



INTERNATIONAL CAPE TOWN CONVENTION MOOT COURT

UNDER THE AUSPICES OF THE CAPE TOWN CONVENTION ACADEMIC PROJECT

Introduction and guidelines

1. The CTC international moot court program (**CTC moot court**) was created under the auspices of the Cape Town Convention academic project (**CTCAP**) to:
 - (i) familiarize students and judges with the Cape Town Convention (**convention**) and Aircraft Protocol (**protocol**) in the context of complex hypothetical fact patterns, and
 - (ii) provide students with educational exercises involving these instruments (**CTC**) in a simulated judicial setting.
2. The CTC moot court is strictly an academic exercise, and shall have no effect, in any other context, on the analysis of points of law or the interpretation of CTC provisions.
3. The hypothetical and related materials (for the first series of CTC moot courts (and tailored for the first in that series (Brazil)) which follow (**hypothetical**) will be modified on a jurisdictional basis, depending on the venue of the CTC moot court. The major change will be that such venue will be the assumed country where the aircraft is registered under Chicago Convention of 1944.
4. The CTC moot court will be heard by sitting judges, and one among them will be designated the chief judge by the CTCAP. Alternatively, the fact pattern may be used as the basis of discussion and debate among judges and/or students.
5. For each moot court, a tribunal administrator will be appointed by the CTCAP (the **administrator**). The administrator, which could be a group with a designated lead or an individual firm or person, in all cases working on a *pro bono* basis, will organize the moot court, taking into account point 6 below.
6. Where a traditional moot court format is followed (and with reference to the hypothetical):
 - Students will be divided into two teams, one representing the lessor, the other representing the two lessees. They will address the 'questions posed' at the end of the hypothetical.
 - The teams can be of any number of students, providing that the numbers in each team are equal. Each team should appoint three students to present the oral arguments (the oralists).
 - Each team will prepare and submit their written arguments to the administrator in pdf format via email at least one (1) week before the scheduled oral arguments. The written arguments should follow the format of the questions posed, set out below.
 - The written arguments may not exceed 10 pages, if single spaced, or 20 pages, if double-spaced. In either case, font will be Times New Roman and the size of that font will be 12 point. Margins may not be altered. All printed materials shall be double-sided.
 - The time, place, and order of the oral arguments will be determined by the administrator. The length of the oral argument is as follows:
 - Each side will have thirty (30) minutes to introduce their arguments. Within this time-period, the time spent on each question need not be the same.

- A rebuttal period will ensue and last no more than ten (10) minutes for each side.
- Each oralist should present the arguments on behalf of the client (lessor or lessees) in relation to one of the three questions set out below.
- Judges will ask each side any questions they deem fit. The responding side will have no more than ninety (90) seconds to respond to each question. The time taken up for questions is in addition to the time limits on presentation of arguments set out above.
- The judges, acting through the chief judge, will issue their ruling, and outline their reasoning, in any form they see fit.

Advice to students

- The key to good advocacy is excellent preparation. Once you have prepared for the oral arguments, however, it is best to address the tribunal directly rather than read out a pre-prepared script.
- It is best to structure written arguments very carefully, and use headings and sub-headings to guide the tribunal through the argument you are making.
- In preparing the written and oral arguments, you should consider what arguments can be made in favour of their client, and also what arguments are likely to be made against those arguments, so that these can be addressed briefly. This will strengthen the arguments made on behalf of the client, and will also prepare the oralists for the rebuttal that they will have to give.
- It should be remembered that in making the rebuttal, the oralists should address only the arguments actually made by the other side, and will therefore have to adapt any prepared arguments accordingly as they address the tribunal.

INTERNATIONAL CAPE TOWN CONVENTION MOOT COURT

UNDER THE AUSPICES OF THE CAPE TOWN CONVENTION ACADEMIC PROJECT

To be heard before a Brazilian Court

To submit to Brazilian Court the differences between the parties concerning relief pending final determination and recognition of a foreign court order for such relief

IN THE MATTER OF (1) RELIEF PENDING FINAL DETERMINATION, AND (2) RECOGNITION OF A FOREIGN COURT ORDER FOR SUCH RELIEF

Background, facts, actions, and questions

Background

1. Brazil and the United Kingdom are parties to the 2001 Cape Town Convention (**convention**) and its Aircraft Protocol (**protocol**). These instruments are referred to collectively as **CTC**.
2. Brazil has made the declarations to CTC set out annex 1-a.
3. The United Kingdom has made the declarations to CTC set out in annex 1-b.
4. Key provisions from CTC relevant to the dispute are set out in annex 2.¹
5. Key provisions from the underlying leases relevant to the dispute are set out in annex 3.

The two leases are effectively the same, save (i) identification of parties and their places of incorporation, (ii) description of the equipment, and (iii) in the case of the lease for aircraft 2, the parties agreed to the following jurisdiction clause (rather than that one set out in clause 29.1 in annex 3):

Jurisdiction

(a) The courts of England have jurisdiction to settle any dispute arising out of or in connection with this Agreement and the other Lessee Documents or any non-contractual obligations connected with this Agreement or the other Lessee Documents (including a dispute regarding the existence, validity or termination of this Agreement or any other Lessee Document) (a **dispute**).

(b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly neither party will argue to the contrary.

(c) Notwithstanding paragraphs (a) and (b) above, the Lessor shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lessor may take concurrent proceedings in any number of jurisdictions.

(d) The Lessee may not take proceedings in relation to a Dispute before the courts of any jurisdiction other than those set out in paragraph (a).

(e) This clause 29.1 (Jurisdiction) is without prejudice to the provisions of Article 43 of the Convention and Article XXI of the Protocol.

Facts

6. GPB, an Irish company (**lessor**), leased one aircraft (with identified engines, **aircraft 1**) to Brazil Transport, a Brazilian airline (**lessee 1**), and one aircraft (with identified engines, **aircraft 2**) to BT – SPV, a U.S. wholly-owned, special purpose subsidiary of lessee 1 (**lessee 2**). While lessee 1 and lessee 2 follow strict formalities reflecting their separate identities, using separate letterhead and contracting in their own names, they are managed by the same executives based in the same Brazilian location.

¹ These references do not suggest a limitation. Students should review all relevant procedures of CTC, the Official Commentary to CTC (posted on ctcap.org), national legal materials, and other materials thought to be useful.

7. The leases for each of aircraft 1 and aircraft 2 constitute ‘international interests’ under CTC and have been registered with the CTC international registry of mobile assets (the **international registry**). These leases, executed coincident with the delivery of a technical acceptance certificate in respect of the relevant aircraft by lessee 1 and lessee 2, respectively, are legal, valid, and binding obligations of the lessees, and are in full force and effect and enforceable in accordance with their terms, subject to the rules of insolvency.

8. Lessee 1 and lessee 2 have defaulted on payment obligations under their respective leases with lessor. They stipulate that - but raise as a defense that neither aircraft is airworthy based on defects that were latent when the leases were executed but have since manifested themselves. Indeed, both aircraft have lost their certificates of airworthiness. Both leases contain forum provisions, including for actions in respect of relief pending final determination, agreeing to dispute resolution in the English courts. That provision was exclusive in the case of the lease for aircraft 1 and non-exclusive in the case of the lease of aircraft 2. Both leases are expressed to be governed by English law and contain ‘hell or high water’ clauses (see lease clause 7.2). Lessee 1 and lessee 2 each claim that application of such a clause in this context violates Brazilian public policy.

9. Aircraft 1 and aircraft 2 are both registered for nationality purposes in Brazil. Both aircraft are being stored in maintenance facilities located in Brazil, with material fees for such storage accumulating. In addition, there are outstanding airport fees for each aircraft.

10. On 1 January 2022, Lessor filed before the English High Court claims on the long-term merits (total amounts due, collateral, any and all damages) and relief pending final determination of that claim. In respect of the latter, such relief was that available under convention, arts 13(1) (a) – (c) and protocol, art X. On 5 January 2022, such relief pending final determination was ordered by the English High Court in two orders, the **aircraft 1 order** and the **aircraft 2 order**.

11. On 10 January 2022, a voluntary Chapter 11 insolvency proceedings were commenced by lessee 2 in the Southern District of New York. That U.S. bankruptcy court has not at this stage heard a pending motion to dismiss these proceedings.

Action

12. On 11 January 2022, lessor seeks to have the aircraft 1 order and the aircraft 2 order immediately recognized and enforced by the Brazilian court, and additionally, to have that court instruct ANAC to de-register and facilitate the export of aircraft 1 and aircraft 2. Lessor, the holder of IDERAs for each aircraft, also directly applies to ANAC to de-register and export each such aircraft.

13. In parallel, and in the alternative, lessor in the Brazilian Court (a) commences actions in respect of the same long-term claims (see above) against lessee 1 and lessee 2, and (b) seeks the same relief pending (see above) plus de-registration and export of the two aircraft.

14. Lessee 1 and lessee 2 (a) object to the recognition and enforcement by the Brazilian Court of the English High Court orders and to the granting of any relief pending final determination by the Brazilian Court, and (b) seek an injunction preventing the de-registration and export of each aircraft.

15. In addition, lessee 2 asserts that all remedies and other actions against aircraft 2 are stayed worldwide given the commencement of Chapter 11 insolvency proceedings by lessee 2 as a result of the application of the automatic stay.

Questions posed to counsel to the lessor (team 1) and the lessees (team 2)

Each team should address the questions and follow the instructions set out below from the point of view of their client.

Question 1: The English orders

- a. Counsel should address the court on whether CTC compels it to recognize the English orders. Counsel is requested to include arguments as to what the term 'recognition' means in this specific context.
- b. Counsel should address the court on whether CTC compels it to enforce the English orders. Counsel is requested to include arguments as to what the term 'enforce' means in this specific context.
- c. Counsel should then address the court on the action the court should take on the following two hypothetical bases:
 - i. If the court finds that it is compelled to recognize the English orders and/or to enforce the English orders, counsel is requested to address the court as to what order the court should make.
 - ii. If the court finds that it is not compelled to recognize and/or enforce, counsel is requested to address the court as to what specific denying and/or injunctive orders the court should make.

Question 2: Relief pending final determination

- a. Counsel should address the court on whether the CTC compels it to grant relief pending final determination including de-registration and export? Counsel is requested to include arguments on how 'relief pending final determination' differs from national law on interim remedies.
- b. Counsel should then address the court on the action the court should take on the following two hypothetical bases:
 - i. If the court finds that it is compelled to grant such relief pending, counsel is requested to address the court on what order the court should make.
 - ii. If the court finds that it is not compelled to grant such relief pending, counsel is requested to address the court as to what specific denying and/or injunctive orders the court should make.

Question 3: Worldwide automatic stay

Counsel should address the court on the following questions on the assumption that the U.S. bankruptcy court issues an order preventing any action against aircraft 2 by virtue of an asserted worldwide automatic stay.

- a. Does CTC compel the court to recognize that asserted stay?
- b. If recognition is compelled, what order, if any, should the court make?
- c. If the CTC does not compel the court to recognise the asserted stay, does it compel it to reject the asserted stay?
- d. If rejection is compelled, what order should the court make?
- e. If the CTC does not compel the court to recognise or reject the asserted stay, what order should the court make?

END

ANNEXES 1-A, 1-B, 2, and 3 follow below

ANNEX 1-A – DECLARATIONS BY BRAZIL
Declarations lodged by the Federative Republic of Brazil under the Cape Town Convention at the time of the deposit of its instrument of accession

Article	Declaration
Article 39, paragraph 1, a	The Federative Republic of Brazil declares that: all categories of non-consensual right or interest which under the Laws of the Federative Republic of Brazil have or come to have priority over an interest in an object equivalent to that of the holder of a registered international interest shall have priority over a registered international interest, whether within the scope of insolvency proceedings or not.
Article 39, paragraph 1, b	Nothing in this Convention shall affect the right of the Federative Republic of Brazil or any of its entities, intergovernmental organization of which the Federative Republic of Brazil is a Member State, or other private provider of public services in the Federative Republic of Brazil to arrest or detain an object under the laws of the State for payment of amounts owed to any such entity, organization, or provider directly relating to those services in respect of that object or another object.
Article 53	The Federative Republic of Brazil declares that all of the competent courts of the Federative Republic of Brazil, as determined in accordance with the laws and regulations of the judicial system of the Federative Republic of Brazil, are the relevant court(s) for the purposes of Article 1 and Chapter XII of this Convention.
Article 54, paragraph 2	The Federative Republic of Brazil declares that all remedies available to the creditor under any provision of this Convention and the Protocol may be exercised only with the authorization of the Judiciary, with the exception of the remedy provided for in Article XIII of the Protocol, which may be exercised without judicial authorization.

Declarations lodged by the Federative Republic of Brazil under the Aircraft Protocol at the time of the deposit of its instrument of accession

Article	Declaration
Article XXX, paragraph 1, with respect to Article VIII	The Federative Republic of Brazil declares that it will apply Article VIII.
Article XXX, paragraph 2, in regard to Article X with respect to its full application	The Federative Republic of Brazil declares that it will apply Article X wholly and that the number of working days for the purposes of the periods established in Article X, paragraph 2, shall be, with respect to the legal remedies provided for in Article 13, paragraph 1, a, b, c, d, and e of the Convention (preservation of the object and its value; possession, control, or custody of the object; immobilization of the object; lease or management of the object and the income therefrom; sale and application of the proceeds of the sale), ten (10) calendar days for the court proceeding in connection with the legal remedies provided for in Article 13, paragraph 1, a to c, and thirty (30) calendar days for the court proceeding in regard to the exercise of the legal remedies provided for in Article 13, paragraph 1, d and e.
Article XXX, paragraph 3, with respect to Article XI	The Federative Republic of Brazil declares that it will apply the entirety of Article XI, Alternative A, to all insolvency proceedings, and that the waiting period for the purposes of Article XI, paragraph 3, of this Alternative shall be thirty (30) calendar days.
Article XXX, paragraph 1, with respect to Article XII	The Federative Republic of Brazil declares that it will apply Article XII.
Article XXX, paragraph 1, with respect to Article XIII	The Federative Republic of Brazil declares that it will apply Article XIII.
Article XIX, paragraph 1	The Federative Republic of Brazil declares that: (a) The National Civil Aviation Agency of the Federative Republic of Brazil, acting through the Brazilian Aeronautical Registry, shall be the entry point from which there shall be transmitted – and in the case of aircraft engines may be transmitted – to the International Registry information related to international transactions with respect to airframes pertaining to civil aircraft, helicopters or civil aircraft registered in the Federative Republic of Brazil; (b) the requirements related to the Registry, established by the Brazilian laws and regulations, shall be fully complied with, prior to the transmission of any information from the Brazilian Aeronautical Registry to the International Registry.

ANNEX 1-B – DECLARATIONS BY THE UKDeclarations lodged by the United Kingdom of Great Britain and Northern Ireland under the Cape Town Convention at the time of the deposit of its instrument of ratification and subsequent declarations

Article	Declaration
Article 53	Declares that the following courts are the relevant courts for the purposes of Article 1 and Chapter XII of the Convention: the High Court of Justice in England and Wales...
Article 54(2)	Pursuant to Article 54(2) of the Convention, the Government of the United Kingdom of Great Britain and Northern Ireland declares that any remedy available to the creditor in the United Kingdom of Great Britain and Northern Ireland ... under any provision of the Convention which is not there expressed to require application to the court may be exercised without the leave of the court.

Declarations lodged by the United Kingdom of Great Britain and Northern Ireland under the Aircraft Protocol at the time of the deposit of its instrument of ratification and subsequent declarations

Article	Declaration
Article XXX(1)	Pursuant to Article XXX(1) of the Protocol, the Government of the United Kingdom of Great Britain and Northern Ireland declares that it will apply Article XIII of the Protocol to the United Kingdom of Great Britain and Northern Ireland ...

ANNEX 2 – KEY PROVISIONS – CONVENTION AND PROTOCOL

Key provisions of the Cape Town Convention	
Article	Text of article or declaration
Article 5 — Interpretation and applicable law	<p>1. In the interpretation of this Convention, regard is to be had to its purposes as set forth in the preamble, to its international character and to the need to promote uniformity and predictability in its application.</p> <p>2. Questions concerning matters governed by this Convention which are not expressly settled in it are to be settled in conformity with the general principles on which it is based or, in the absence of such principles, in conformity with the applicable law.</p> <p>3. References to the applicable law are to the domestic rules of the law applicable by virtue of the rules of private international law of the forum State.</p> <p>4. Where a State comprises several territorial units, each of which has its own rules of law in respect of the matter to be decided, and where there is no indication of the relevant territorial unit, the law of that State decides which is the territorial unit whose rules shall govern. In the absence of any such rule, the law of the territorial unit with which the case is most closely connected shall apply.</p> <p>Relevant sections from the Official Commentary: 2.23 – 2.29, 2.71 – 2.78, 4.67 – 4.71.</p>
Article 13 — Relief pending final determination	<p>1. Subject to any declaration that it may make under Article 55, a Contracting State shall ensure that a creditor who adduces evidence of default by the debtor may, pending final determination of its claim and to the extent that the debtor has at any time so agreed, obtain from a court speedy relief in the form of such one or more of the following orders as the creditor requests:</p> <p>(a) preservation of the object and its value;</p> <p>(b) possession, control or custody of the object;</p> <p>(c) immobilisation of the object; and</p> <p>(d) lease or, except where covered by sub-paragraphs (a) to (c), management of the object and the income therefrom.</p> <p>2. In making any order under the preceding paragraph, the court may impose such terms as it considers necessary to protect the interested persons in the event that the creditor:</p> <p>(a) in implementing any order granting such relief, fails to perform any of its obligations to the debtor under this Convention or the Protocol; or</p> <p>(b) fails to establish its claim, wholly or in part, on the final determination of that claim.</p> <p>3. Before making any order under paragraph 1, the court may require notice of the request to be given to any of the interested persons.</p> <p>4. Nothing in this Article affects the application of Article 8(3) or limits the availability of forms of interim relief other than those set out in paragraph 1</p> <p>Relevant sections from the Official Commentary: 2.126 – 2.142, 2.145, 4.116 – 4.123.</p>
Article 14 — Procedural requirements	<p>Subject to Article 54(2), any remedy provided by this Chapter shall be exercised in conformity with the procedure prescribed by the law of the place where the remedy is to be exercised</p> <p>Relevant sections from the Official Commentary: 2.144, 2.145, 2.327, 4.124 – 4.127.</p>

Article 29 — Priority of competing interests	<p>1. A registered interest has priority over any other interest subsequently registered and over an unregistered interest.</p> <p>2. The priority of the first-mentioned interest under the preceding paragraph applies:</p> <p>(a) even if the first-mentioned interest was acquired or registered with actual knowledge of the other interest; and</p> <p>(b) even as regards value given by the holder of the first-mentioned interest with such knowledge.</p> <p>3. The buyer of an object acquires its interest in it:</p> <p>(a) subject to an interest registered at the time of its acquisition of that interest; and</p> <p>(b) free from an unregistered interest even if it has actual knowledge of such an interest.</p> <p>4. The conditional buyer or lessee acquires its interest in or right over that object:</p> <p>(a) subject to an interest registered prior to the registration of the international interest held by its conditional seller or lessor; and</p> <p>(b) free from an interest not so registered at that time even if it has actual knowledge of that interest.</p> <p>5. The priority of competing interests or rights under this Article may be varied by agreement between the holders of those interests, but an assignee of a subordinated interest is not bound by an agreement to subordinate that interest unless at the time of the assignment a subordination had been registered relating to that agreement.</p> <p>6. Any priority given by this Article to an interest in an object extends to proceeds.</p> <p>7. This Convention:</p> <p>(a) does not affect the rights of a person in an item, other than an object, held prior to its installation on an object if under the applicable law those rights continue to exist after the installation; and</p> <p>(b) does not prevent the creation of rights in an item, other than an object, which has previously been installed on an object where under the applicable law those rights are created.</p> <p>Relevant sections from the Official Commentary: 2.51, 2.62, 2.84, 2.147, 2.149, 2.201 – 2.231, 4.192 – 4.216.</p>
Article 30 — Effects of insolvency	<p>1. In insolvency proceedings against the debtor an international interest is effective if prior to the commencement of the insolvency proceedings that interest was registered in conformity with this Convention.</p> <p>2. Nothing in this Article impairs the effectiveness of an international interest in the insolvency proceedings where that interest is effective under the applicable law.</p> <p>3. Nothing in this Article affects:</p> <p>(a) any rules of law applicable in insolvency proceedings relating to the avoidance of a transaction as a preference or a transfer in fraud of creditors; or</p> <p>(b) any rules of procedure relating to the enforcement of rights to property which is under the control or supervision of the insolvency administrator.</p> <p>Relevant sections from the Official Commentary: 2.205, 2.206, 2.232 – 2.237, 4.217 – 4.224.</p>
Article 42 — Choice of forum	<p>1. Subject to Articles 43 and 44, the courts of a Contracting State chosen by the parties to a transaction have jurisdiction in respect of any claim brought under this Convention, whether or not the chosen forum has a connection with the parties or the transaction. Such jurisdiction shall be exclusive unless otherwise agreed between the parties.</p> <p>2. Any such agreement shall be in writing or otherwise concluded in accordance with the formal requirements of the law of the chosen forum.</p> <p>Relevant sections from the Official Commentary: 2.277 – 2.279, 4.296 – 4.302.</p>
Article 43 — Jurisdiction under Article 13	<p>1. The courts of a Contracting State chosen by the parties and the courts of the Contracting State on the territory of which the object is situated have jurisdiction to grant relief under Article 13(1)(a), (b), (c) and Article 13(4) in respect of that object.</p>

	<p>2. Jurisdiction to grant relief under Article 13(1)(d) or other interim relief by virtue of Article 13(4) may be exercised either:</p> <p>(a) by the courts chosen by the parties; or</p> <p>(b) by the courts of a Contracting State on the territory of which the debtor is situated, being relief which, by the terms of the order granting it, is enforceable only in the territory of that Contracting State.</p> <p>3. A court has jurisdiction under the preceding paragraphs even if the final determination of the claim referred to in Article 13(1) will or may take place in a court of another Contracting State or by arbitration.</p> <p>Relevant sections from the Official Commentary: 2.277, 2.278 – 2.281, 2.288, 2.289, 2.327, 4.303 – 4.308.</p>
Article 54(2) — Declarations regarding remedies	<p>A Contracting State shall, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare whether or not any remedy available to the creditor under any provision of this Convention which is not there expressed to require application to the court may be exercised only with leave of the court.</p> <p>Relevant sections from the Official Commentary: 2.107 – 2.110, 2.144, 4.343, 4.344.</p>

Key Provisions of the Cape Town Convention under the Aircraft Protocol	
Article	Text of article or declaration
Article VIII – Choice of Law	<p>1. This Article applies only where a Contracting State has made a declaration pursuant to Article XXX(1).</p> <p>2. The parties to an agreement, or a contract of sale, or a related guarantee contract or subordination agreement may agree on the law which is to govern their contractual rights and obligations, wholly or in part.</p> <p>3. Unless otherwise agreed, the reference in the preceding paragraph to the law chosen by the parties is to the domestic rules of law of the designated State or, where that State comprises several territorial units, to the domestic law of the designated territorial unit.</p> <p>Relevant sections from the Official Commentary: 3.24 – 3.29, 3.166(1), 5.38 – 5.44</p>
Article IX — Modification of default remedies provisions	<p>1. In addition to the remedies specified in Chapter III of the Convention, the creditor may, to the extent that the debtor has at any time so agreed and in the circumstances specified in that Chapter:</p> <p>(a) procure the de-registration of the aircraft; and</p> <p>(b) procure the export and physical transfer of the aircraft object from the territory in which it is situated.</p> <p>2. The creditor shall not exercise the remedies specified in the preceding paragraph without the prior consent in writing of the holder of any registered interest ranking in priority to that of the creditor.</p> <p>3. Article 8(3) of the Convention shall not apply to aircraft objects. Any remedy given by the Convention in relation to an aircraft object shall be exercised in a commercially reasonable manner. A remedy shall be deemed to be exercised in a commercially reasonable manner where it is exercised in conformity with a provision of the agreement except where such a provision is manifestly unreasonable.</p> <p>4. A chargee giving ten or more working days' prior written notice of a proposed sale or lease to interested persons shall be deemed to satisfy the requirement of providing "reasonable prior notice" specified in Article 8(4) of the Convention. The foregoing shall not prevent a chargee and a chargor or a guarantor from agreeing to a longer period of prior notice.</p> <p>5. The registry authority in a Contracting State shall, subject to any applicable safety laws and regulations, honour a request for de-registration and export if:</p> <p>(a) the request is properly submitted by the authorised party under a recorded irrevocable deregistration and export request authorisation; and</p> <p>(b) the authorised party certifies to the registry authority, if required by that authority, that all registered interests ranking in priority to that of the creditor in</p>

	<p>whose favour the authorisation has been issued have been discharged or that the holders of such interests have consented to the de-registration and export.</p> <p>6. A chargee proposing to procure the de-registration and export of an aircraft under paragraph 1 otherwise than pursuant to a court order shall give reasonable prior notice in writing of the proposed deregistration and export to:</p> <p>(a) interested persons specified in Article 1(m)(i) and (ii) of the Convention; and</p> <p>(b) interested persons specified in Article 1(m)(iii) of the Convention who have given notice of their rights to the chargee within a reasonable time prior to the de-registration and export.</p> <p>Relevant sections from the Official Commentary: 3.30 – 3.46, 3.48, 3.140, 5.45 – 5.56.</p>
Article X — Modification of provisions regarding relief pending final determination	<p>1. This Article applies only where a Contracting State has made a declaration under Article XXX(2) and to the extent stated in such declaration.</p> <p>2. For the purposes of Article 13(1) of the Convention, “speedy” in the context of obtaining relief means within such number of working days from the date of filing of the application for relief as is specified in a declaration made by the Contracting State in which the application is made.</p> <p>3. Article 13(1) of the Convention applies with the following being added immediately after sub-paragraph (d):</p> <p>“(e) if at any time the debtor and the creditor specifically agree, sale and application of proceeds therefrom”,</p> <p>and Article 43(2) applies with the insertion after the words “Article 13(1)(d)” of the words “and (e)”.</p> <p>4. Ownership or any other interest of the debtor passing on a sale under the preceding paragraph is free from any other interest over which the creditor’s international interest has priority under the provisions of Article 29 of the Convention.</p> <p>5. The creditor and the debtor or any other interested person may agree in writing to exclude the application of Article 13(2) of the Convention.</p> <p>6. With regard to the remedies in Article IX(1):</p> <p>(a) they shall be made available by the registry authority and other administrative authorities, as applicable, in a Contracting State no later than five working days after the creditor notifies such authorities that the relief specified in Article IX(1) is granted or, in the case of relief granted by a foreign court, recognised by a court of that Contracting State, and that the creditor is entitled to procure those remedies in accordance with the Convention; and</p> <p>(b) the applicable authorities shall expeditiously co-operate with and assist the creditor in the exercise of such remedies in conformity with the applicable aviation safety laws and regulations.</p> <p>7. Paragraphs 2 and 6 shall not affect any applicable aviation safety laws and regulations.</p> <p>Relevant sections from the Official Commentary: 3.30, 3.33, 3.34, 3.48(2), 3.48(3), 5.49, 5.57 – 5.59.</p>
Article XI — Remedies on insolvency	<p>1. This Article applies only where a Contracting State that is the primary insolvency jurisdiction has made a declaration pursuant to Article XXX(3).</p> <p><i>Alternative A</i></p> <p>2. Upon the occurrence of an insolvency-related event, the insolvency administrator or the debtor, as applicable, shall, subject to paragraph 7, give possession of the aircraft object to the creditor no later than the earlier of:</p> <p>(a) the end of the waiting period; and</p> <p>(b) the date on which the creditor would be entitled to possession of the aircraft object if this Article did not apply.</p> <p>3. For the purposes of this Article, the “waiting period” shall be the period specified in a declaration of the Contracting State which is the primary insolvency jurisdiction.</p> <p>4. References in this Article to the “insolvency administrator” shall be to that person in its official, not in its personal, capacity.</p>

	<p>5. Unless and until the creditor is given the opportunity to take possession under paragraph 2:</p> <p>(a) the insolvency administrator or the debtor, as applicable, shall preserve the aircraft object and maintain it and its value in accordance with the agreement; and</p> <p>(b) the creditor shall be entitled to apply for any other forms of interim relief available under the applicable law.</p> <p>6. Sub-paragraph (a) of the preceding paragraph shall not preclude the use of the aircraft object under arrangements designed to preserve the aircraft object and maintain it and its value.</p> <p>7. The insolvency administrator or the debtor, as applicable, may retain possession of the aircraft object where, by the time specified in paragraph 2, it has cured all defaults other than a default constituted by the opening of insolvency proceedings and has agreed to perform all future obligations under the agreement. A second waiting period shall not apply in respect of a default in the performance of such future obligations.</p> <p>8. With regard to the remedies in Article IX(1):</p> <p>(a) they shall be made available by the registry authority and the administrative authorities in a Contracting State, as applicable, no later than five working days after the date on which the creditor notifies such authorities that it is entitled to procure those remedies in accordance with the Convention; and</p> <p>(b) the applicable authorities shall expeditiously co-operate with and assist the creditor in the exercise of such remedies in conformity with the applicable aviation safety laws and regulations.</p> <p>9. No exercise of remedies permitted by the Convention or this Protocol may be prevented or delayed after the date specified in paragraph 2.</p> <p>10. No obligations of the debtor under the agreement may be modified without the consent of the creditor.</p> <p>11. Nothing in the preceding paragraph shall be construed to affect the authority, if any, of the insolvency administrator under the applicable law to terminate the agreement.</p> <p>12. No rights or interests, except for non-consensual rights or interests of a category covered by a declaration pursuant to Article 39(1), shall have priority in insolvency proceedings over registered interests.</p> <p>13. The Convention as modified by Article IX of this Protocol shall apply to the exercise of any remedies under this Article.</p> <p><i>Alternative B</i></p> <p>2. Upon the occurrence of an insolvency-related event, the insolvency administrator or the debtor, as applicable, upon the request of the creditor, shall give notice to the creditor within the time specified in a declaration of a Contracting State pursuant to Article XXX(3) whether it will:</p> <p>(a) cure all defaults other than a default constituted by the opening of insolvency proceedings and agree to perform all future obligations, under the agreement and related transaction documents; or</p> <p>(b) give the creditor the opportunity to take possession of the aircraft object, in accordance with the applicable law.</p> <p>3. The applicable law referred to in sub-paragraph (b) of the preceding paragraph may permit the court to require the taking of any additional step or the provision of any additional guarantee.</p> <p>4. The creditor shall provide evidence of its claims and proof that its international interest has been registered.</p> <p>5. If the insolvency administrator or the debtor, as applicable, does not give notice in conformity with paragraph 2, or when the insolvency administrator or the debtor has declared that it will give the creditor the opportunity to take possession of the aircraft object but fails to do so, the court may permit the creditor to take possession of the aircraft object upon such terms as the court may order and may require the taking of any additional step or the provision of any additional guarantee.</p> <p>6. The aircraft object shall not be sold pending a decision by a court regarding the claim and the international interest.</p>
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	Relevant sections from the Official Commentary: 2.237, 3.47, 3.118 – 3.130, 3.137 – 3.152, 3.155, 3.156, 5.60 – 5.70.
Article XII — Insolvency assistance	<p>1. This Article applies only where a Contracting State has made a declaration pursuant to Article XXX(1).</p> <p>2. The courts of a Contracting State in which an aircraft object is situated shall, in accordance with the law of the Contracting State, co-operate to the maximum extent possible with foreign courts and foreign insolvency administrators in carrying out the provisions of Article XI.</p> <p>Relevant sections from the Official Commentary: 3.153, 3.154, 5.71, 5.72.</p>
Article XIII — De-registration and export request authorisation	<p>1. This Article applies only where a Contracting State has made a declaration pursuant to Article XXX(1).</p> <p>2. Where the debtor has issued an irrevocable de-registration and export request authorisation substantially in the form annexed to this Protocol and has submitted such authorisation for recordation to the registry authority, that authorisation shall be so recorded.</p> <p>3. The person in whose favour the authorisation has been issued (the “authorised party”) or its certified designee shall be the sole person entitled to exercise the remedies specified in Article IX(1) and may do so only in accordance with the authorisation and applicable aviation safety laws and regulations. Such authorisation may not be revoked by the debtor without the consent in writing of the authorised party. The registry authority shall remove an authorisation from the registry at the request of the authorised party.</p> <p>4. The registry authority and other administrative authorities in Contracting States shall expeditiously co-operate with and assist the authorised party in the exercise of the remedies specified in Article IX.</p> <p>Relevant sections from the Official Commentary: 3.33 – 3.36, 3.38, 3.41 – 3.45, 5.73.</p>
Article XXX — Declarations relating to certain provisions	<p>4. The courts of Contracting States shall apply Article XI in conformity with the declaration made by the Contracting State which is the primary insolvency jurisdiction.</p> <p>Relevant sections from the Official Commentary: 3.165 – 3.175, 5.119 – 5.125.</p>

Provisions of the Cape Town Convention can be found [here](#).

Provisions of the Cape Town Convention under the Aircraft Protocol can be found [here](#).

ANNEX 3 – KEY PROVISIONS OF LEASE

EXTRACTS OF A LEASE PROVIDED FOR MOOT COURT PURPOSES. NOT TO BE USED FOR ANY OTHER PURPOSE.

Dated 1st January 2020

**GPB LIMITED (1)
and
BRAZIL TRANSPORT (2)**

**AIRCRAFT OPERATING LEASE AGREEMENT
For One [●] Aircraft
Manufacturer's Serial Number 0001
Proposed Brazilian Registration Mark PR-AAAA**

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AUTHORISATION 17**

A LEASE AGREEMENT dated [●] and made **BETWEEN:**

- (1) **GPB LIMITED**, a company incorporated under the laws of Ireland, whose registered office is at [●] (the **Lessor**); and
- (2) **BRAZIL TRANSPORT**, a company incorporated under the laws of Brazil, whose registered office is at [●] (the **Lessee**).

BY WHICH IT IS AGREED as follows:

1 Definitions

1.1 In this Agreement:

.....

Acceptance Certificate means a certificate in the form set out in 1(d) to be signed by the Lessee as required under clause 5.3 (*Delivery*).

Affiliate means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

Agreed Value has the meaning given to it in Schedule 4.

Aircraft means the Airframe together with the Engines (whether or not any of the Engines are installed on the Airframe at any relevant time) and, where the context permits, references to the "Aircraft" shall (a) include the Manuals and Technical Records, and (b) mean the Aircraft in its entirety and any part of it.

Airframe means the [●] aircraft with manufacturer's serial number 0001 as more particularly described in Schedule 1 (excluding the Engines or engines from time to time installed thereon), and all Parts installed on the Airframe at Delivery or installed on the Airframe during the Lease Period.

Applicable Law means, in relation to any jurisdiction, any law, regulation, treaty, directive, decision, rule, regulatory requirement, judgment, order, ordinance, request, guideline or direction or any other act of any Government Entity of such jurisdiction whether or not having the force of law and with which any Transaction Party is required to comply, or with which it would, in the

Aviation Authority means each person which is from time to time vested with the control and supervision of, or has jurisdiction over, the registration, airworthiness and operation of aircraft or other matters relating to civil aviation in the State of Registration.

Cape Town Convention means, together, the Convention and the Protocol.

Certificate of Airworthiness means an unrestricted certificate of airworthiness with respect to the Aircraft in the public transport category (passenger) issued by the Aviation

Convention means the Convention on International Interests in Mobile Equipment opened for signature on 16 November 2001 at Cape Town, South Africa.

Delivery means the time when the Lessor delivers the Aircraft to the Lessee under and in accordance with clause 5 (*Delivery and Acceptance*) of this Agreement.

Delivery Condition has the meaning given to it in paragraph 2 of Schedule 7.

Delivery Date means the date on which Delivery shall occur.

Delivery Location means [●].

Designee Letter means any letter issued by the Lessor appointing a third party as its designee in respect of an IDERA.

Engine means either of the engines specified in Schedule 1 as an **Engine** whether or not installed on the Airframe, together with, in each such case, all Parts installed in the relevant engine at Delivery or during the Lease Period or appurtenant to the relevant engine or any other Parts which are required by the terms of this Agreement to remain the property of the Lessor.

Equipment means any of the Aircraft, the Airframe, an Engine or any Part.

Expiry Date means 1st January, 2030.

Government Entity means and includes (whether having a distinct legal personality or not) (i) any national government, political sub-divisions thereof or local jurisdiction therein); (ii) any board, commission, department, division, organ, instrumentality, court, regulatory or self-regulatory authority or agency of any entity referred to in (i) above, however constituted; and (iii) any association, organisation or institution (international or otherwise) of which any entity mentioned in (i) or (ii) above is a member or to whose jurisdiction any thereof is subject or in whose activities any thereof is a participant.

Group means the Lessee and its Affiliates for the time being.

IDERA means an irrevocable de-registration and export request authorisation executed by the Lessee in favour of the Lessor in the form of Schedule 10.

Initial State of Registration means Brazil.

Lease Period means the period during which the Lessee is entitled, as against the Lessor, to the possession and use of the Aircraft in accordance with this Agreement.

Lease Term means the period commencing on the Delivery Date and ending on the Expiry Date.

Losses means any costs, expenses, payments, charges, losses, demands, liabilities, claims, actions, proceedings, penalties, fines, damages, judgments, orders or other sanctions.

Manuals and Technical Records means all records, logs, manuals, technical data and other materials and documents identified in Schedule 7 and any other documents and records referred to in clause 16 (*Manuals and Technical Records*) and all additions, revisions, renewals and replacements from time to time made to any of the above.

Manufacturer means [●].

Other Lease means any aircraft lease agreement from time to time entered into between the Lessor and the Lessee, or any Affiliate of the Lessee, and relating to an aircraft other than the Aircraft.

Other Lease Termination Event means any Termination Event (as such expression is defined in an Other Lease) or any event of default under such Other Lease however defined or described.

Part means all appliances, parts, accessories, instruments, navigational and communications equipment, furnishings, modules, components and other items of equipment (other than complete Engines or engines).

Payment Date means each of the dates set out in Schedule 4.

Permitted Lien means:

- (a) any Security for Taxes not assessed or, if assessed, not yet due and payable, or being contested in good faith by appropriate proceedings; and
- (b) any Security of an airport or air navigation authority or of a repairer, mechanic, carrier, hangarkeeper or other similar Security 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.

Protocol means the Protocol to the Convention on Matters Specific to Aircraft Equipment opened for signature on 16 November 2001 at Cape Town, South Africa.

Redelivery Location means [●].

Relevant Event means any Termination Event or any event which with the giving of notice and/or lapse of time would constitute a Termination Event.

Relevant Rate of Interest means [●] per cent per annum.

Rent means the instalments of rent payable by the Lessee pursuant to clause 7.1 (*Rent*).

Return Condition means the condition in which the Aircraft is required to be redelivered by the Lessee to the Lessor as set out in clause 21 (*Redelivery*) and Schedule 8.

State of Registration means, at any relevant time, the Initial State of Registration or, in the event that the Aircraft has then been sub-leased to a Permitted Sub-Lessee in accordance with clause 14, such other state on whose national aircraft register the Aircraft may be registered at such time.

Subsidiary of a person means any company or entity directly or indirectly controlled by that person.

Technical Acceptance Procedures means the procedures related to pre-delivery inspection and technical acceptance of the Aircraft by the Lessee as set out in Schedule 7.

Termination Event means any of the events or circumstances described in clause 22 (*Termination Events*).

- 1.2 Clause headings and the table of contents are inserted for convenience of reference only, have no legal effect and shall be ignored in the interpretation of this Agreement.
- 1.3 In this Agreement, unless a contrary indication appears:
- (a) references to clauses and schedules are to be construed as references to the clauses of, and schedules to, this Agreement and references to this Agreement include its schedules;
 - (b) references to (or to any specified provision of) this Agreement or any other document shall include this Agreement, that document or the relevant provision as it may from time to time be amended but so that the above is without prejudice to any requirement in any Relevant Document that the prior consent of the Lessor [or any Finance Party] be obtained;
 - (c) a reference to an **amendment** includes a supplement, novation, restatement or re-enactment and **amended** will be construed accordingly;
 - (d) words importing the plural shall include the singular and vice versa, and words importing a gender include every gender;
 - (e) 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 the Lessor [and] the Lessee [and] [the Guarantor] [and] [any Finance Party] shall be construed so as to include the successors, permitted assignees and permitted transferees of the relevant person;
 - (f) references to any provision of law is a reference to such provision as applied, amended, extended or re-enacted and includes any subordinate legislation;

- (g) 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;
- (h) 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
- (i) a Relevant Event or a Termination Event is **continuing** if it has not been remedied or waived [to the Lessor's satisfaction].

1.4 Cape Town Convention

In the case of divergence between the authenticated texts of the Cape Town Convention, the English language text shall prevail.

2 Representations and Warranties

2.1 Lessee's Representations and Warranties

The Lessee makes the representations and warranties set out in this clause 2.1 to the Lessor.

(a) Status

- (i) It is a corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- (ii) It has the power to own its assets and carry on its business as it is being conducted.
- (iii) It is situated in a Contracting State for the purposes of the Cape Town Convention.

.....

2.2 Survival and repetition

The representations and warranties in clause 2.1 (*Lessee's Representations and Warranties*) will survive the execution of this Agreement and Delivery and will be deemed to be repeated by the Lessee on the Delivery Date with reference to the facts and circumstances then existing.

3 Term of lease

3.1 Term of Lease

The Lessor shall lease and the Lessee shall take on lease the Aircraft, subject to the terms and conditions of this Agreement, for the Lease Term.

4 Conditions

- 4.1 The obligation of the Lessor to lease the Aircraft to the Lessee under this Agreement is subject to the condition that, not later than the relevant date specified in relation to such document or evidence in the first paragraph of part [●] of Schedule 2, the Lessor shall have received the documents and evidence specified in part 1 of Schedule 2 in form and substance satisfactory to the Lessor. The obligation of the Lessor to lease the Aircraft to the Lessee under this Agreement is subject to the further conditions that:
- (a) the representations and warranties set out in clause 2.1 are true and correct as if each were made with respect to the facts and circumstances existing immediately prior to the time when Delivery is to take place;
 - (b) no Relevant Event shall have occurred and be continuing or would arise by reason of the Aircraft being delivered to the Lessee under this Agreement;
 - (c) no Total Loss shall have occurred on or prior to Delivery; and
 - (d) Delivery shall have occurred.
- 4.2 The conditions specified in clause 4.1 are inserted for the sole benefit of the Lessor and may be waived in whole or in part and with or without conditions by the Lessor.

5 Delivery and Acceptance

- 5.1 Prior to Delivery the Technical Acceptance Procedures shall be carried out in accordance with Schedule 7. Following satisfactory completion of the Technical Acceptance Procedures the Lessee shall confirm its technical acceptance of the Aircraft and, subject as provided in clause 4 (*Conditions*), the Lessee shall accept the Aircraft in accordance with clause 5.3 (*Delivery*).
- 5.2 The Lessee acknowledges that the condition of the Aircraft on delivery to the Lessee and its compliance, or otherwise, with the general description and specification contained in this Agreement shall be the sole responsibility of the Lessee. Accordingly, the Lessor shall not be liable for any loss or expense, or any loss of use or profit, resulting directly or indirectly from any defect, or alleged defect, in the Aircraft or any failure, or alleged failure, of the Aircraft to comply with the requirements of this Agreement.
- 5.3 Delivery
- Subject to clause 5.3 (*Conditions*) and clause 5.1 (*Technical Acceptance Procedures*), the Aircraft shall be deemed to have been delivered to and accepted by the Lessee in "as is, where-is" condition and shall become subject to and governed by this Agreement, the Lease Period shall commence and the Lessee shall thereupon sign and deliver to the Lessor the Acceptance Certificate.
- 5.4 Acceptance Certificate

The delivery by the Lessee to the Lessor of the Acceptance Certificate will be conclusive proof as between the Parties that:

- (a) the Lessee has examined and investigated the Aircraft to the extent it considers necessary;
- (b) the Aircraft and the Manuals and Technical Records are in Delivery Condition and are fully satisfactory to the Lessee; and
- (c) the Lessee has irrevocably and unconditionally accepted the Aircraft in accordance with the Technical Acceptance Procedures without any reservations whatsoever and Delivery has occurred.

6 Lessor's Warranties

6.1 Quiet enjoyment

The Lessor warrants and agrees that, provided that no Termination Event has occurred and is continuing, the Lessor shall not, through its own acts, interfere during the Lease Period with the use, possession and quiet enjoyment of the Aircraft by the Lessee. The exercise by the Lessor of its rights in accordance with this Agreement will not constitute such an interference.

6.2 Disclaimer

The Lessee expressly agrees and acknowledges that, save only as expressly provided in clause 6.1 (*Quiet Enjoyment*), no condition, warranty or representation of any kind is or has been given by or on behalf of the Lessor in respect of the Aircraft or any part thereof, and accordingly the Lessee confirms that it has not, in entering into this Agreement, relied on any condition, warranty or representation by the Lessor or any person on the Lessor's behalf, express or implied, whether arising by law or otherwise in relation to the Aircraft or any part thereof, including warranties or representations as to the description, airworthiness, suitability, quality, merchantability, fitness for any purpose, value, state, condition, appearance, safety, durability, design or operation of any kind or nature of the Aircraft or any part thereof, and the benefit of any such condition, warranty or representation by the Lessor is hereby irrevocably and unconditionally waived by the Lessee. To the extent permissible under Applicable Law, the Lessee hereby also waives any rights which it may have in tort in respect of any of the matters referred to above and irrevocably agrees that the Lessor shall have no greater liability in tort in respect of any such matter than it would have in contract after taking account of all of the foregoing exclusions. No third party making any representation or warranty relating to the Aircraft or any part of the Aircraft is the agent of the Lessor, nor has any such third party authority to bind the Lessor. Nothing contained in this clause 6.2 is intended to prejudice any rights of warranty or other claims which the Lessee or the Lessor may have against the manufacturer or supplier of the Aircraft or any third party.

7 Rent

- 7.1 During the Lease Period the Lessee shall pay to the Lessor on the respective Payment Dates specified in Schedule 3 monthly instalments of Rent for the Aircraft in advance, each such instalment being of the amount specified in Schedule 3.
- 7.2 The Lessee's obligation to pay Rent and make other payments in accordance with this Agreement shall be absolute and unconditional irrespective of any contingency whatsoever including, but not limited to:
- (a) any right of set-off, counterclaim, recoupment, defence or other right which either Party may have against the other;
 - (b) any unavailability of the Aircraft for any reason, including any lack or invalidity of title or any other defect in the title, airworthiness, merchantability, fitness for any purpose, condition, design, or operation of any kind or nature of the Aircraft, or the ineligibility of the Aircraft for any particular use or trade, or for registration or documentation under the laws of any relevant jurisdiction, or the Total Loss of, or any damage to, the Aircraft;
 - (c) any failure or delay on the part of either Party, whether with or without fault on its part, in performing or complying with any of the terms or conditions of this Agreement;
 - (d) any insolvency, bankruptcy, administration, reorganisation, arrangement, readjustment of debt, dissolution, liquidation or similar proceedings by or against the Lessor or the Lessee; or
 - (e) any lack of due authorisation of, or other defect in, this Agreement.

8 Payments, Interest and Calculations

8.1 Payments in full

All payments to be made by the Lessee to the Lessor under any Lessee Document shall be made without (unless specifically otherwise provided in such Lessee Document) prior demand and in full, without any set-off or counterclaim whatsoever, and, subject as provided in clause [●] (*Gross up for withholding Taxes*), free and clear of any deductions or withholdings in Dollars (or, in the case of indemnity payments, in the currency claimed by the Lessor) for value on the day on which payment is due to the account of the Lessor's Account.

.....

9 Costs and Indemnities

- 9.1 Whether or not the Aircraft is delivered to the Lessee pursuant to this Agreement, the Lessee shall pay to the Lessor on demand:.....

10 Taxation

10.1 General Tax Indemnity

The Lessee shall indemnify each Indemnified Party on demand against all Taxes.....

11 Undertakings

11.1 General

(a) The undertakings in this clause 11.1 remain in force for so long as the Lessee remains under any obligation to the Lessor under this Agreement and the Lessee Documents and shall be performed (except where expressly provided otherwise in this Agreement) at the expense of the Lessee.

(b) The Lessee will take such steps as are necessary to ensure that no person (other than the Lessor) acts in any manner which causes a breach of the Lessee's obligations under this Agreement.

11.2

12 Undertakings in relation to the Aircraft

The undertakings in this clause 12 remain in force for so long as the Lessee remains under any obligation to the Lessor under this Agreement and the other Lessee Documents.

.....

.....

12.1 Permitted Liens

The Lessee shall discharge any Permitted Lien of the type referred to in (a), (b) or (c) of the definition of Permitted Lien which may arise over the Aircraft forthwith upon the obligations in respect of which such Permitted Lien arises becoming due.

13 Cape Town Convention

13.1 In this Agreement, the Convention and the Protocol shall be read and interpreted together as a single instrument as required by Article 6(1) of the Convention and the following expressions have the meanings given to them in the Cape Town Convention:

aircraft engines

aircraft object

airframe

creditor

international interest

International Registry

leasing agreement

prospective international interest

registry authority

State of registry

13.2 The Lessor and the Lessee agree that:

- (a) without prejudice to clause 14 (*Sub-leasing*), the Aircraft shall be registered on the aircraft register of the Initial State of Registration;
- (b) the Airframe is an aircraft object; and
- (c) the Engines are aircraft objects;
- (d) each of the interests of the Lessor as lessor of the Airframe and each of the Engines under this Agreement constitutes, as at the date of this Agreement, a prospective international interest and will become an international interest on Delivery;
- (e) the prospective international interests shall on or prior to Delivery be registered, with the consent of each of the Lessor and the Lessee, on the International Registry under the Cape Town Convention in respect of each of the Airframe and the Engines
- (f) the events which are referred to in clause 22 (*Termination Events*) as Termination Events are events that constitute a default or otherwise give rise to the rights and remedies specified in Article 10 of the Convention and Articles IX and X of the Protocol;
- (g) the Lessor shall have the remedies referred to in Article 13(1) of the Convention and Articles IX(1) and X(3) of the Protocol; and
- (h) the Lessee shall, prior to Delivery, execute an IDERA and deliver it together with the Designee Letter to the Aviation Authority.

14 Sub-leasing

14.1 The Lessee will not at any time, without the prior written consent of the Lessor, sub-lease, wet-lease, charter, hire or otherwise part with the possession or operational control of the Aircraft; provided however that this clause shall not prevent the Lessee from:

.....

15 Operations and Maintenance

15.1 The Lessee further undertakes with the Lessor that throughout the Lease Period it will or any Permitted Sub-Lessee will (at its own cost and expense.....

(a) Certificates and Licences

obtain and maintain in full force and effect all necessary certificates and approvals required for the use and operation of the Aircraft including, without limitation, an air operators certificate, an unrestricted Certificate of Airworthiness with respect to the Aircraft and such airworthiness review certificates and certificates of maintenance, review and release to service as are required for the Aircraft to be used for the public transport of passengers;

.....

16 Manuals and Technical Records

.....

17 Title and Registration

17.1 The Lessor shall be and remain the legal and beneficial owner of the Aircraft

.....

18 Insurance

.....

19 Loss and Damage

.....

20 Requisition

.....

21 Redelivery

21.1 At the end of the Lease Period (other than following a Total Loss) the Lessee, at its own expense, shall redeliver the Aircraft to the Lessor at the Redelivery Location and the Lessee shall provide such assistance as the Lessor may reasonably require in connection with the de-registration and export of the Aircraft from the State of Registration.

21.2 On redelivery the condition of the Aircraft shall be such as to demonstrate that the Lessee has in all respects complied with the obligations on its part contained in this Agreement and shall otherwise be in a condition complying with the requirements of Schedule 8.

21.3

22 Termination Events

The Lessor and the Lessee agree that it is a fundamental term and condition of this Agreement that none of the following events or circumstances occurs prior to the Discharge Date and that the occurrence of any of the following events and/or circumstances constitutes a repudiatory breach by the Lessee of this Agreement and a Termination Event.

22.1 Non-Payment

The Lessee fails to pay any sum due from it under a Relevant Document in the currency, amount and manner agreed by the Lessee and the Lessor in this Agreement on the due date, unless such non-payment is remedied within 3 Business Days of the due date.

22.2 Other Lease Termination Event

There occurs an Other Lease Termination Event.

22.3 Insolvency

- (a) The is unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its Indebtedness.
- (b) The value of the assets of the Lessee is less than its liabilities (taking into account contingent and prospective liabilities).
- (c) A moratorium is declared in respect of any Indebtedness of the Lessee or any member of the Group.

22.4 Insolvency proceedings

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

- (a) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Lessee or any member of the Group;
- (b) a composition, compromise, assignment or arrangement with any creditor of the Lessee or any member of the Group;

- (c) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Lessee or any of its assets; or
 - (d) enforcement of any security over any assets of the Lessee,
- or any analogous procedure or step is taken in any jurisdiction.

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23 Lessor's rights following a Termination Event

23.1 At any time after the occurrence of any Termination Event (and provided that the same is continuing) the Lessor may:

- (a) require the Lessee to move the Aircraft to a location designated by the Lessor and/or cease operating the Aircraft except as expressly authorised or directed by the Lessor (and, to the extent not inconsistent with such obligation, the Lessee shall otherwise continue to comply with all of its other obligations under this Agreement and the other Lessee Documents; and/or
- (b) by notice to the Lessee, terminate the Lease Period (and, at the time specified in such notice, as the Lessee hereby agrees and acknowledges, the Lessee's right, title and interest in and to the Aircraft, and to possess and operate the Aircraft, shall terminate and the Lessee shall redeliver the Aircraft to the Lessor in accordance with clause 21 (Redelivery)); and/or
- (c) retake possession of the Aircraft, and the Lessee agrees that the Lessor may for this purpose enter upon any premises of the Lessee where the Aircraft or any part thereof may be located; and/or
- (d) require that the Lessee promptly take all steps necessary to effect (if applicable) deregistration of the Aircraft and its export from the country where it is for the time being situated and any other steps necessary to redeliver the Aircraft to the Lessor either immediately or, at the Lessor's absolute discretion, on such other date as the Lessor shall specify in such notice; and/or
- (e) sell, re-lease or otherwise deal with the Aircraft at such time and in such manner as the Lessor considers appropriate in its absolute discretion, free and clear of any interest of the Lessee and as if this Agreement had never been entered into.

23.2 The Lessee shall pay to the Lessor forthwith upon demand upon such termination such sum as shall equal the aggregate of:

- (a) all amounts due under this Agreement and the other Lessee Documents as shall be payable and remain outstanding;

- (b) all Losses incurred by the Lessor in connection with such termination including all costs and expenses incurred in recovering possession of the Aircraft and/or in carrying out any works or modifications required to bring the Aircraft up to the condition specified in the Return Condition; and
- (c) any Loss suffered by the Lessor because of the Lessor's inability to place the Aircraft on lease with another lessee on terms as favourable to the Lessor as this Agreement or because whatever use, if any, to which the Lessor is able to put the Aircraft upon its return to the Lessor, or the funds arising upon a sale or other disposal, of the Aircraft, does not yield to the Lessor revenue or income equivalent to the sums which would otherwise have been recoverable by it under or pursuant to this Agreement had the Lease Period not been terminated.

23.3 If the Lessee fails to comply with any of its obligations under this Agreement or any other Lessee Document the Lessor may, without being in any way obliged or responsible for so doing and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event, effect compliance on the Lessee's behalf, and if the Lessor incurs any expenditure in effecting such compliance the Lessor shall be entitled (without prejudice to clause 23.1) to recover such expenditure from the Lessee together with interest thereon at the Relevant Rate of Interest from the date on which such expenditure is incurred by the Lessor until the date of reimbursement thereof by the Lessee (both before and after any relevant judgment).

23.4 The rights and remedies of the Lessor provided in this Agreement are cumulative and are not exclusive of any rights and remedies provided by law.

24 Funding Problems

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25 Notices

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26 Assignment

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27 Miscellaneous

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28 Governing law

This Agreement and any non-contractual obligations connected with it are governed by English law.

29 Enforcement

29.1 Jurisdiction

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement and the other Lessee Documents or any non-contractual obligations connected with this Agreement or the other Lessee Documents (including a dispute regarding the existence, validity or termination of this Agreement or any other Lessee Document) (a **Dispute**).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly neither party will argue to the contrary.
- (c) Notwithstanding paragraphs (a) and (b) above, the Lessor shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction, whether under Article 43 of the Convention or Article XXI Of the Protocol or otherwise.. To the extent allowed by law, the Lessor may take concurrent proceedings in any number of jurisdictions.

IN WITNESS whereof the Parties have caused this Agreement to be duly executed the day and year first above written.

Schedule 1
The Aircraft

Aircraft

Manufacturer: [●]

Model: [●]

Serial Number: 0001

Engines

Manufacturer: [●]

Model: [●]

Serial Numbers: [●] [●]

Schedule 2
List of Documents and Evidence

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The following documents and evidence required in connection with the Cape Town Convention:

- (c) evidence that registration has been effected with the International Registry of the prospective international interests of the Lessor in the Airframe and the Engines; and
- (d) evidence that the IDERA and the Designee Letter have been recorded by the Aviation Authority.
Acceptance Certificate

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Schedule 3
Rent Instalments

(1)	(2)
Payment Date	Rent

Schedule 4
Agreed Value

Agreed Value means \$[●].

Schedule 5
Insurance Requirements

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Schedule 6
Form of Brokers' Letter of Undertaking

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Schedule 7
Technical Acceptance Procedures and Delivery Condition

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Schedule 8
Redelivery Procedures and Return Conditions

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Schedule 9
Maintenance Reserves

Schedule 10
Form Of Irrevocable De-Registration And Export Request Authorisation

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Execution Page – Aircraft Operating Lease Agreement

MSN 0001

SIGNED by _____)

for and on behalf of _____)

TRANSPORT BRAZIL)

SIGNED by _____)

for and on behalf of _____)

GPB LIMITED)