good title to the Aircraft or any other Mortgaged Property, with or without prior notice to the Mortgagor and with or without the benefit of any lease or charter, by public auction or private contract, at such place and upon such terms as the Mortgagee, in its absolute discretion, may determine, with power to postpone any such sale and without being answerable for any loss occasioned by such sale or resulting from the postponement thereof; and
- (xi) in relation to any of the foregoing, to do all acts and things incidental or conducive thereto and, in particular, to enter into such arrangements respecting the Aircraft,

its repair, insurance and employment in all respects as if the Mortgagee were the owner of the Aircraft, but without being responsible for any loss thereby incurred.

- (b)
  - (i) At any time after the security created by this Mortgage has become enforceable, the Mortgagee shall be entitled (but not bound) by writing under seal or under the hand of any of its officers, attorneys or substitute attorneys to appoint any person to be Receiver of the Mortgaged Property or any part thereof (with power to authorise any joint receiver to exercise any power independently of any other joint receiver and/or manager) and may from time to time fix the Receiver's remuneration, and may remove any Receiver so appointed and appoint another or others in his place. Any Receiver so appointed shall be the agent of the Mortgagor, and the Mortgagor shall be solely responsible for his acts or defaults and for the Receiver's remuneration. Such Receiver so appointed shall have all the powers conferred from time to time on receivers by any applicable statute (in the case of powers conferred by the Law of Property Act 1925, without the restrictions contained in Section 103 of that Act) and in addition power on behalf of, and at the cost of the Mortgagor (notwithstanding any liquidation of the Mortgagor), to do or omit to do anything which the Mortgagor could do or omit to do in relation to the Mortgaged Property or any part thereof, and in particular, but without prejudice to the generality of the foregoing, any such Receiver may exercise all the powers and discretions conferred on the Mortgagee by this Mortgage.
  - (ii) Any Receiver shall be entitled to remuneration appropriate to the work and responsibilities involved upon the basis of charging from time to time adopted by the Receiver in accordance with the current practice of his firm without being *limited to the maximum rate specified in Section 109(6) of the Law of Property Act 1925*. Any remuneration of the Receiver shall be paid by the Mortgagor.
  - (iii) Neither the Mortgagee nor any Receiver shall be liable as mortgagee in possession in respect of the *Mortgaged Property to account or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever in connection therewith for which a mortgagee in possession may be liable as such.*
- (c) Section 93 of the Law of Property Act 1925 shall not apply to this security or any security given to the Mortgagee pursuant hereto.
- (d) In relation to any sale of the Aircraft or any other Mortgaged Property by the Mortgagee pursuant to clause (a)(x) or by any Receiver the purchaser shall not be bound to see or enquire whether the power of sale of the Mortgagee or the Receiver has arisen in the manner provided for in this Mortgage, and the sale shall be deemed to be within the power of the Mortgagee (or the Receiver, as the case may be) and the receipt of the Mortgagee (or the Receiver, as the case may be) for the purchase money shall effectively discharge the purchaser who shall not be concerned with the manner of application of the proceeds of sale or be in any way answerable therefor.

- (e) The Mortgagor and the Mortgagee agree that an event of enforcement under this Mortgage is a "default" for the purposes of The International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015 (SI 2015/912).

#### 8. Application of Moneys

All proceeds of Insurance and Requisition Compensation required to be applied in the manner specified in this clause 8 and all moneys arising from any sale, calling in, collection or conversion of the Mortgaged Property pursuant to clause 7 (*Powers of the Mortgagee*) of this Mortgage, after deducting an amount equal to the amount of all Expenses suffered or incurred by the Mortgagee and/or any Receiver and interest thereon under this Mortgage, shall be applied by the Mortgagee as follows:

- (i) **FIRST** in or towards payment of the Secured Indebtedness as and when the same becomes due and payable; and
- (ii) **SECOND** any balance remaining shall be paid to the Mortgagor,

provided however that, in the event that any part of the Secured Indebtedness is denominated in a currency other than that in which the moneys required to be applied under this clause 8 were received by the Mortgagee (the "**currency of receipt**") the Mortgagee shall convert such part of such moneys as may be necessary to effect the foregoing applications into the relevant currencies at the rates, as conclusively determined by the Mortgagee, for the purchase of the relevant currencies with the currency of receipt at the date of application.

#### 9. Continuing Security and Remedies Cumulative

- (a) It is hereby declared and agreed that:
  - (i) the security created by the Mortgagor pursuant to this Mortgage shall be a continuing security for the payment of the Secured Indebtedness and accordingly (subject to the provisions of clause 2(d) (*Security*)) the security so created shall not be satisfied by any intermediate payment or satisfaction of any part of the Secured Indebtedness;
  - (ii) the security so created shall be in addition to, and shall not in any way prejudice or affect, the security created by any deposit of documents, or any guarantee, lien, bill, note mortgage or other security now or hereafter held by the Mortgagee or any right or remedy of the Mortgagee thereunder, and shall not be in any way prejudiced or affected by, or by the invalidity or unenforceability of, or by the Mortgagee releasing, modifying or refraining from perfecting or enforcing any of the same or granting time or indulgence or compounding with any person liable; and
  - (iii) all the rights, remedies and powers vested in the Mortgagee by this Mortgage may be exercised from time to time and as often as the Mortgagee may deem expedient.

**10. Attorney**

- (a) By way of security, the Mortgagor hereby irrevocably appoints the Mortgagee and any Receiver, jointly and also severally, to be its attorney generally, for and in its name and on its behalf and as the act and deed or otherwise of the Mortgagor, to execute, seal and deliver and otherwise perfect and do all such deeds, assurances, agreements, instruments, acts any things which may be required for the full exercise of all or any of the rights, powers or remedies hereby conferred, or which may be deemed proper in or in connection with all or any of the purposes aforesaid; provided always that neither the Mortgagee nor any Receiver shall exercise the authority conferred upon either of them in this clause (a) unless an Enforcement Notice shall have been served on the Mortgagor. The power hereby conferred shall be a general power of attorney under the Powers of Attorney Act 1971 and the Mortgagor ratifies and confirms and agrees to ratify and confirm, any deed, assurance, agreement, instrument, act or thing which the Mortgagee or the Receiver may execute or do pursuant thereto.
- (b) The exercise of such power by or on behalf of the Mortgagee or the Receiver shall not put any person dealing with the Mortgagee or the Receiver upon any enquiry as to whether the security created by this Mortgage has become enforceable, nor shall such person be in any way affected by notice that the security so created has not become so enforceable, and the exercise by the Mortgagee or the Receiver of such power shall be conclusive evidence of its or his rights to exercise the same.

**11. Representations and Warranties of Mortgagor**

Subject to the obligations created by this Agreement, the Mortgagor represents and warrants that it has good and valid title to the Aircraft, free from Liens (but subject to any Permitted Liens).

**12. Further Assurance**

- (a) The Mortgagor further undertakes, at the expense of the Mortgagor, from time to time to execute, sign, perfect, do and (if required) register every such further assurance document, act or thing as in the reasonable opinion of the Mortgagee may be necessary or desirable for the purpose of more effectively mortgaging and charging the Mortgaged Property or perfecting the security constituted or intended to be constituted by this Mortgage.
- (b) The Mortgagee will register the "international interest" created by this Mortgage with the International Registry created under the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment.

**13. Rights Cumulative, Waivers**

- (a) The rights of the Mortgagee under this Mortgage are cumulative, may be exercised as often as it considers appropriate and are in addition to its rights under the general law. The rights of the Mortgagee under this Mortgage (whether arising pursuant hereto or under the general law) shall not be capable of being waived or varied otherwise than by an express waiver or variation in writing; and, in particular, any failure to exercise, or any



delay in exercising, any of such rights shall not operate as a waiver or variation of that or any other such right; any defective or partial exercise of any of such rights shall not preclude any other or further exercise of that or any other such right; and no act or course of conduct or negotiation on the Mortgagee'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.

- (b) The Mortgagee need not before exercising any of the rights, powers or remedies conferred upon it by this Mortgage or by law (a) take action or obtain judgment against the Mortgagor or any other person in any court, (b) make or file claim or proof in a winding-up or liquidation of the Mortgagor or any other person or (c) enforce or seek to enforce the recovery of the moneys, obligations and liabilities hereby secured or any other security.

#### **14. Interest**

Interest on any sum demanded or payable under this Mortgage shall bear interest at the Past Due Rate, as defined in the Participation Agreement.

#### **15. Miscellaneous**

- (a) Any provision of this Mortgage which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions thereof or affecting the validity or enforceability of such provision in any other jurisdiction.
- (b) This Mortgage may be executed in any number of counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument.
- (c) No term of this Mortgage is enforceable under the Contract (Rights of Third Parties) Act 1999 by anyone other than a party to this Agreement.
- (d) The Mortgagor shall not be entitled to set-off or withhold from any sum or sums expressed in this Mortgage to be payable to the Mortgagee, against any amount due and payable to the Mortgagor.

#### **16. Notices**

- (a) Every notice, request, demand or other communication under this Mortgage shall:
  - (i) be in writing delivered personally or by first-class prepaid post (or by airmail if sent to any address outside the United Kingdom) or by fax transmission;
  - (ii) be deemed to have been received, subject as otherwise provided in this Mortgage, in the case of a fax transmission, upon receipt by the sender of a transmission report confirming receipt at the correct number and, in the case of a letter, when delivered personally or 5 days (10 days in the case of airmail) after it has been put in to the post; and
  - (iii) be sent as required:

(A) the Mortgagor at:

Waterside  
PO Box 365  
Harmondsworth  
Middlesex UB7 0GB

Attention: Group Treasurer

(B) to the Mortgagee at:

BNY-BA 2001 Trust  
c/o Wilmington Trust Company  
1100 Market Street  
Rodney Square North  
Wilmington, Delaware 19890-0001  
Fax: 302-636-4140  
Attention: Corporate Trust Administration

or to such other address or fax number as the recipient may have notified to the other party.

(iv) Any communication to be made under, or in connection with, this Mortgage may be made by electronic mail or other electronic means, if the parties:

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

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

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

(v) Any electronic communication made under, or in connection with, this Mortgage will be effective only when actually received in readable form.

#### 17. Law

This Mortgage and any non-contractual obligations connected with it are governed by and shall be construed in accordance with English law.

**IN WITNESS** whereof the parties hereto have caused this Mortgage to be executed as a deed and this Mortgage is intended to be and is hereby delivered the day and year first before written.

**Schedule 1**  
**Description of Aircraft**

One Boeing 777-200ER aircraft, manufacturer's serial number 30315 and UK Registration mark G-YMMP, together with two Rolls-Royce model RB211-895 aircraft engines with manufacturer's serial numbers 51344 and 51345.

**Schedule 2**  
**Notice of Assignment of Insurances - Mortgage**

To: [●]

Tel: [●]

Fax: [●]

Attention: [●]

**Boeing 777-200ER Aircraft, Serial No. 30315 Registration Mark G-YMMP**

- 1 We hereby give you notice that by a first priority mortgage (the "**Mortgage**") dated [●], 2016 British Airways Plc (the "**Owner**") assigned to Wilmington Trust Company, not in its individual capacity but solely as Trustee of BNY-BA 2001 Trust (the "**Mortgagee**") all right, title and interest in and to all insurances (other than third party liability insurances) in respect of the above Aircraft.
- 2 In accordance with paragraph 1.1 of the latest certificate of insurance AVN67B or based on AVN67B or any replacement thereof) relating to the above Aircraft, where settlement of any claim (in respect of All Risks insurance and War Risks insurance) on the basis of an Event of Loss is to be made to or to the order of the Contract Party(ies), the Contract Party(ies) have agreed that payment shall be made to the Mortgagee and where settlement of any claim (other than an Event of Loss) is to be made otherwise than to a repairer, it shall be paid (a) (save where the Mortgagee has otherwise given its prior written consent) to the Mortgagee in any case after the giving of an Enforcement Notice (as defined in the Mortgage); or (b) to the Owner regardless of the amount of the claim if no Enforcement Notice (as defined in the Mortgage) shall have been served.
- 3 For the purpose of the foregoing paragraph, the term Contract Party(ies) shall have the meaning ascribed to such term in the latest certificate of insurance issued by you in respect of the insurance for the Aircraft referred to above.
- 4 Until you are notified to the contrary by the Mortgagee, you should continue to deal with the Owner in respect of all matters relating to the making and settlement of claims under the insurances relating to the above Aircraft as though such assignment had not been made.

.....  
for and on behalf of  
**BRITISH AIRWAYS PLC**

.....  
for and on behalf of  
**WILMINGTON TRUST COMPANY**, not in its individual  
capacity but solely as Trustee of **BNY-BA 2001 TRUST**

**Schedule 3**  
**Form of Supplemental Mortgage**

**THIS SUPPLEMENTAL DEED OF MORTGAGE** is made the \_\_\_\_\_ day  
of \_\_\_\_\_ 2016

**BETWEEN:**

- (1) **BRITISH AIRWAYS PLC** whose registered office is at Waterside, PO Box 365, Harmondsworth, Middlesex UB7 0GB as mortgagor (the "**Mortgagor**"); and
- (2) **WILMINGTON TRUST COMPANY**, a trust company organised under the laws of Delaware not in its individual capacity but solely as Trustee of **BNY-BA 2001 TRUST** under the Trust Agreement (the "**Mortgagee**").

**WHEREAS:**

- (A) The Mortgagor and the Mortgagee entered into the Original Mortgage to secure the Secured Indebtedness as required in Section 5(a)(ii) of the Lease Agreement.
- (B) The Engine was not installed on the Airframe at Delivery, but is at the date of this Mortgage situated at \_\_\_\_\_, England.
- (C) The Mortgagor intends to grant this Mortgage in favour of the Mortgagee to secure the Secured Indebtedness as required in Section 5(a)(ii) of the Lease Agreement.

**NOW IT IS HEREBY AGREED** as follows:

**1. INTERPRETATION**

- 1.1 In this Mortgage, unless otherwise specified, all words and expressions defined in the Original Mortgage shall have the same meanings when used in this Mortgage.
- 1.2 In this Mortgage, unless the context otherwise requires, the following words and expressions have the following meanings:

**"Engine"** means one Rolls-Royce model RB211-895 engine with engine serial number [51344]/[51345] and any and all appliances, spare parts, instruments, accessories or other equipment or parts of whatever nature from time to time forming part thereof, other than any Leased Equipment and any of the same which remain subject to this Mortgage when no longer installed on or attached to such engine; and

**"Original Mortgage"** means the deed of mortgage between the Mortgagor, as mortgagor, and the Mortgagee, as mortgagee, dated [●], 2016.

**2. SECURITY**

- 2.1 The Mortgagor hereby:

2.1.1 with full title guarantee mortgages and charges by way of first fixed charge all its present and future right and title to, and interest in, the Engine and assigns and agrees to assign and charges by way of first fixed charge all its present and future right and title to, and interest in, the proceeds of sale of the Engine, in each case, to and in favour of the Mortgagee;

2.1.2 with full title guarantee assigns and agrees to assign, and charges by way of first fixed charge, to and in favour of the Mortgagee, all its right, title and interest, present and future, to and in respect of proceeds arising, under:

(i) all Insurance in respect of all risks of physical loss or damage (including, but not limited to, war risks) effected in relation to the Engine (but for the avoidance of doubt this Mortgage does not constitute an assignment of any policies of insurance but only of the benefit, rights, title, interest and proceeds thereunder insofar as the same relate to the Engine); and

(ii) any Requisition Compensation relating to the Engine,

and all benefits thereof (including, without limiting the generality of the foregoing, the benefit of all powers and remedies for enforcing all claims relating to such Insurance and to such Requisition Compensation),

**TO HOLD** the same unto the Mortgagee as continuing security for the payment and discharge to the Mortgagee of the Secured Indebtedness.

2.2.1 Any item of equipment at any time removed from the Engine shall remain subject to the security created by this Mortgage until such time as a replacement or substitute, title to which is vested in the Mortgagor, free of Liens (other than Permitted Liens), shall have been installed on the Engine and shall have become subject to the security created by this Mortgage pursuant to clause 2.2.2.

2.2.2 Upon installation on the Engine, any replacement or substitute item of equipment, other than any Leased Equipment, shall, thereupon and without further act, become subject to the security created by this Mortgage for all purposes as though it had been originally installed in, or attached to, the Engine and, subject thereto and to clause 2.2.1, the item of equipment replaced or substituted shall be released from the security created by this Mortgage.

### **3.. ORIGINAL CHARGE**

3.1 Except for clause 2 (*Security*) of the Original Mortgage, the provisions of the Original Mortgage shall be incorporated into this Mortgage as if the same were specifically set out in this Mortgage.

3.2 If and to the extent that the provisions of the Original Mortgage which are incorporated into this Mortgage pursuant to clause 3.1 above are inconsistent with the provisions of this Mortgage as specifically set out herein, then the provisions of this Mortgage as specifically set out herein shall prevail.

**IN WITNESS** whereof the parties hereto have caused this Mortgage to be executed as a deed and this Mortgage is intended to be and is hereby delivered the day and year first before written.

**Mortgagor**

**THE COMMON SEAL** of )  
**BRITISH AIRWAYS PLC** )  
 was hereunto affixed in )  
 the presence of: )

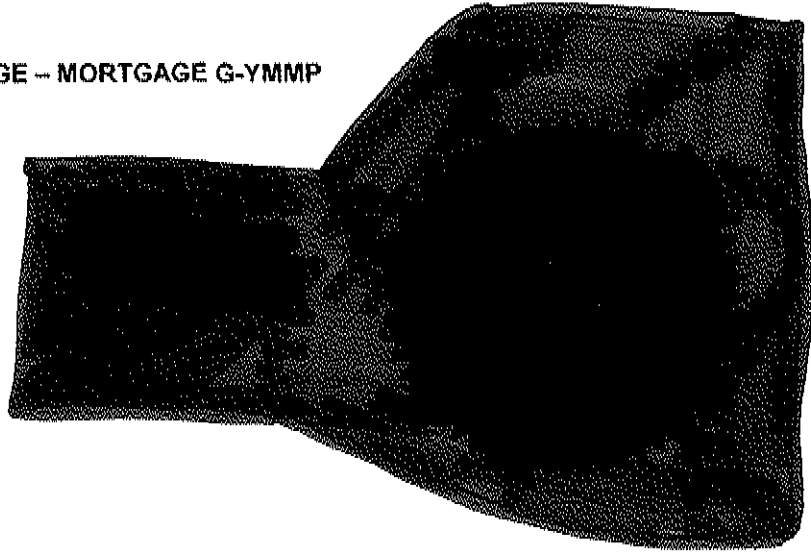
**Mortgagee**

**EXECUTED** as a **DEED** by )  
**WILMINGTON TRUST** )  
**COMPANY**, not in its individual ) .....  
 capacity but solely as Trustee of ) (Authorised signatory)  
**BNY-BA 2001 TRUST**, acting )  
 by \_\_\_\_\_ )  
 who, in accordance with the laws )  
 of the territory in which  
**WILMINGTON TRUST**  
**COMPANY** is incorporated, is  
 acting under the authority of  
**WILMINGTON TRUST**  
**COMPANY**

EXECUTION PAGE – MORTGAGE G-YMMP

**Mortgagor**

THE COMMON SEAL of )  
BRITISH AIRWAYS PLC )  
was hereunto affixed in )  
the presence of: )



**Mortgagee**

EXECUTED as a DEED by )  
WILMINGTON TRUST )  
COMPANY, not in its individual )  
capacity but solely as Trustee of )  
BNY-BA 2001 TRUST, acting )  
by \_\_\_\_\_ )  
who, in accordance with the laws )  
of the territory in which )  
WILMINGTON TRUST )  
COMPANY is incorporated, is )  
acting under the authority of )  
WILMINGTON TRUST )  
COMPANY )

.....  
(Authorised signatory)



EXECUTION PAGE - MORTGAGE G-YMMP

Mortgagor

THE COMMON SEAL of )  
BRITISH AIRWAYS PLC )  
was hereunto affixed in )  
the presence of: )

Mortgagee

EXECUTED as a DEED by )  
WILMINGTON TRUST )  
COMPANY, not in its individual )  
capacity but solely as Trustee of )  
BNY-BA 2001 TRUST, acting )  
by \_\_\_\_\_ )  
who, in accordance with the laws )  
of the territory in which  
WILMINGTON TRUST  
COMPANY is incorporated, is  
acting under the authority of  
WILMINGTON TRUST  
COMPANY

