



# **Guidance Materials**

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## **Part A. Introduction to GATS, its Basic Principles and this Guidance**

The Global Aircraft Trading System (**GATS**) has been developed by the Aviation Working Group (**AWG**) to facilitate the trading and related financing of aircraft subject to leases by:

- (a) making use of trust structures, so that existing leases may be left in place and lease novations and assignments may be avoided;
- (b) effecting trading transactions through a wholly electronic system using standardised electronic documents;
- (c) recording trading transactions on the E-Ledger using secure technology; and
- (d) permitting parties to retain and strengthen legal protections and rights, including through electronically recording conditions to transactions and managing the satisfaction or waiver of those conditions online.

GATS reinforces the principle that an airline's obligations under the lease may not be increased as a result of aircraft trading.

GATS is designed to reduce the burdens on airlines, lessors and financiers, and generally to effect trades in an efficient, secure and predictable manner.

The efficiency of GATS is enhanced by the use of electronic signing, delivery and recording of the GATS standard form documents. GATS also encourages the elimination of unnecessary practices which have developed over time.

GATS provides a template transfer clause for insertion into aircraft leases which interlocks with the GATS transfer and financing forms and system. Where used, this clause would further and substantially enhance the efficiencies of GATS, including by eliminating the need for lease amendments and minimising conditions to transfer.

An explanation of all of the foregoing items are set out in this document, which will be updated on a quarterly basis.

Participation in and use of GATS to effect and record transfers is entirely voluntary.

The E-Ledger does not determine legal priority, but provides transparency (and may impact national law priority through notice).

***GATS will permit the use of both common law trusts and statutory trusts.***

***The core analysis in this Guidance (especially with respect to potential tax treatment) is predicated on common law trusts being used rather than statutory trusts or other similar entities with separate legal personality.***

## **Part B. Summary of GATS**

### **(a) Aircraft-owning trusts**

GATS is based on the premise that applicable airframes and aircraft engines are held in a trust easily created online through the GATS website and associated web applications (the **GATS Platform**). Each such trust is established in or migrated into GATS using prescribed form documentation and is beneficially owned by a company engaged in the business of leasing aircraft cleared by the relevant trustee as meeting certain "*know your customer*" and other specified standards.

Aircraft are transferred to the relevant trustee initially pursuant to a bill of sale, to hold on trust for the relevant beneficiary. Sales of aircraft and transfers of related lease rights held in a trust established in or migrated into GATS (a **GATS Trust**) are effected through electronic transfers of the beneficial interest in such GATS Trust.

At the core of GATS is the live, searchable, E-Ledger in which is recorded, among other things, details of each such trust, including the relevant trustee, the relevant beneficial owner and any airframe(s) and/or engine(s) held in such trust from time to time. The establishment of an airframe or aircraft engine-owning trust through GATS (or the migration of an existing such trust into GATS) shall be recorded in the E-Ledger.

Once such a trust has been established and entered in the E-Ledger, transfers of the beneficial interest in such trust may (at the option of the relevant parties) be effected electronically through the GATS Platform accessible via <https://e-gats.aero>. The GATS Platform also permits changes to the trustee, changes to the governing law of the relevant trust, the addition or removal of airframes or aircraft engines from the relevant trust and termination of the relevant trust, in each case to be effected electronically. Any such changes are recorded in the E-Ledger.

Through the adoption of the GATS Template Transfer Clause (Lease Agreement) and schedules thereto (set out as Annex I) in aircraft and aircraft engine lease agreements and the use of the GATS Platform to effect the transfer of beneficial interests in airframe and/or aircraft engine owning trusts, users of GATS can minimize (or even eliminate) the involvement of lessees in airframe or aircraft engine interest transfers while adhering rigidly to the principle that such transfers should result in 'no increased obligations' for the lessee. This dramatically reduces the burden on lessees associated with lease novations and assignments and creates significant time and cost efficiencies for airlines, aircraft lessors and their secured financiers.

In addition to the elements of a security package traditionally taken by secured lenders financing airframes and/or aircraft engines, GATS permits (but does not require) the owner of a beneficial interest in a trust recorded in the E-Ledger to grant a security interest over such beneficial interest in favour of a secured lender, electronically through the GATS Platform (a **Secured Interest Grant**). Any such Security Interest Grant recorded in the E-Ledger can also be transferred by such secured lender to another secured lender or released and discharged by such security lender, in each case electronically using the GATS Platform.

All transfers of beneficial interests in a GATS Trust (either by way of absolute assignment or assignment by way of security) are documented in standard form instruments mechanically produced by the GATS Platform and executed, delivered and time-stamped electronically, removing burdensome negotiations without impacting on the rights or protections agreed by the parties. The lessee is not subjected to increased obligations as a result of a transfer of beneficial interests in a GATS Trust (either by way of absolute assignment or assignment by way of security).

All parties are free to include assignment conditions in their transaction documents in the usual way. If any such assignment conditions have been agreed with respect to any GATS Trust, the parties may agree to specify such conditions (**Advance Requirements**) on the GATS Platform and no assignment of the beneficial interest in such GATS Trust or grant of security over the beneficial interest in such GATS Trust would be electronically possible without the person in whose favour such Advance Requirement has been created having confirmed through the GATS Platform that each such Advance Requirement has been satisfied or waived. This is an important increase in a lessee's position vis-à-vis current practice.

Although GATS does not restrict the number of airframes or engines which can be owned in a single GATS Trust, owning more than a single aircraft (airframe and associated engines) in a single GATS Trust is strongly discouraged; there are a number of practical reasons why it would be undesirable to do so. Unless the beneficial interest in all of the aircraft equipment held in a GATS Trust is going to be transferred to the same transferee, it may be necessary to later remove certain aircraft equipment from the GATS Trust by way of metal transfers which goes against the efficiencies for which GATS was created.

(b) Standard form trading documentation electronically executed

GATS produces standard form, electronically generated documentation for, among other things:

- the creation of GATS Trusts (or conversion of existing trusts into GATS Trusts)
- the transfer of the beneficial interests in GATS Trusts
- the grant of a security interest in the beneficial interest in GATS Trusts
- the termination of GATS Trusts

GATS instruments are executed electronically through the GATS Platform using e-signatures. However, a duplicate copy can be executed manually if agreed by the parties or if necessary for filing or any other purposes.

(c) GATS Platform and E-Ledger

The live, searchable, E-Ledger accessible via <https://e-gats.aero> records, among other things, the details of each GATS Trust, including the relevant trustee, the airframes and/or engines held in such GATS Trust (if any), the relevant beneficial owner and details of any security interest (if applicable).

GATS provides users with an ability to electronically record any agreed Advance Requirements to transfers and/or security interest grants contained in the lease agreement, secured financing documents or agreed elsewhere and to restrict transfers unless such Advance Requirements are satisfied or waived (as confirmed electronically through the GATS Platform by the person in whose favour they are granted, in their discretion).

Alternatively, the parties may agree that the Advance Requirements may consist of the electronic confirmation by the lessee that agreed conditions to transfers and/or security interest grants contained in the lease or documented elsewhere in a confidential agreement, have been satisfied or waived.

## **Part C.           Becoming a GATS Entity**

### **(a)       Types of GATS Parties**

A prerequisite to the use of GATS to effect a transaction is that each party to the transaction is a GATS Transacting Entity. Only corporate entities can be GATS Transacting Entities; natural persons are not permitted to become GATS Transacting Entities or to be parties to transactions effected through GATS.

There are two types of GATS Transacting Entities. The first type is made up of aircraft lessors and financiers (**GATS Participants**) and the second type is made up of persons engaged in the business of acting as owner trustee and cleared by the AWG as meeting the applicable standards and procedures prescribed on the GATS Platform to act as a trustee on GATS (**GATS Trustees**).

The GATS Platform requires that each GATS Entity appoint two or more Administrators to act on its behalf.

### **(b)       Individual Identity Verification**

In order to create a user account, an individual must first have completed an identity verification process. This is a two-step process whereby the user is required to (a) take a photograph of their passport or other government issued photo I.D. (from a list of over 4,000 accepted documents covering over 200 countries) and then (b) take a live photograph of themselves (a 'selfie'). The GATS Platform uses facial recognition technology to verify the identity of the individual. Once an individual has been verified, they signs-up the GATS Platform's terms of use and the GATS Platform then issues the user with a unique digital certificate which will also serve as that individual's digital signature.

### **(c)       Initial Steps applying to all GATS Entities**

An entity can apply through the GATS Platform to become a GATS Entity. The GATS Platform will prompt an applicant to provide certain information including, (i) the name of the entity applying to become a GATS Entity (which must match identically the registered name of the entity), (ii) the type of GATS Entity it wishes to become (GATS Participant/GATS Trustee/GATS Professional Entity) and (iii) the names of its 'Administrators' (at least two) each of whom has completed the individual identity verification process.

### **(d)       GATS Participants**

Any aircraft lessor or financier seeking to be admitted as a GATS Participant must apply through the online GATS Platform.

Once the initial steps at (c) above have been completed, only two additional conditions must be met by GATS Participants:

- such party must electronically execute the rules of the system via one of its administrators, being the electronic terms and conditions (the **e-Terms**) which constitutes a binding contract between such party and AWG; and
- such aircraft lessor or financier must be and remain 'cleared' by the relevant branch of the relevant GATS Trustee based on such trustee's service standards, 'know your customer' requirements, applicable GATS fees, costs and other agreed terms.

Once a party has been cleared as a GATS Participant (which clearance is on a branch-by-branch basis depending on the jurisdictions of operation of the relevant GATS Trustee), it is prompted by the GATS Platform to provide the following information which is entered in the



E-Ledger and retained as the relevant information for such GATS Participant unless it notifies the ledger support provider (through the online GATS Platform) of any changes:

- Jurisdiction of formation, incorporation or organisation
- Entity type (e.g. limited liability company, designated activity company)
- Postal address
- Email address

(e) GATS Trustees

Any person engaged in the business of providing professional trust company services may apply through the online GATS Platform to act as a GATS Trustee. Once the initial steps at (c) above have been completed, a trustee must also (1) electronically agree to the e-Terms and (2) be confirmed by AWG as meeting the prescribed standards set out in the e-Terms. The GATS is issued with access to the online GATS Platform as a GATS Trustee and may elect (in its discretion) to act as a GATS Trustee in one or more of the approved jurisdictions.

The initial approved jurisdictions for GATS Trustee branches are the United States, Ireland and Singapore but additional jurisdictions are expected to be added over time. The selected governing law and form of GATS instrument used is called the 'Trust Branch' within GATS. Each GATS Trustee will have multiple GATS Trusts within each Trust Branch.

Once a trustee has been issued with access to the online GATS Platform as a GATS Trustee, it is prompted by the GATS Platform to provide the following information which is entered in the E-Ledger and retained as the relevant information about such GATS Trustee unless it notifies the ledger support provider (through the online GATS Platform) of any changes:

- Jurisdiction of formation
- Entity type
- Postal address
- Email address

As described at D.5 below, there are limited circumstances in which a GATS Trustee can resign while aircraft equipment owned by the relevant GATS Trust is subject to a lease agreement with a third-party lessee.

In clearing a person to become a GATS Participant, each GATS Trustee must apply policies and procedures designed to ensure compliance with all 'know your customer', anti-money laundering, and other legal requirements and obligations that would need to be satisfied in the jurisdiction in which the GATS Trustee is operating, substantively equivalent to those applicable in that jurisdiction to persons regulated as a bank acting as a professional trustee. Each GATS Trustee which it is not in fact regulated as a bank acting as a professional trustee must provide AWG (or its designee) with satisfactory independent third party verification that such policies and procedures are maintained and effectively applied.

Save in respect of business aircraft held in a GATS Trust, fees payable to GATS Trustees in respect of GATS Trusts owning or intending to own commercial aircraft equipment are set out in an agreed schedule of fees posted on the GATS Platform. No initial fee is payable to the GATS Trustee to establish a GATS Trust. Fees will be paid annually and per Designated Transaction but early termination of a GATS Trust will result in a penalty fee becoming payable. The foregoing will be set out in a fee schedule on the GATS Platform. Where appropriate in light of market conditions and the number of GATS Trusts in existence, AWG may modify the fee schedule from time to time provided that it is commercially reasonable to do so.

(f) GATS Professional Entity

A law firm or other body may be created as a GATS Professional Entity on the GATS Platform. Following completion of the initial steps described at (c) above, the law firm or other body must be 'cleared' by either a GATS Trustee or by AWG. AWG intends to clear each law firm appearing on one of its national contact group lists. GATS Professional Entities can act as escrow coordinators on any GATS escrow facility (as described at D.10 below) to help manage and facilitate the closing process.

(g) Edits to a GATS Entity's Profile

Once an entity has been established as a GATS Entity, any administrator can edit the profile to add or remove 'Administrators', 'Signatories' and/or 'Users' (each of whom must have first completed the individual identity verification process). A GATS Entity must have at least 2 in order to effect any Designated Transactions. Administrators of a GATS Entity are permitted to, among other things: (i) add/remove other 'Administrators', 'Signatories' and/or 'Users' of that GATS Entity; (ii) execute GATS Instruments on behalf of that GATS Entity; and (iii) release signatures from escrow and manage Advance Requirements. Signatories of a GATS Entity are permitted to: (i) execute GATS Instruments on behalf of that GATS Entity and (ii) release signatures from escrow and manage Advance Requirements. Users of a GATS Entity are permitted to release signatures from escrow and manage Advance Requirements but are not permitted to execute GATS Instruments on behalf of that GATS Entity.

An expedited process will apply to establishing a wholly-owned subsidiary or 'controlled entity' of an existing GATS Participant (but not of an existing GATS Trustee or GATS Professional Entity) as a new GATS Entity. The new GATS Entity will still need to complete the KYC 'clearance' process but it will automatically inherit its parent's 'Administrators', 'Signatories' and 'Users' (if applicable).

**Part D. GATS Designated Transactions**

**D.1 Creating a GATS Trust**

(a) Electronic request to create a GATS Trust

A GATS Participant that has been cleared by a branch of a GATS Trustee may make an electronic request through the online GATS Platform to establish a GATS Trust (or to convert an existing trust into GATS as a GATS Trust). As part of the electronic request, the GATS Participant is prompted by the GATS Platform to provide:

- the names of the trustee and the beneficiary of the GATS Trust (selected from a GATS Platform drop-down list)
- the type (aircraft, aircraft engine or helicopter), manufacturer name, model (each of which should follow the same format used by the international registry) and serial number of the aircraft equipment to be held in such GATS Trust (if any) (work is under way to establish drop-down lists to the extent possible)
- the nationality and registration mark (if any) of the aircraft equipment to be held in such GATS Trust (if any)

As part of the electronic request, the GATS Participant is also asked to confirm (by checking a box) whether the GATS Trust is a newly-created trust or if this is a conversion of an existing trust into a GATS Trust by way of an amendment and restatement of the previous trust instrument.

If the electronic request is to convert an existing trust into a GATS Trust by way of an amendment and restatement of the previous trust instrument, the GATS Participant is also asked to populate basic descriptive information about the existing trust (including the date of the original trust instrument, the parties to the original trust instrument and any

amendments or assignments since the trust was originally created). The GATS Platform limits the information which can be provided to describe existing trusts rather than allowing free text descriptions.

Each GATS Trust is designated a unique identification number (UIN) on its creation (or conversion into a GATS Trust). If the electronic request is to convert an existing trust created during the transition period into a GATS Trust by way of an amendment and restatement of the previous trust instrument, the GATS Participant is also asked to check a box to confirm whether or not a UIN has previously been assigned by AWG to such trust (which is possible only for trusts created prior to the launch of the GATS platform and if a UIN has previously been assigned to such trust, the GATS Participant is prompted to provide such UIN which remains assigned to the trust on its conversion into a GATS Trust so as to avoid, among other things, a need to change the name of the trust which might result in new UCC, registry or other filings to be made.

In order to add aircraft equipment to the GATS Trust, the GATS Participant needs to procure the transfer of the aircraft equipment to the GATS Trustee, which is typically effected through a bill of sale, outside of GATS. That may then be recorded as a permitted amendment to the GATS Trust.

Following the establishment of a GATS Trust or the migration of a trust into GATS, in each case through each GATS Entity who is a party thereto having executed the applicable trust instrument electronically through the GATS Platform, such establishment or migration is automatically entered in the E-Ledger. That will follow the release from the GATS escrow facility established in accordance with the e-Terms (as described in D.10 below), by the relevant GATS Parties.

(b) Generation and electronic execution of trust instrument

The GATS Platform then automatically populates a standard trust instrument with details of:

- the airframe and/or engines to be held in the GATS Trust (if any)
- the parties to the trust instrument, their jurisdiction of formation, incorporation or organisation, entity types and postal and email addresses using the information retained by the E-Ledger from when such person initially became a GATS Entity (as amended from time to time)
- the UIN of the GATS Trust
- if the standard trust instrument is amending and restating an existing trust instrument, basic descriptive information about the existing trust (including the date of the original trust instrument, the parties to the original trust instrument and any amendments or assignments since the trust was originally created)

The GATS Trustee and the beneficiary would execute the trust instrument electronically using their digital signature prompting the GATS Platform to insert the effective time and the GATS Trust is created (or migrated onto GATS, as the case may be) and recorded in the E-Ledger. That effective time is when the documents are released from the electronic escrow (as described further at D.10 below).

In the case of an amended and restated trust instrument, the effective time on the cover of the relevant GATS Trust Instrument indicates the time of the amendment and restatement (and migration of the trust onto GATS). Otherwise, the effective time shall be the date of creation of the GATS Trust.

(c) Empty GATS Trusts

It is possible to create a GATS Trust with a trust estate of \$1.00 only and to add aircraft equipment to such trust estate at a later date. Frequently, at the time of entry into an aircraft lease agreement, the lessor may not yet own the aircraft equipment subject of such

aircraft lease agreement (for example, if the relevant aircraft is yet to deliver from the manufacturer under a purchase agreement). GATS permits the creation of an empty trust to execute such an aircraft lease agreement in advance and allows for the aircraft equipment to be added to the trust estate at a later date. An empty trust may also be used by lessors as an intermediate lessor in a lease-in, lease-out structure if desirable for registration or other purposes.

(d) Certification Requirements

If any applicable law requires the beneficiary of a trust governed by such law to hold a certificate representing its beneficial interest (for example, the laws of the State of Utah with respect to Utah business trusts), GATS will allow electronic certification. It is expected that parties using such trusts may wish to obtain a duplicate manually executed hardcopy certificate also which may need to be physically transferred to any transferee of the beneficial interest.

## **D.2 Beneficial Interest Transfer**

Once a trust has been established as a GATS Trust or migrated onto GATS, transfers can be effected by way of a beneficial interest transfer using the GATS standard form beneficial interest transfer instrument.

On completion of a beneficial interest transfer, all interests of the transferor in the trust estate (including the aircraft equipment held in such GATS Trust) are transferred to the transferee. Bare legal title remains with the GATS Trustee (or, in the case of statutory trusts with separate legal personality, the GATS Trust itself).

(a) Transfer by listed beneficiary only

Save for circumstances in which a security interest has been recorded in the E-Ledger in respect of the beneficial interest in a GATS Trust, only the current beneficiary listed as such in the E-Ledger is permitted to transfer the beneficial interest using the GATS Platform.

Once a security interest in the beneficial interest in a GATS Trust has been recorded in the E-Ledger, the GATS Platform ceases to permit the beneficiary to effect a transfer and such permission passes to the secured creditor who is permitted to transfer the beneficial interest using the GATS Platform. The GATS Platform permits the secured creditor to pass the ability to transfer back to the beneficiary if the secured creditor consents to a proposed beneficial interest transfer. The terms of the security instrument only allow the secured creditor to exercise its right to transfer the beneficial interest following the occurrence of an enforcement event. Once the security interest has been released and discharged the GATS Platform once again recognizes the beneficiary's right to transfer the beneficial interest.

In circumstances in which a beneficial interest is being transferred pursuant to a split closing (as discussed further at D.2 (f)), the transferor is permitted to complete the transfer of the entire beneficial interest to the transferee (but not to any other person) without the need for the consent of any secured creditor to whom the transferee has granted a security interest in its interests in the GATS Trust.

The GATS Platform does not recognize any attempted transfers by any other parties.

(b) Electronic request to transfer the beneficial interest

The beneficiary of a GATS Trust (or a secured creditor exercising its remedies under a security instrument) may use the GATS Platform to make an electronic request to the relevant GATS Trustee to transfer such beneficial interest to a 'cleared' GATS Participant of such GATS Trustee.

The beneficiary (or a secured creditor exercising its remedies under a security instrument) making such an electronic request will be required to populate the following information on the GATS Platform:

- the UIN of the relevant GATS Trust
- the name of the transferee (selected from a GATS Platform drop-down list)
- details of any security interests or liens on the airframe and/or engine(s) held in the GATS Trust which are agreed between the transferor and transferee as 'permitted encumbrances which will survive the transfer (if any)
- details of agreements to which the GATS Trustee is a party which fall within the scope of the indemnity included in the standard trust instrument, liability for which is transferring to the transferee

As part of the electronic request, the GATS Participant is also asked to confirm (by checking a box) whether the beneficial interest transfer instrument is to contain a title representation in respect of the aircraft equipment held in the GATS Trust.

(c) Generation of beneficial interest transfer instrument

Provided that either (i) no security interest in the beneficial interest has been recorded in the E-Ledger, (ii) the holder of any such security interest has given its prior consent to the transfer or (iii) the request to transfer has been made by a secured creditor holding a security interest in the beneficial interest in the relevant GATS Trust, the GATS Platform then automatically populates a standard beneficial interest transfer instrument with details of:

- the UIN of the GATS Trust
- the transferor, transferee and trustee and each of their respective jurisdictions of formation and entity types using the information retained by the ledger from when such person initially became a GATS Entity (as amended from time to time)
- confirmation of whether or not the transferor is giving a title representation in respect of the aircraft equipment held in the GATS Trust
- any 'permitted encumbrances' included in the electronic request to transfer
- details of agreements to which the GATS Trustee is a party which fall within the scope of the indemnity included in the standard trust instrument, liability for which is transferring to the transferee

(d) Adding Advance Requirements

As discussed further at Part G, the transferor and transferee may elect to list any agreed conditions to the transfer (including those in favour of the lessee) as Advance Requirements on the GATS Platform and to use the GATS Platform to manage the satisfaction or waiver of each of these conditions. Such satisfaction or waiver, where confirmed through the GATS Platform, is legally binding provided that either (i) the person providing such confirmation is a GATS Entity, the GATS Template Transfer Clause (Lease Agreement) (discussed further at E.2) has been adopted or (ii) the parties otherwise agree that confirmation of satisfaction or waiver of the Advance Requirements through the GATS Platform constitutes the legal binding and enforceable agreement of the confirming party that such Advance Requirements have been satisfied or waived.

(e) Electronic execution of beneficial interest transfer instrument

Once all of the listed Advance Requirements have been electronically confirmed as being satisfied or waived by the party in whose favour they were created (in their discretion) and any applicable GATS fees have been paid, the transferor (or the secured creditor acting as attorney for the transferor), transferee and trustee may execute the beneficial interest transfer instrument electronically using their digital signature.

All executed signatures will be held in the GATS escrow facility (as described in D.10 below), pending release by the GATS escrow coordinator of all signatures and instruments.

All executed signatures will be held in the GATS escrow facility (as described at D.10 below) pending release by the GATS escrow coordinator of all signatures and instruments.

Once the GATS escrow coordinator releases all signatures and instruments from escrow, the GATS Platform shall insert the effective time and date and the transfer is effected and recorded in the E-Ledger. That effective time is when the documents are released from the GATS escrow facility (as described further at D.10 below).

(f) Partial Beneficial Interest Transfers

If the engines associated with an aircraft held in a GATS Trust are off-wing at the scheduled time of a beneficial interest transfer, the parties may agree to use a split-closing process and to transfer a partial beneficial interest (reflecting an engine or airframe forming part of the GATS Trust) to the transferee in advance of the transfer of the remaining beneficial interest to the transferee.

A separate GATS standard form beneficial interest transfer instrument (partial / residual beneficial interest transfers) is used but the process for transfer otherwise remains the same. The entire beneficial interest in a GATS Trust must ultimately be transferred to the same transferee.

It is expected that any beneficial interests which are transferred using a split-closing process would be completed within a limited time period. As suggested above, by limiting the aircraft equipment that is held in a single GATS Trust to a single airframe and associated engines, the risk of a prolonged split-closing process is reduced. While GATS does not prevent a beneficiary from holding multiple aircraft in a single GATS Trust, this is a reason why it would be preferable to avoid doing so.

The rights of the transferor and transferee during the period between the transfer of the first partial beneficial interest and the transfer of the residual beneficial interest (including, for example, the rights to any lease rentals relating to the aircraft equipment held in such GATS Trust received during such period, the allocation of hull insurance proceeds between the parties and the right to exercise any remedies in favour of the aircraft owner under any warranty agreement) could be addressed outside of GATS in the sale agreement or other agreement between the parties.

The GATS standard form beneficial interest transfer instrument (partial beneficial interest transfers) includes as a default (which can be varied outside of GATS) that a portion of the lease rentals allocable to the aircraft equipment representing the portion of the trust estate transferred are deemed to have been transferred to the transferee. Otherwise, the GATS standard form beneficial interest transfer instrument (partial / residual beneficial interest transfers) provides that all rights of the 'beneficiary' of the GATS Trust remain with the transferor until the entire beneficial interest in a GATS Trust has transferred to the transferee.

(g) Transferred Related Documents

The standard trust instrument includes an indemnity given by the beneficiary in favour of the GATS Trustee in respect of, among other things, any documents entered into by the GATS Trustee at the direction of the beneficiary. The terms of the standard beneficial interest transfer instrument provide that liability under such indemnity shall remain with the transferor in respect of any documents not expressly identified in the standard transfer instrument.

A transferor should ensure that when prompted to populate this list, that it is exhaustive. This feature of GATS gives extra protection to a transferee that there are no existing undisclosed liabilities which it will assume under the transfer instrument.

### **D.3 Security Interest Grant (Beneficial Interest)**

As discussed further at F.7, the grant of a security interest in the beneficial interest in a GATS Trust works in parallel with the typical security package (including an aircraft mortgage and a security assignment of the lease agreement) to be granted in favour of secured creditors. If agreed, a secured creditor would still obtain, among other things, a mortgage over the aircraft (and/or engine(s)), a security assignment of the lease agreement, a security assignment of the insurances and an assignment of the airframe and engine warranties (if any). The granting of a security interest in the beneficial interest in the GATS Trust adds additional flexibility to a secured creditor in the event of an enforcement scenario.

As discussed at D.2(a), once a beneficiary of a GATS Trust grants a security interest in such GATS Trust to a secured creditor, no transfer by such beneficiary of the beneficial interest in such GATS Trust is permitted through the GATS Platform without the electronic consent of the secured creditor (or its assignee of the security interest).

Save as described in D.2(a) above in relation to split-closing transfers, the GATS Platform only allows the secured creditor in whose favour the security interest has been granted to effect the transfer through the GATS Platform of a beneficial interest subject to a security interest for so long as such security interest remains in place.

Once the security interest has been released and discharged (or the secured party consents to a proposed beneficial interest transfer through the GATS Platform), the GATS Platform permits the beneficiary to effect a transfer of the beneficial interest.

In relation to beneficial interest transfers using the split-closing process described at D.2(f), the transferee shall be permitted to grant a security interest in its interest in the relevant GATS Trust at any time from and after the transfer of the first partial beneficial interest and the terms of the standard form security interest provide that such security interest will also be granted over any subsequent partial or residual beneficial interest transferred to, and acquired by, such transferee.

Only one security interest in the beneficial interest of a GATS Trust may be recorded on the E-Ledger at a time. However, in respect of beneficial interests transferred by way of a split-closing, during the period between the transfer of the first partial beneficial interest and the transfer of the residual beneficial interests the GATS Platform will temporarily allow both beneficiaries, and the security interests granted to their respective secured parties, to be recorded on the E-Ledger at the same time.

#### **(a) Electronic request to grant a security interest**

The beneficiary of a GATS Trust may use the GATS Platform to make an electronic request to the relevant GATS Trustee to generate a security interest over such beneficial interest to another GATS Participant.

The beneficiary is prompted to populate the following information in the electronic request:

- the UIN of the relevant GATS Trust
- the name of the secured creditor (selected from a GATS Platform drop-down list)
- details of the 'principal finance document' and, if applicable, the 'principal security agreement' relating to the airframe and/or engines owned by the relevant GATS Trust (which sets out the priority of payments to be followed on distribution of trust proceeds)

- cross reference to the priority of payments provisions of the principal finance documents

The beneficiary will also be prompted to confirm whether or not the limited purpose covenants in the standard form security instrument master terms are to be incorporated into the security instrument or not.

(b) Capacity of secured creditor

On receipt of an electronic security interest grant request, the secured creditor is prompted to confirm whether it holds such security interest as trustee or agent on behalf of other secured creditors or if it is acting in its individual capacity for its own account.

(c) Generation of security instrument

The GATS Platform then automatically populates a standard form security instrument relating to the beneficial interest with details of:

- the UIN of the GATS Trust
- the beneficiary, the secured creditor in whose favour the security interest is to be granted and the trustee and each of their respective jurisdictions of formation and entity types using the information retained by the E-Ledger from when such person initially became a GATS Entity (as amended from time to time)
- the capacity in which the secured creditor holds the security interest
- details of the 'principal finance document' and 'principal security agreement' relating to the airframe and/or engines owned by the relevant GATS Trust
- confirmation of whether or not the limited purpose covenants in the standard form security instrument master terms are incorporated into the security instrument

(d) Adding Advance Requirements

The beneficiary and the secured creditor may elect to list any agreed conditions to the grant of the security interest (including those in favour of the lessee) as Advance Requirements on the GATS Platform and to use the GATS Platform to manage the satisfaction or waiver of each of these conditions. Such satisfaction or waiver, where confirmed through the GATS Platform, is legally binding on and enforceable against the party making such confirmation provided that the party in whose favour the Advance Requirement has been granted so agrees in the financing documents, relevant lease agreement or elsewhere.

(e) Electronic execution of security instrument

Once all of the listed Advance Requirements have been electronically confirmed as being satisfied or waived by the party in whose favour they were created (in their discretion) and any applicable GATS fees have been paid, the beneficiary, secured creditor and trustee may execute the security instrument electronically using their digital signature.

All executed signatures will be held in the GATS escrow facility (as described at D.10 below) pending release by the GATS escrow coordinator of all signatures and instruments.

Once the GATS escrow coordinator releases all signatures and instruments from escrow, the GATS Platform shall insert the effective time and the security interest grant is effected and recorded in the E-Ledger. That effective time is when the documents are released from the GATS escrow facility (as described further at D.10 below).

## **D.4 Termination of GATS Trusts**

(a) Electronic request to terminate trust



The beneficiary of a GATS Trust may use the GATS Platform to make an electronic request to the relevant GATS Trustee to terminate such GATS Trust. The electronic termination request includes the UIN of the GATS Trust to be included in the standard termination instrument.

If applicable and the beneficiary so elects, the beneficiary shall also include the electronic request, the name, entity type and postal address of a third party whom the GATS Trustee is to transfer title to the aircraft equipment held in the GATS Trust.

(b) Adding Advance Requirements

The beneficiary and the GATS Trustee may elect to list any agreed conditions to the termination (including those in favour of the lessee or the GATS Trustee) as Advance Requirements on the GATS Platform and to use the GATS Platform to manage the satisfaction or waiver of each of these conditions. Such satisfaction or waiver, where confirmed through the GATS Platform, is legally binding and enforceable provided that the parties so agree.

(c) Electronic execution of termination instrument

Provided that either (i) no security interest in the beneficial interest has been recorded in the E-Ledger or (ii) the holder of any such security interest has given its prior consent to the termination, once all of the listed Advance Requirements have been electronically confirmed as being satisfied or waived by the party in whose favour they were created (in their discretion) and any applicable fees have been paid, the transferor, transferee and trustee may execute the termination instrument electronically using their digital signature.

All executed signatures will be held in the GATS escrow facility (as described at D.10 below), pending release by the GATS escrow coordinator of all signatures and instruments.

Once the GATS escrow coordinator releases all signatures and instruments from escrow, the GATS Platform shall insert the effective time and the termination is effected and recorded in the E-Ledger. That effective time is when the documents are released from the GATS escrow facility (as described further at D.10 below).

(d) Security interest

Once the beneficiary of a GATS Trust grants a security interest in such GATS Trust to a secured creditor, no termination of such GATS Trust is permitted without the electronic consent of the secured creditor (or its assignee of the security interest).

## **D.5 Successor GATS Trustee Transactions**

At any time at which aircraft equipment owned by a GATS Trust is on lease to a third party, the GATS Trustee may not resign without the consent of the beneficiary unless either (a) it is required to do so under mandatory applicable law or to comply with FAA requirements, (b) the beneficiary has either failed to pay amounts owed to the trust company when due or has otherwise breached the terms of any trust document in a material respect or (c) the beneficiary has failed to respond within a reasonable time following a request in writing from the GATS Trustee relating to a material matter contemplated under any trust document or transaction document relating to the GATS Trust.

As outlined at (d) below, different jurisdictions may require different approaches to the replacement of a trustee. For example, an Irish law trust instrument may need to be terminated and a new trust declared by the new trustee whereas the laws of the State of Delaware may allow the assignment of the role of trustee of a statutory trust without the need to terminate the trust.

The GATS standard form trustee transfer instrument for a Delaware statutory trust simply provides for the resignation or removal of the existing trustee and the simultaneous appointment of the replacement trustee. The Delaware statutory trust itself remains otherwise unaffected and there is no need to terminate the trust, transfer title to the trust estate, novate or assign and assume any applicable lease documents or grant a new security interest in the beneficial interest (if applicable).

The GATS standard form trustee transfer instrument for common law trusts provides for the legal assignment of the trust property to the successor trustee and the simultaneous declaration of a new trust in favour of the beneficiary, each to take effect if so required by applicable law.

Furthermore, the replacement of the trustee of a GATS Trust may require that other actions are taken (including, depending on applicable law, a need to novate or assign and assume any lease of the aircraft equipment held in the GATS Trust, a need to obtain a replacement IDERA or deregistration power of attorney and a need to update insurance certificates) so parties may wish to effect the replacement of the trustee through the use of a metal transfer pursuant to a bill of sale (as described further at (g) below) in any event, which they would be free to do under GATS.

(a) Electronic request to replace trustee

The beneficiary of a GATS Trust may use the GATS Platform to make an electronic request to the relevant trustee to replace such trustee with another trustee which has been verified by AWG as meeting the prescribed standards of GATS Trustees set out on the GATS Platform.

The beneficiary is prompted to populate the following information in the electronic request:

- the UIN of the relevant GATS Trust
- the name of the successor trustee (selected from a GATS Platform drop-down list)

Once an electronic request to replace the trustee has been submitted through the GATS Platform, the existing trustee is prompted to confirm whether it is resigning or is being removed by the beneficiary. If any aircraft equipment held in the GATS Trust is registered with the FAA and the GATS Trustee is being removed, the beneficiary will represent to the new trustee that certain requirements of the FAA continue to be met.

(b) Generation of trustee transfer instrument

The GATS Platform produces a standard trustee transfer instrument for a trust of the relevant type. For the reasons described above, the standard form trustee transfer instrument is different for statutory trusts and common law trusts.

The transferor trustee, the transferee trustee and the beneficiary may elect to list any agreed Advance Requirements to the transfer (including those in favour of the lessee) on the GATS Platform and to use the GATS Platform to manage the satisfaction or waiver of each such requirement. Such satisfaction or waiver, where confirmed through the GATS Platform, is legally binding if so agreed by the parties.

(c) Electronic execution of trustee transfer instrument

Once all of the listed Advance Requirements have been electronically confirmed as being satisfied or waived by the party in whose favour they were created (in their discretion) and any applicable fees have been paid, the transferor GATS Trustee, transferee GATS Trustee and the beneficiary may execute the trustee transfer instrument electronically using their digital signature.

All executed signatures will be held in the GATS escrow facility (as described in at D.10 below) pending release by the GATS escrow coordinator of all signatures and instruments.

Once the GATS escrow coordinator releases all signatures and instruments from escrow, the GATS Platform shall insert the effective time and, subject to applicable law, the appointment of the successor trustee is effected and recorded in the E-Ledger. That effective time is when the documents are released from the GATS escrow facility (as described further at D.10 below).

(d) Transfers of legal title pursuant to a bill of sale (if required or agreed)

If legally required or the parties otherwise agree, the replacement of a trustee may be effected through the transfer of title to the trust property to the replacement trustee pursuant to a bill of sale and, if required by applicable law or the parties otherwise agree, the creation of a new GATS Trust between the new trustee and the beneficiary.

The laws of a number of different jurisdictions may be applicable to such a trustee transfer (including the Cape Town Convention, lex situs and the law governing any lease of the aircraft equipment held in the GATS Trust) so specific advice should be taken before using the trustee transfer instrument.

(e) Lease agreements following a replacement of the GATS Trustee

The GATS Trustee (or in the case of statutory trusts, the GATS Trust itself) will typically be named as lessor under any lease relating to the aircraft equipment held in a GATS Trust. Depending on the applicable law, the replacement of the trustee and the related transfer of the trust estate to the replacement trustee may result in a requirement to novate or assign and assume the lease(s) relating to the aircraft equipment held in a GATS Trust.

If such a novation or assignment and assumption is required, the parties may agree to use the AWG template novation or assignment and assumption. The parties would also be free to agree at the time of entry into a lease agreement that following a replacement of the GATS Trustee, the existing trustee, the replacement trustee and the airline would enter into a novation or assignment and assumption substantially in the AWG template form (available at [www.awg.aero](http://www.awg.aero)) so as to limit further negotiation of such documents at the time of any such trustee replacement.

(f) Security instrument following a replacement of the trustee

If a security interest in a GATS Trust has been recorded in the E-Ledger, it is questionable whether the existing security interest in such GATS Trust remains valid and effective following the replacement of the GATS Trustee. Local law advice would need to be obtained at the applicable time.

If applicable law provides or requires that the original GATS Trust is terminated and a new GATS Trust is created following the transfer of the trust estate to the replacement trustee, a new security interest needs to be granted in the beneficial interest in the new GATS Trust. In any event, it is advisable to take a new security interest.

(g) The alternative approach

If required by applicable law, or otherwise agreed by the beneficiary, the existing trustee and the new trustee, a change in trustee could also be achieved by terminating the existing GATS Trust, transferring title in the Trust Estate to the new trustee pursuant to a bill of sale and creating a new GATS Trust between the new trustee and the beneficiary.

This is likely to be the preferred approach when dealing with common law trusts (rather than statutory trusts) but we note that this would require a novation or assignment and assumption of any existing lease of the aircraft equipment held in the GATS Trust, a new

security interest grant in respect of the beneficial interest in the new GATS Trust and potentially a variety of new ancillary documents (such as IDERAs, deregistration powers of attorney, insurance certificates, Eurocontrol letters) naming the new GATS Trustee (acting in such capacity) as lessor.

## **D.6 Trust Branch Transfer**

Trustee organisations may look to offer trust services in each of the approved jurisdictions, and could look to provide such services through branches of the same legal entity which are situated in each relevant jurisdiction rather than through separate legal entities. Any such branch structure could have the advantage of avoiding a transfer of legal title to the aircraft equipment (and the termination of any related trust) where clients of such trustees looked to move GATS Trusts between different jurisdictions (whether as a matter of an internal restructuring or as part of a third party sale). While any such branch structure (and any related transfers) would need to be carefully considered from a tax perspective, the GATS system has been designed to facilitate such structures.

### **(a) Electronic request to transfer the GATS Trust to another trust branch**

The beneficiary of a GATS Trust may use the GATS Platform to make an electronic request to the relevant trustee to transfer the GATS Trust to another branch of such trustee in another approved jurisdiction.

The beneficiary is prompted to populate the following information in the electronic request:

- the UIN of the relevant GATS Trust
- the name of the replacement branch (selected from a GATS Platform drop-down list)

### **(b) Generation and electronic execution of trust branch transfer instrument**

The GATS Platform produces a standard form trust instrument governed by the laws of the new trust branch. Once all of the listed Advance Requirements (if any) have been electronically confirmed as being satisfied or waived by the party in whose favour they were created (in their discretion) and any applicable fees have been paid, the beneficiary and trustee may execute the new trust instrument electronically using their digital signature.

All executed signatures will be held in the GATS escrow facility (as described at D.10 below) pending release by the GATS escrow coordinator of all signatures and instruments.

Once the GATS escrow coordinator releases all signatures and instruments from escrow, the GATS Platform shall insert the effective time and the trust branch replacement is effected and recorded in the E-Ledger. That effective time is when the documents are released from the GATS escrow facility (as described further at D.10 below).

The trust instrument governed by the laws of the previous trust branch is amended and restated by the new trust instrument governed by the laws of the new trust branch.

## **D.7 Amendment of GATS instrument**

The aircraft equipment held in a GATS Trust may change from time to time following the acquisition or disposal of aircraft, airframes or engines. The acquisition or disposal of aircraft equipment would typically be effected through the use of a bill of sale transferring title to such aircraft equipment or pursuant to the terms of an aircraft lease agreement in respect of the aircraft equipment in the GATS Trust.

Notwithstanding the existence of a recorded security interest in the E-Ledger, no secured creditor consent is required by the GATS Platform in order to add or remove any aircraft equipment from the trust estate of a GATS Trust. This is consistent with the approach

taken today with respect to engines subject to leases which allow for permanent replacement by the lessee subject to certain specified conditions being met.

Where a GATS instrument has been produced with a manifest error in any of the populated information, GATS permits the parties to enter into an amendment instrument correcting that error. Alternatively the parties may determine that it is more efficient to amend and restate the original GATS Instrument correcting the error rather than executing a new amendment document.

(a) Amendments of GATS instruments to be effected through the GATS Platform

The e-Terms do not permit any amendments to GATS Instruments except for:

- amendments to the aircraft equipment information in a trust instrument following acquisition or disposal by the trustee of an airframe or engine
- amendments to update form of document upon any future updates to the GATS Forms (as defined in the e-Terms) (the e-Terms govern the circumstances under which the GATS Forms can be updated)
- amendments to a schedule of a GATS Instrument to correct manifest errors or as required by mandatorily applicable law

Any permitted amendments must be effected through the GATS Platform.

(b) Electronic request to amend a GATS instrument

The beneficiary of a GATS Trust may use the GATS Platform to make an electronic request to the relevant trustee to amend the trust instrument or security instrument relating to such GATS Trust. The beneficiary is prompted to provide the UIN of such GATS Trust.

In the case of an amendment to the aircraft equipment information in a GATS Trust Instrument following acquisition or disposal by the trustee of an airframe or engine, the beneficiary is prompted to provide details of the changes to the aircraft equipment held by the GATS Trust.

(c) Adding Advance Requirements

The beneficiary and the trustee may elect to list any agreed conditions to the amendment (for example, execution of a bill of sale) as Advance Requirements on the GATS Platform and to use the GATS Platform to manage the satisfaction or waiver of each of these conditions. Such satisfaction or waiver, where confirmed through the GATS Platform, is legally binding.

(d) Generation and electronic execution of amendment

Once all of the listed Advance Requirements have been electronically confirmed as being satisfied or waived by the party in whose favour they were created (in their discretion) and any applicable fees have been paid, the beneficiary and trustee (and, in the case of an amendment to the security instrument, the secured creditor) may execute the amendment instrument electronically using their digital signature.

All executed signatures will be held in the GATS escrow facility (as described at D.10 below) pending release by the GATS escrow coordinator of all signatures and instruments.

Once the GATS escrow coordinator releases all signatures and instruments from escrow, the GATS Platform shall insert the effective time and the amendment is effected and recorded in the E-Ledger. That effective time is when the documents are released from the GATS escrow facility (as described further at D.10 below).

Where the amendment is to adopt an updated GATS standard form instrument, the original instrument is amended and restated to adopt the updated GATS Form.

#### **D.8 Change of Name of a GATS Entity**

A change of name of a GATS Entity which does not change the legal entity whose name is changed or impact on the GATS Trust or any security interest in the GATS Trust can be effected through a simplified process. This is distinguished from mergers and succession by law which may require a transfer of the interest to the post-merger entity or successor.

However, the simplified change of name feature does not create a right in rem and is not to be used to transfer interests to other entities.

##### **(a) Electronic request to change name of a GATS Entity**

The relevant GATS Entity undergoing a change of name may use the GATS Platform to make an electronic request that its name is amended on the E-Ledger.

The GATS Entity making such a request is prompted to upload the legal instrument effecting or evidencing the change in name (such as a certificate of change of name). The changing of a GATS Entity's name on the E-Ledger does not of itself have any legal effect but acts as a record that such GATS Entity has effected a change of name under the laws applicable to such GATS Entity.

##### **(b) Update of electronic register**

Once the electronic request has been made through the GATS Platform and the legal instrument effecting or evidencing the change in name has been uploaded to the GATS Platform:

- (i) the name of the relevant GATS Entity is amended in the E-Ledger; and
- (ii) the legal instrument effecting or evidencing the change in name is available to download by users of GATS.

##### **(c) Impact on GATS instruments**

Following the recording of the change of name of a GATS Entity on the E-Ledger, the existing GATS Instruments entered into by that GATS Entity continue to cite the pre-change name of such GATS Entity but any instruments created through the GATS Platform following the change of name will reflect the new name. The E-Ledger and the supporting documents uploaded to the E-Ledger act as useful evidence of the change of name.

#### **D.9 Unavailability of GATS Platform due to force majeure**

In the event that AWG announces that a force majeure or other extraordinary event disrupting the operation or functionality of GATS (an **Outage**) has occurred and until such time as AWG announces that the Outage has ended, GATS Parties will be permitted to effect Designated Transactions through the use of manual forms of the GATS instruments made available online through the AWG website and/or the GATS Platform.

Within a reasonable time period following the end of an Outage, each GATS Entity shall amend and restate any manually GATS instruments executed during such Outage or execute a duplicate GATS instrument, in each case through the GATS Platform.

At the end of any Outage, the E-Ledger will be updated to reflect any Designated Transactions effected manually during such Outage.

#### **D.10 GATS Escrow Facility**

To assist GATS Transacting Entities and their associated GATS Professional Entities with closings, all transactions effected through the GATS Platform will have the benefit of its electronic escrow facility (the "**GATS escrow facility**"). The GATS escrow facility will allow parties to one or more Designated Transactions to (a) preposition electronically executed signatures in escrow, (b) manage satisfaction of the advance requirements for each such Designated Transaction and (c) in the case of multiple Designated Transactions, enable the execution of such Designated Transactions in the desired sequence with zero delay between them. Any authorised GATS Professional Entity may initiate the GATS escrow facility environment (such GATS Professional Entity to be referred to as the "**GATS escrow coordinator**"). Upon all signatures being provided, all Advanced Requirements being satisfied and each GATS Transacting Entity party to the transaction(s) populated in the GATS escrow facility consenting to the release (which will also authorize release of its signature pages), such GATS Professional Entity will be authorized to release all signatures from escrow and close all transactions in the GATS escrow facility.

An optional model GATS escrow coordinator letter shall be made available on the GATS Platform which provides for the terms and conditions on which the GATS Professional Entity agrees to act as GATS escrow coordinator.

## **Part E. Leases and Lessees under GATS**

### **E.1 Basic Principles and Objectives**

#### **(a) Reduce burden on airlines**

One of the primary purposes of GATS is to reduce the burden on airlines related to aircraft trading and financing of aircraft through modern solutions. Lease novations and assignments are time-consuming and costly for all parties involved (both in terms of out-of-pocket fees and expenses and internal resources).

The trading of aircraft by lessors is an essential part of the aviation leasing industry but it has long been acknowledged that the transferring of title to an aircraft and contemporaneous novation or assignment of the lease agreement relating to such aircraft is unduly burdensome, paper heavy and inefficient.

The objective of GATS is to use technology to create a mechanism for the trading of aircraft and the granting of security interests over aircraft in a secure, efficient, electronic manner with minimal impact, and no adverse effect, on the lessee.

#### **(b) Advance Requirements in favour of lessee**

GATS does not prescribe any lease transfer provisions or require any lease to be amended. As further described at E.4, GATS permits any agreed Advance Requirements to transfers (including those in favour of the lessee) to become part of the electronic process, providing legal protections and substantially increasing efficiency.

By leaving the base lease in place and through the terms of the GATS Template Transfer Clause, GATS reinforces and protects 'no increased obligations' lease provisions in favour of airlines.

### **E.2 GATS Template Transfer Clause**

#### **(a) GATS Toolkit**

GATS introduces a toolkit of model form provisions (the **GATS Toolkit**) (included as Annex I) which may be added to aircraft leasing documents if agreed by the parties. GATS

Participants using the GATS Template Transfer Clause may adopt it in full or in part and with such amendments that might better fit their lease form, drafting style and/or other specific requirements. GATS Participants and lessees of aircraft equipment held in a GATS Trust are also free to make substantive changes to the GATS Template Transfer Clause or to agree not to use it at all.

The efficiencies of GATS work best if the documentary mechanisms set forth in the GATS Template Transfer Clause have been incorporated in full into the lease agreement. However, the system is also designed to operate for aircraft equipment with leases which do not contain the template clause. The GATS Template Transfer Clause is intended to reduce or eliminate unnecessary, burdensome practices which have developed over time but which are not legally required.

(b) Option to pre-agree mechanisms for transfers and security interests

If so agreed by the parties, the mechanisms for transferring beneficial interests in the applicable GATS Trust and for granting a security interest in such beneficial interest may be pre-agreed at the time of entry into the lease agreement (or at any time thereafter) and codified as Advance Requirements on the GATS Platform.

### **E.3 GATS Mechanics and Legal Effects vis-a vis lessee**

(a) No change to legal owner

The legal ownership of any airframe or engine owned in a GATS Trust is held either by the GATS Trust itself or by the trustee of such GATS Trust for the benefit of the relevant beneficiary. The lessor party to the relevant lease agreement is also either the trustee or the GATS Trust itself (depending on the applicable governing law of the GATS Trust). Therefore, following a transfer of the beneficial interest in the GATS Trust, no change to the identity of the lessor occurs. The lease agreement remains in place as between the lessee and the lessor, either the GATS Trust itself or the GATS Trustee of such GATS Trust, now for the benefit of the new beneficiary.

(b) No impact on lease agreement

The contractual terms of the lease agreement are not affected by a beneficial interest transfer so there is no need to novate the existing lease agreement or to assign and assume the rights and obligations under the existing lease agreement. All existing contractual terms and conditions under the lease agreement remain in place and there is no release of the lessor's obligations under the lease agreement.

The intention is to minimize the impact of the transfer on the lessee while protecting the airline's rights and ensuring that there is no increase in the obligations owed by the airline.

If for tax or other reasons, the lessee requires direct covenants, undertakings and/or confirmations from a new beneficiary, these can be specified in the lease agreement and included as Advance Requirements in favour of the lessee, if agreed. In addition, as set out in Annex II and described below, the GATS Toolkit includes two forms of template Performance Undertaking to address such requirements.

(c) No release of lessor's obligations

Since the existing terms of the lease agreement remain in place, there is no release of the lessor's obligations.

### **E.4 Lessee Protections**



#### **E.4.1 Advance Requirements in favour of the lessee**

##### **(a) Option to add electronic conditions**

If agreed by the parties, any conditions contained in the lease agreement (or elsewhere) to the transfer by the holder of the beneficial interest in the lessor of its interests may be included as Advance Requirements listed on the GATS Platform. Typically, any such restrictions would be limited in nature (for example, a prohibition on a transfer by the holder of the beneficial interest in the trust of its interests to a new beneficiary unless such new beneficiary has or is guaranteed by a party with a minimum tangible net worth above a specified monetary threshold).

If agreed by the parties, the listing of such conditions as Advance Requirements on the GATS Platform could be an express condition precedent to acceptance of the aircraft under the lease agreement.

If Advance Requirements in favor of a lessee have been recorded on the GATS Platform in respect of a GATS Trust and the holder of the beneficial interest in such GATS Trust wishes to effect a transfer of such beneficial interest through the GATS Platform, the lessee would be asked to confirm electronically through the GATS Platform whether the conditions to assignment have been met and only when each of the codified conditions has been confirmed by the lessee as having been met is the transfer permitted by the GATS Platform.

Such Advance Requirements would therefore become electronic conditions to the transfer of the beneficial interest through the GATS Platform and no such transfer would be permitted by the GATS Platform until all Advance Requirements have been electronically confirmed as being satisfied or waived by the lessee (in its discretion). Any such satisfaction or waiver, where confirmed through the GATS Platform, is legally binding and enforceable provided that the GATS Template Transfer Clause (as discussed at E.2) has been adopted or the parties otherwise so agree.

#### **E.4.2 No Increase in Obligations**

Following a transfer of the beneficial interest or a security interest grant, the GATS Template Transfer Clause states that the lessee and the lessor each has the same rights and obligations under the lease documentation as if such transfer or security interest grant had not occurred.

Neither a security interest grant nor a transfer of the beneficial interest in a GATS Trust results in an amendment to the contractual provisions of the lease documentation so all '*no increased obligations*' protections of a lessee would be respected and the airline would not be bound by any obligations which would not have arisen had the security interest grant or transfer not occurred.

#### **E.4.3 Reasonable Costs of Lessee**

##### **(a) Reduced cost of transfers**

The use of GATS removes the requirement to negotiate a lease novation, assignment and assumption or lessee acknowledgement of the creation of a security interest over the aircraft and lease agreement. The costs related to aircraft transfers are reduced for all parties and the time spent by internal resources of the airline in reviewing and negotiating lease novation documentation is eliminated.

##### **(b) Lessee costs**

To the extent that the lessee incurs reasonable costs relating to a transfer or security interest grant, the GATS Template Transfer Clause provides that the reasonable costs are reimbursed, if agreed by the parties in the lease agreement.

## **E.5 Reducing Burdens on Lessee**

In addition to the E-Ledger and the electronic transfers of beneficial interests in GATS Trusts, the GATS Template Transfer Clause (Annex I) and the GATS Toolkit include suggested provisions to be included in lease agreements relating to aircraft owned by a GATS Trust to make best use of GATS in minimizing the burdens on lessees in connections with transfers and the granting of security interests.

### **E.5.1 Indemnitees**

#### **(a) Changes to indemnified parties**

Any change to the indemnified parties would need to be made in accordance with the terms of the lease agreement. A typical aircraft lease agreement permits the lessor to notify the lessee of parties who have an interest in the aircraft (or define indemnities by generic categories such as 'finance party') who should upon such notification be included as beneficiaries of the operational indemnities and the tax indemnities (which may be a different group of parties). The GATS Template Transfer Clause does not vary the terms of the actual indemnity provisions in the lease documentation but builds on this construct by having the lessee agree in the lease that any party named in an agreed form transfer notice shall be treated as an indemnitee on receipt by the lessee of such transfer notice.

#### **(b) Lessee acknowledgements**

If agreed by the parties (and if permitted by the lease agreement), the need to have the lessee acknowledge the updated list of indemnitees notified by the lessor to the lessee may be eliminated.

### **E.5.2 Payment Account**

#### **Option to change payment account following transfer or security interest**

A typical aircraft lease agreement permits the lessor, by notification to the lessee, to change the payment account into which rent, maintenance reserves and other lease payments are to be made. There is often a verification process in the lease agreement before a lessee is bound to comply with the notice.

Typically, a lease agreement including this mechanic specifies that the obligation of the lessee to pay to the new payment account is contingent on (a) there being no additional cost to the lessee in using the new account and (b) the lessee being permitted by applicable law to make payments to such account. If agreed by the parties to the lease agreement, following a transfer or security interest grant, the GATS Toolkit allows the lessor to notify the lessee of any change to the payment account without the need for a lessee acknowledgment. The new account would be an account of the transferee of a beneficial interest transfer of an account of a secured creditor.

### **E.5.3 Aircraft and Engine Location**

#### **(a) Transfer taxes**

One element of the typical aircraft transfer which remains notwithstanding the implementation of GATS, is the need to track the location of airframes and engines to keep a record of where closing of the transfer actually occurred to determine what (if any) transfer tax is applicable.

Traditionally, tracking aircraft locations required a member of the airline's operations team to join a closing call to confirm the location of the relevant airframe and/or engines.

(b) Use of global positioning system to track aircraft locations

As part of the move to electronic transfers of beneficial interests in aircraft, if agreed by the parties (including the lessee), independent internet-based flight tracking platforms can be used to produce a secure, verifiable, time-stamped record of the closing confirming the GPS coordinates of the aircraft and/or engine location. This information can then be matched with the effective time of transfer on the E-Ledger. The GATS Platform may, in due course, provide a facility to download live GATS tracking information.

#### **E.5.4 Obligations of Lessor**

(a) Option to include in the lease agreement as a condition to transfer of the beneficial interest

- The trustee of a common law trust will be personally liable to counterparties with whom it contracts in the exercise of its duties as trustee. This means that a lessee will have direct recourse to the lessor (in the usual manner) if the lessor's obligations are breached.
- Separately, the terms of the standard form GATS Trust Instrument provides that the trustee may seek indemnity coverage from the beneficiary for any losses incurred by the trustee in the administration of the trust (including, any losses incurred by the trustee in discharging its liabilities as lessor under the lease) and the trustee will have a lien over the assets of the trust as security for this indemnity.
- To the extent that a lessee requires direct privity with the beneficiary (in addition to the direct privity it has with the GATS Trustee in its capacity as lessor) then this can be achieved by way of obtaining a performance undertaking (a **Performance Undertaking**) from the beneficiary pursuant to which the beneficiary of the trust agrees for the benefit of the lessee to cause the trustee to perform and observe certain obligations of the "lessor" set forth in the lease documents.
- The GATS Toolkit contains two forms of model Performance Undertaking which parties may wish to use to minimize the need to negotiate such a document, if required.
- Version A of the model form Performance Undertaking includes a direct undertaking to the lessee from the performance obligor to cause the GATS Trustee (as lessor) to pay and perform when due all of its obligations under the relevant lease agreement. This reflects the most commonly-used approach in Ireland.
- Version B of the model form Performance Undertaking allows the lessee and the performance obligor to list out agreed obligations the performance of which the performance obligor directly undertakes to the lessee. This reflects the most commonly-used approach in the United States.
- These forms are included as Annex II to these Guidance Materials. These are paper-based forms to be executed outside of GATS. Parties are free to amend either of these forms if agreed.

(b) Net worth lessor protections

In the event that a lease agreement conditions transfers on the transferee having a minimum net worth, the parties may agree to use the standard form Performance Undertaking contained in the GATS Toolkit and to have it executed by (i) the transferee

beneficiary of the trust or (ii) in the event that such transferee beneficiary does not meet the net worth requirements set out in the lease agreement, an affiliate of the transferee beneficiary meeting such net worth threshold.

(c) Lessee counter-signature

As a matter of New York and English law, it is not necessary for the lessee benefitting from the Performance Undertaking to counter-sign the Performance Undertaking. If use of the standard form Performance Undertaking is pre-agreed, this further reduces the burden on airlines. The airline would receive a standard form Performance Undertaking along with any other agreed Advance Requirements.

It should be noted that the standard form Performance Undertaking is not a GATS Form instrument but instead, is a template model which parties may agree to use (or not to use) and with whatever amendments are agreed. This document would be executed in the standard fashion (either manually or digitally) and not through the GATS Platform.

#### **E.5.5 Airframe and Engine Warranties Agreements**

The typical assignment of the benefit of the original equipment manufacturer warranties to the operator of the aircraft for the duration of the lease agreement is preserved.

Legal title to the aircraft remains unchanged following a transfer under GATS so once the airframe and engine warranties agreements have been entered into at the commencement of a lease agreement, the airframe and engine warranties agreements remain in place without any need for amendment following the completion of a transfer. Unless required by the relevant manufacturer, a transfer of a beneficial interest in a GATS Trust does not necessitate a new lessee consent.

#### **E.5.6 IDERA and De-Registration Powers of Attorney**

Neither a new IDERA nor power of attorney should be needed as a result of a beneficial interest transfer, as the trustee holds these instruments for the benefit of the beneficiaries from time-to-time. See F.4.3 below for the case where there is a new secured creditor. This again reduces the burden on airlines.

#### **E.5.7 Eurocontrol Letters**

It is typical for a lessor to obtain a letter from the lessee addressed to Eurocontrol authorizing them to provide the lessor (or its duly authorized representative) with a general statement of account in relation to air navigation charges incurred by the lessee in relation to the aircraft.

Provided that the Eurocontrol Letter names the trustee of the GATS Trust (in its capacity as lessor) as the party entitled to request the general statement of account and the trustee has entered into a 'CEFA Agreement' with Eurocontrol, a transfer of the beneficial interest in the trust should not result in any new requirement of the lessee to provide a new Eurocontrol Letter.

#### **E.5.8 Nameplates**

As part of streamlining the transfer process, where it is agreed by the parties to the lease agreement (and where acceptable to the financing parties), the GATS Toolkit does not require nameplates to be affixed on the aircraft reflecting the legal owner, unless established as needed under applicable law.

In a Cape Town Convention jurisdiction, to create an international interest (which prevails over national law), a nameplate is not required.

### **E.5.9 Insurance Certificates**

Consistent with existing practice, transfers of a beneficial interest in a GATS Trust and the creation of a security interest in a beneficial interest in a GATS Trust, will likely necessitate changes to the insurance certificates to add new 'additional insured' parties for purposes of AVN 67B (among other things). In order to avoid any interference in the relationship between lessees and their insurance brokers, the responsibility to obtain updated certificates of insurance shall remain with the lessee.

AWG intends, in due course, to consult with airlines and insurance brokers to explore alternative approaches subject to all parties' rights being protected.

## **Part F. Secured Debt under GATS**

### **F.1 Basic Principles and Objectives**

#### **(a) Advantages to secured creditors**

The grant of a security interest in the beneficial interest of a GATS Trust is intended to be a tool available to secured creditors to facilitate the prompt enforcement of the security over beneficial interests in the aircraft equipment held by the GATS Trust in the event of a default by the relevant debtor.

The security interest in the beneficial interest in the GATS Trust would be in addition to the other security interests typically granted in secured aircraft financings (including but not limited to a mortgage over the airframe and engines, a security assignment of the relevant lease documents, assignments of warranties, assignments of insurances, account pledges and/or charges over the shares in the beneficiary).

It is typical in secured financings of aircraft owned in trusts to take a security interest in the beneficial interest in the trust. GATS preserves this approach but makes the process electronic.

#### **(b) Interaction with Cape Town Convention**

Security interests in beneficial interests are not within the scope of the Cape Town Convention. Thus, the security interest grant is *additional security* to that contemplated by the Cape Town Convention or under national law (and, in addition to being recorded on the E-Ledger, is perfected in accordance with its applicable law).

In transactions covered by the Cape Town Convention, the GATS Trust or the trustee on behalf of the GATS Trust would retain current Cape Town Convention practice: the secured creditor would be granted an aircraft mortgage (an international interest) and receive an assignment of the lease agreement, and each would be registered on the international registry.

### **F.2 Security Interest Grants - Mechanics and Legal Effects**

#### **(a) Generation of security instrument**

A beneficiary can grant a security interest in favour of a secured creditor over its beneficial interest in a GATS Trust through the electronic execution of a standard form security instrument using the GATS Platform (in the manner described at D.3).

#### **(b) Recordation on E-Ledger**

Once a security interest has been created through GATS, the existence of such security interest together with the identity of the secured creditor is electronically entered into the E-Ledger.

### **F.3 Advance Requirements in favour of the GATS Secured Party**

#### **(a) Electronic conditions to granting of security interest**

If agreed between the relevant debtor and its secured creditors, the GATS Platform allows the beneficiary of a GATS Trust to transcribe onto the GATS Platform as Advance Requirements, specific conditions contained in the financing documents which need to be satisfied before funds will be advanced by the lenders.

Once Advance Requirements have been recorded on the GATS Platform, no security interest grant can be effected until each of the listed Advance Requirements have been electronically confirmed as satisfied or waived by the party in whose favour they were created (in their discretion). Parties should ensure in their documents such satisfaction or waiver, where confirmed through the GATS Platform, is legally binding on the confirming party. The e-Terms provide (in the case of GATS Parties) that any such confirmation by a GATS Entity shall be legally binding on such GATS Entity.

#### **(b) Live condition satisfaction management system**

Through the use of the GATS Platform, a live record can be kept of the satisfaction or waiver of each such Advance Requirement.

### **F.4 GATS Secured Party Protections**

#### **F.4.1 Indemnitees**

As outlined at E.5.1, a typical lease permits the lessor to add specific named parties with an interest in the aircraft as additional operational indemnitees by sending a notice to the lessee.

If agreed by the parties, the secured creditors may receive a copy of the notice sent to the lessee instructing the lessee to include the relevant financing parties as operational indemnitees. This could be included as a condition to the advance of funds by a secured creditor, if agreed,

#### **F.4.2 Airframe and Engine Warranty Assignments**

In a typical secured aircraft financing, delivery of aircraft and engine warranty assignments acceptable to the financing parties would be specified as a condition precedent to advancing funds under the applicable financing documents.

If agreed by the parties, they would also have the ability to add these conditions precedent as Advance Requirements in favour of the secured creditors so that satisfaction of such conditions precedent could be recorded on the GATS Platform.

Consistent with the approach outlined in E.5.5, unless required by the relevant manufacturer, the granting by a GATS Trust of a security assignment of the airframe or engine warranties should not necessitate a new lessee consent.

It should not be necessary for the lessee to execute any document following the release or grant of a security interest in any manufacturer warranties, but it is recognized that at present some manufacturer forms may impose such requirement.

### **F.4.3 IDERA and De-Registration Powers of Attorney**

#### **(a) Lessor as authorized party**

As outlined at E.5.6, an IDERA naming either the GATS Trust or the trustee of the GATS Trust (as the case may be) as the authorized party should not need to be replaced as a result of a beneficial interest transfer.

#### **(b) Secured creditor as authorized delegate**

Consistent with emerging practice relating to aircraft owned by special purpose vehicles, if the parties agree, GATS permits (but does not require) the lessor to name the secured creditor as its authorized delegate through the use of delegation letters (rather than naming the secured creditor as the authorized party on the IDERA itself). The risk of such a delegation letter being revoked by the GATS Trust (as lessor) is mitigated by the fact that, through GATS, the secured creditor can hold a security interest in the beneficial interest in the GATS Trust (i.e. the authorized party named on the IDERA).

If agreed by the parties to the financing documents, this could remove the requirement to obtain a new IDERA or de-registration power of attorney from the relevant airline in the event of a refinancing of the secured debt, a repayment of the secured debt and/or a transfer of the beneficial interest in the aircraft. A new delegation letter may be required but this would not require the consent of the airline.

Otherwise, if a secured creditor does not agree and requires a new IDERA and/or de-registration power of attorney to be obtained, this can be included as an Advance Requirement to the granting of a security interest in the GATS Trust (itself a condition precedent to any drawdown on the relevant debt).

### **F.4.4 Eurocontrol Letters**

#### **(a) Lessor as entitled party**

As outlined at E.5.7, provided that the Eurocontrol Letter names the lessor as the entitled party (with the owner trustee agreeing elsewhere to pass on information received from Eurocontrol to beneficial interest holder), a transfer of the beneficial interest in the trust should not result in any new requirement of the lessee to provide a new Eurocontrol Letter.

#### **(b) Authorized representative side letter**

If the parties agree, the lessor would be free to enter into a side letter with the secured creditor in which it would agree to (a) make inquiries of Eurocontrol as and when requested by the secured creditor and (b) pass on the information obtained from Eurocontrol to the secured creditor.

If such a side letter is a financing condition precedent, the parties could agree in the financing documents to add this condition precedent as an Advance Requirement in favour of the secured creditor and to use the GATS Platform to manage the satisfaction or waiver of such condition.

Alternatively, if a secured creditor is unwilling to adopt this approach and instead requires a new Eurocontrol Letter to be provided by the lessee (naming the secured creditor as the entitled party), such a Eurocontrol Letter could be listed as an Advance Requirement on the GATS Platform.

### **F.4.5 Nameplates**

As a matter of the laws of New York and England, perfection of security interests can be achieved without having to affix nameplates on the relevant aircraft or engines noting the

existence of the security interests. As outlined at E.5.8, unless established as needed under applicable law, where it is agreed by the parties, GATS permits the removal of the requirement on the lessee to affix nameplates on the aircraft reflecting the legal owner or security interest holder.

However, the GATS system does not require the removal of such nameplate practices as part of its processes, and does not require any secured creditor to change their position with regard to such nameplates.

The Cape Town Convention's international registry and other online registries have made identification of the owners of airframes and aircraft engines easier even without having to use nameplates.

#### **F.4.6 Notification and Acknowledgement vis-à-vis Lessee**

##### **(a) Security assignment of lease agreement**

A security assignment of the lessor's rights under a lease agreement is an important part of a secured creditor's collateral package when financing commercial aircraft subject to lease agreements.

Although the security assignment of a lease falls outside of GATS and the E-Ledger (and is registered through the use of the Cape Town Convention's international registry), the GATS Toolkit can streamline the process by which a secured creditor takes a perfected security interest in the relevant lease agreement by not requiring a lessee acknowledgment (unless required by the laws of the lessee's jurisdiction). The Cape Town Convention requires a lessee's consent to such an assignment, but permits such consent to be given in advance and in general. The template transfer clause contains an advance consent, thus, where agreed, avoiding the need for lessee action.

##### **(b) Standard form notice in GATS Toolkit**

Consistent with facilitating aircraft trading and financing generally, the GATS Toolkit includes a standard form security transfer notice (the **GATS Security Transfer Notice**) to be delivered to the relevant lessee from the relevant lessor and the relevant secured creditor (see Annex I).

The standard form GATS Security Transfer Notice is expressed to trigger the deemed giving of certain pre-agreed confirmations consistent with the requirements of a typical notice to and acknowledgement from a lessee of the creation of a security interest in a lease agreement, thereby avoiding the need for a lessee acknowledgment at the time of creation of the security interest.

##### **(c) Information to be populated in the GATS Security Transfer Notice**

At the time of delivery of a GATS Security Transfer Notice, the beneficiary of the GATS Trust is required to populate certain information to be included in the schedule to the GATS Security Transfer Notice such as:

- the details of the new payment account (if applicable)
- details of the new servicer (if applicable)
- notification of who is to be the Loss Payee in the event of a loss of the aircraft
- details of the parties to be named as 'Financing Parties' (or analogous term) and 'Indemnitees' (or analogous term) in the lease agreement
- details of the changes to be made to the insurance certificate

##### **(d) Legal requirements of notices and acknowledgements**



As a matter of New York law and English law (being the two most commonly used governing laws for lease agreements, and by extension, security assignments of lease agreements), notice of the creation of a security interest in the lease agreement must be served on the relevant lessee in order to perfect such security interest.

However, it is not necessary under New York or English law to obtain an acknowledgement from the lessee of receipt of such a notice, and the typical confirmations required by secured creditors from lessees can, if agreed, instead be included in the lease agreement to be deemed given by the lessee on its receipt of a GATS Security Transfer Notice.

(e) Representation as to no previous notice to lessee

If the Cape Town Convention applies to an aircraft or its lease agreement, a search of the international registry will reveal whether or not a prior assignment of the lease agreement has been registered on the international registry. If the Cape Town Convention does not apply to an aircraft or its lease, national law searches (where available) should (and in the case of UCC searches will) reveal whether or not a prior assignment of the lease agreement has been made.

Otherwise, local law applies and the lessor (being the only party entitled to grant a security interest in its rights in the lease agreement) can provide a representation and warranty to the secured creditor as part of the financing documentation that it has (1) not granted a security interest in the lease agreement to any other party (other than any security interest to be released as part of the closing of the financing with the secured creditor) or (2) previously sent a notice of security assignment to the lessee in respect of such lease agreement (other than a notice of security assignment which is revoked as part of the closing of the new financing).

This may provide comfort to the secured creditor that there is no prior ranking security interest in the lease agreement (other than a security interest to be released at closing of the new financing).

Alternatively, if a secured creditor is unwilling to accept this approach, the parties could agree to include delivery of a confirmation from the lessee that no prior notice of assignment has been received as an Advance Requirement in favour of the secured creditor and to use the GATS Platform to manage the satisfaction or waiver of such condition.

## **F.5 Enforcement**

(a) Enforcement effected through the GATS Platform

Subject to satisfaction of any applicable legal requirements, GATS allows for prompt enforcement of security interests in the aircraft owning GATS Trust to be effected electronically through the GATS Platform.

On the occurrence of an enforcement event (as described in the relevant security instrument), the secured creditor is permitted to exercise any of the rights and remedies described in such security instrument including the right to serve an enforcement notice on the applicable trustee confirming the occurrence of an enforcement event following which the secured creditor shall be permitted to exercise all powers and rights of the 'beneficiary' under the GATS Trust including the right to request the transfer of the beneficial interest in the relevant GATS Trust from the beneficiary to the secured creditor (or its nominee).

As further discussed at F.7, the Security Interest Grant is supplemental to the typical security package a secured creditor would expect to receive so the secured creditor would be free to elect to exercise its remedies (including enforcement/foreclosure) under the aircraft mortgage or any other security document in lieu of or in addition to enforcing the security interest granted in the beneficial interest in the GATS Trust.

(b) Actions of GATS Trustee on receipt of an enforcement/foreclosure notice

On receipt of an enforcement/foreclosure notice from a secured creditor in whose favour a Security Interest Grant has been entered in the E-Ledger, the relevant GATS trustee agrees pursuant to the standard form GATS instruments that it will (subject to legal requirements) permit the secured creditor to exercise all powers and rights of the 'beneficiary' in the GATS Trust, including the right to transfer the beneficial interest in the relevant GATS Trust to the secured creditor (or its nominee).

**F.6 Quiet Enjoyment Rights of Lessee**

(a) No variance of agreed rights in lease agreement

Nothing in GATS seeks to vary any lessee's rights to quiet enjoyment as agreed in the relevant lease agreement.

(b) Quiet enjoyment undertaking included in standard form notice

As part of the standard form GATS Security Transfer Notice included in the GATS Toolkit, provision is made for the relevant secured creditor to give a quiet enjoyment undertaking to the relevant lessee. This undertaking should mirror the quiet enjoyment undertaking included in the relevant lease agreement so no further negotiation of this language should be required.

**F.7 Additional Security**

As outlined at F.1 and D.3, the Security Interest Grant is supplemental to the typical security package a secured creditor would expect to receive and would be in addition to an aircraft mortgage, security assignment of lease, security assignment of insurances and any other agreed security.

(a) Part of an overall security package

The Security Interest Grant relates solely to the taking of a security interest in the beneficial interest in the GATS Trust. The Security Interest Grant works in parallel with the rest of the security package including aircraft mortgages, share charges in respect of the beneficiary (if applicable), account charges, assignments of airframe and engine warranties, assignments of insurances and reinsurances (if applicable) and a security assignment of the lease agreement.

(b) Increased flexibility for secured creditor in an enforcement scenario

In a default scenario, a secured creditor has flexibility to enforce the security interest in the GATS Trust through GATS and/or enforce any other security taken by such secured creditor, subject to applicable law.

The standard form GATS Security Transfer Notice included in the GATS Toolkit is intended to facilitate a more efficient means of taking a security interest in the lease agreement but use of the GATS Toolkit is optional.

**F.8 Security Interest Transfer**

(a) Replacement of security trustee

In the event of a replacement of the party acting as security trustee or mortgagee under a secured financing or an assignment of a secured loan, GATS allows for the transfer by the

existing secured creditor of a security interest granted in its favour pursuant to a Security Interest Grant to another GATS Participant as new secured creditor.

No prior consent is required from the beneficiary or the GATS Trustee of the GATS Trust provided that the new secured creditor has previously been 'cleared' for KYC purposes by the relevant GATS Trustee.

(b) Electronic request to transfer security interest

The existing secured creditor may use the GATS Platform to make an electronic request to the relevant GATS Trustee to transfer such security interest to another GATS Participant.

The secured creditor making such an electronic request is required to populate the following information on the GATS Platform:

- the UIN of the relevant GATS Trust
- the name of the transferee secured creditor

(c) Generation of security interest transfer instrument

The GATS Platform then automatically populates a standard security interest transfer instrument with details of:

- the UIN of the GATS Trust
- the transferor secured creditor, transferee secured creditor and the GATS Trustee and each of their respective jurisdictions of formation and entity types using the information retained by the E-Ledger from when such person initially became a GATS Entity (as amended from time to time)

(d) Adding Advance Requirements

The transferor and transferee may elect to list any agreed conditions to the transfer (including those in favour of the lessee) as 'Advance Requirements' on the GATS Platform and to use the GATS Platform to manage the satisfaction or waiver of each of these conditions. Such satisfaction or waiver, where confirmed through the GATS Platform, is legally binding where agreed by the confirming party (through the e-Terms in the case of GATS Parties or elsewhere).

(e) Electronic execution of security interest transfer instrument

Once all of the listed 'Advance Requirements' have been electronically confirmed as being satisfied or waived by the party in whose favour they were created (in their discretion) and any applicable fees have been paid, the transferor secured creditor and transferee secured creditor may execute the security interest transfer instrument electronically using their digital signature.

All executed signatures will be held in the GATS escrow facility pending release by the GATS escrow coordinator of all signatures and instruments.

Once the GATS escrow coordinator releases all signatures and instruments from escrow, the GATS Platform shall insert the effective time and the security interest transfer is effected and recorded in the E-Ledger. That effective time is when the documents are released from the GATS escrow facility.

## **F.9 Non-GATS and Junior Security Interests**

(a) Additional security interests

GATS does not prohibit non-GATS Participants from taking security in the beneficial interest of a GATS Trust, nor does it prohibit use of a security instrument which is not in the applicable GATS standard form. However, only a 'GATS Secured Party' (as defined in the e-Terms) is entitled to have its security interest, which has been granted using the applicable GATS standard form instrument, recorded in the E-Ledger.

If permitted by the secured creditor holding the security interest in the beneficial interest granted through the GATS Platform (if any), security interests in the beneficial interest may also be granted outside of GATS.

Only one security interest in the beneficial interest of a GATS Trust may be recorded in the E-ledger at a time save as described in D.3. above in relation to split-closing beneficial interest transfers.

(b) Inter-creditor rights

GATS is not a priority register so where two or more security interests exist in a beneficial interest in a GATS Trust, the security interest holders would need to designate the ranking of such competing security interests in an intercreditor agreement as well as other inter-creditor considerations, or rely on the priority rules under applicable law.

## **Part G. Advance Requirements**

As mentioned above, GATS Parties are permitted to list Advance Requirements on the GATS Platform as agreed conditions to any of the following transactions: (a) the establishment of a GATS Trust or migration of a trust into GATS, (b) the transfer of the beneficial interest in a GATS Trust, (c) the replacement of the trustee of a GATS Trust or a change to the jurisdiction of a GATS Trust, (d) the grant of a security interest over the beneficial interest in a GATS Trust, the assignment by the holder of a security interest over the beneficial interest in a GATS Trust to another secured creditor, or the release and discharge of a security interest over the beneficial interest in a GATS Trust, (e) an amendment permitted by the e-Terms, and (f) the termination of a GATS Trust (collectively, **Designated Transactions**). The person in whose favour such conditions are granted need not be a GATS Entity.

As each Advance Requirement is either satisfied or waived, the person in whose favour such conditions were granted is permitted to confirm through the GATS Platform that such Advance Requirement has been either satisfied or waived. Such confirmation is binding on any such person who is a GATS Entity or who has otherwise agreed to be bound by such electronic confirmation (including a lessee if the GATS Template Transfer Clause has been adopted). Only after all Advance Requirements to a Designated Transaction have been confirmed through the GATS Platform as having been satisfied or waived does the GATS Platform permit the completion of the Designated Transaction. This acts as an electronic safeguard to the persons entitled to such Advance Requirements that such agreed conditions are respected.

The applicable GATS Entity set out below (the **AR Organiser**) is permitted to submit a list of Advance Requirements on the GATS Platform for any Designated Transaction to which it is a party. Outside of GATS, in the applicable lease agreement, financing documents, sale agreement or elsewhere the party entitled to the benefit of the conditions to be listed as Advance Requirements should ensure that the terms of the lease agreement, financing documents, sale agreement or other agreements with the AR Organiser, impose a contractual obligation on such person to submit the list of Advance Requirements to the GATS Platform.

<b>Designated Transaction</b>	<b>GATS Entity permitted to submit list of Advance Requirements (the AR Organiser)</b>
Establishment of a GATS Trust or migration	The GATS Entity who will be the beneficiary

of a trust into GATS.	of such GATS Trust immediately after such establishment or migration has been recorded as having taken effect.
The transfer of the beneficial interest in a GATS Trust.	The existing beneficiary of such GATS Trust.
The replacement of the trustee of a GATS Trust.	The existing beneficiary of such GATS Trust.
A change to the jurisdiction of a GATS Trust.	The existing beneficiary of such GATS Trust.
The grant of a security interest over the beneficial interest in a GATS Trust.	The GATS Participant who will be the beneficiary of such GATS Trust immediately after such grant has been recorded as having taken effect.
The assignment by the holder of a security interest over the beneficial interest in a GATS Trust to another secured creditor.	The assigning holder of such security interest.
The release and discharge of a security interest over the beneficial interest in a GATS Trust.	The person holding such security interest prior to its release and discharge.
An amendment to a GATS instrument permitted by the e-Terms.	The existing beneficiary of such GATS Trust.
The termination of a GATS Trust.	The existing beneficiary of such GATS Trust.

Such list of Advance Requirements can be submitted either when agreed with the counterparty (for example on entry into a lease agreement), acceptance of an aircraft or at any time prior to completion of the relevant Designated Transaction. Once such GATS Entity has submitted the list of Advance Requirements, a unique code or email link is sent to the party in whose favour such conditions are granted seeking the electronic consent of such party to the list of Advance Requirements. Advance Requirements may only be added, amended or removed with the electronic consent through the GATS Platform of the party in whose favour such conditions are granted.

The list of Advance Requirements is typed by the relevant GATS Entity to reflect what has been agreed between the parties; there is no drop-down list of typical Advance Requirements. The GATS Platform does not prescribe how the Advance Requirements should be listed but the description of each individual Advance Requirement is limited to 300 characters. It is anticipated that the parties will use shorthand expressions to describe each condition which could be agreed in the lease, financing documents or other applicable agreements. In the GATS Template Transfer Clause, the defined term "GATS Advance Requirements" incorporates a reference to the shorthand "AR Description" to be used for each Advance Requirement.

Parties adopting the GATS Template Transfer Clause should ensure that each individual GATS Advance Requirement is designated a shorthand "AR Description" when populating this defined term.

GATS will permit (but not require) the AR Beneficiary to agree that Advance Requirements listed in its favour to be deemed satisfied if it does not object within a defined period of time (referred to as a "Time to Act").

For leases which do not adopt the GATS Template Transfer Clause as well as financing, sale and other agreements, the parties may wish to include a table in the agreement along the following lines:

***Sample provision for inclusion in Lease Agreement:***

<b>Documentary reference</b>	<b>Advance condition to transfer</b>	<b>AR Description</b>	<b>AR Time to Act</b>
Section [x] of Lease	Any assignee or	Quiet enjoyment	N/A

Agreement	transferee of Lessor's rights and obligations under this Aircraft or Lessor's interests in the Aircraft (a <b>Transferee</b> ) shall have delivered a quiet enjoyment undertaking to Lessee in substantially similar form to the undertaking given by Lessor in Section [x].	undertaking.	
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**Sample provision for inclusion in financing documents:**

Documentary reference	Advance condition to security interest grant	AR Description	AR Time to Act
Section [x] of Loan Agreement	No security interest shall be granted by the Beneficiary of the Trust unless the Secured Party has received a legal opinion in form and substance satisfactory to the Secured Party (acting reasonably) from counsel in Ireland as to the effectiveness of such security interest.	Irish law legal opinion	15 days

Advance Requirements listed on the GATS Platform for a specific Designated Transaction are visible only to: (a) the AR Organiser who submitted the list of Advance Requirements for such Designated Transaction; (b) the person in whose favour such Advance Requirements are granted (regardless of whether or not such person is a GATS Entity) (the **AR Beneficiary**); and (c) any GATS Entity to whom the relevant AR Organiser has granted access (the **AR Observer** and collectively with the AR Organiser and the AR Beneficiary, the **Advance Requirement Parties**). No other parties are permitted to view or search, the terms or completion status of any Advance Requirements.

Each AR Beneficiary entity will need to be “confirmed” by at least one GATS Participant, on a one-time basis, before it can be registered as an entity on the GATS Platform. This is a less onerous requirement than being “cleared”, and simply means that the GATS Participant is able to identify the AR Beneficiary entity on the GATS Platform as the same organisation who it is in contact with outside of the GATS Platform (noting that each such entity will be issued with an ID number, which will assist the parties in this process). Given the absence of any vetting for AR Beneficiary entities, this step is designed to prevent imposters masquerading as AR Beneficiary entities (e.g. an entity called “AirFrance” [no space] pretending to be the genuine “Air France”) being accidentally mistaken by a GATS Participant for the real airline registered within the system.

Individual users associated with an AR Beneficiary entity will not be required to be issued with digital certificates, but may opt to do so (if, e.g., a GATS Participant requires that in a lease agreement).

The Advance Requirement Parties for a specific Designated Transaction are permitted to view the live status of the Advance Requirements for such Designated Transaction and are entitled to receive a certificate (an **Advance Requirement Certificate**) issued by the GATS Platform identifying each Advance Requirement for such Designated Transaction and stating whether each such Advance Requirement has been confirmed by the relevant AR Beneficiary as having been satisfied or waived. Each GATS Entity agrees in the e-Terms that the Advance Requirement Certificate issued by the GATS Platform constitutes conclusive evidence of the facts stated in such Advance Requirement Certificate. Advance Requirement Certificates for a Designated Transaction are only issued by the GATS Platform from and after the time at which such Designated Transaction is effected.

Since the GATS Template Transfer Clause includes an agreement by the lessee that its confirmation through the GATS Platform of satisfaction or waiver of the Advance Requirements is binding and enforceable on the airline, parties should be comfortable that no lease amendment or additional documents is needed from the lessee if they have received an Advance Requirement Certificate from the GATS Platform stating that each Advance Requirement granted in favour of the lessee has been confirmed by the lessee as having been satisfied. If the Advance Requirement Certificate from the GATS Platform states that any Advance Requirement granted in favour of the lessee has been waived (rather than satisfied), it would be prudent of the Advance Requirement Party relying on such Advance Requirement Certificate to determine whether such waiver was conditioned on any other fact or action before proceeding to execute the relevant GATS instrument.

GATS will also permit an AR Organiser to unilaterally delete Advance Requirements from the GATS Platform following a certification by the AR Organiser that a certain "GATS AR Release Trigger Event" (for example, termination of leasing of an aircraft or insolvency of the relevant AR Beneficiary) as agreed in the lease or other agreement between the AR Organiser and the AR Beneficiary has occurred.

#### Unilateral removal of Advance Requirements

As a general rule, once Advance Requirements have been listed on the GATS Platform, they cannot be removed or edited without the consent of the AR Beneficiary. However, the GATS Platform will permit the AR Organiser to unilaterally remove Advance Requirements from the GATS Platform (without the consent of the AR Beneficiary) if the AR Organiser provides a standard form certificate addressed to the GATS Platform, AWG and the relevant AR Beneficiary certifying that an event has occurred which gives rise to a contractual right of the AR Organiser (agreed to by the AR Beneficiary) to unilaterally remove the Advance Requirements.

The Template Transfer Clause for use in lease documents includes a concept of "GATS Advance Requirement Release Event" which we suggest as including the expiration of the leasing of the relevant aircraft pursuant to the lease agreement and the occurrence of any other event as may be agreed between the parties (for example, the occurrence of an event of default, the service of a termination notice or repossession of the aircraft).

If, following termination of the leasing of an aircraft, the relevant lessee (in its capacity as AR Beneficiary) is unwilling or unable to cooperate in confirming satisfaction of the Advance Requirements (and no GATS Advance Requirement Release Event (or equivalent, has occurred)), an owner would always have the option of transferring the off-lease aircraft to a new GATS Trust since no novation would be applicable on the basis that the lease no longer exists.

## **Part H. Non GATS Transfers**

(a) Transfers outside of GATS

Notwithstanding the efficiencies created through transferring the beneficial interest in a GATS Trust using the GATS Platform, it is possible to transfer such beneficial interest outside of GATS.

(b) Reasons why necessary

This may be necessary if the transferee of the beneficial interest in the relevant GATS Trust is not a GATS Entity or if the parties elect to use a transfer instrument which is not in the GATS standard form.

An instrument effecting a Non-GATS Transfer may be executed manually, digitally or by any other means in accordance with applicable law.

(c) Recording in the E-Ledger

On completion of a Non-GATS Transfer, the GATS Participant must promptly take steps through the GATS Platform to procure that such Non-GATS Transfer is recorded in the E-Ledger in accordance with the e-Terms.

(d) Effect of a Non GATS Transfer

The effect of a Non-GATS Transfer is that, upon such transfer being recorded in the E-Ledger as having taken effect, the trust ceases to be a GATS Trust and no further transactions relating to the trust will be recorded, or are eligible to be recorded, in the E-Ledger unless and until it is re-migrated into GATS as a new GATS Trust (at which time a new UIN would be assigned to it).

## **Part I. The E-Ledger**

### **I.1 Recording Designated Transactions**

(a) Listing of GATS Trust by UIN

Once a GATS Trust has been created (or an existing trust has been converted into a GATS Trust by way of migration) and a UIN has been assigned to such GATS Trust, the following details are automatically recorded in the E-Ledger:

- the name of the GATS Trust
- the UIN of the GATS Trust
- the names of the original trustee and the original beneficiary
- the trust branch of the original trustee
- the aircraft equipment type, manufacturer name, model and serial number of the airframe (if any) and engine(s) (if any) to be held in such GATS Trust

(b) Designated Transactions

Following the completion of a transfer of the beneficial interest in a GATS Trust (as described in D.2), the E-Ledger is automatically electronically updated to reflect the name of the transferee beneficiary as the beneficial owner of such GATS Trust.

Following the completion of the grating of a security interest in the beneficial interest in a GATS Trust (as described in D.3), the E-Ledger is automatically electronically updated to reflect the existence of such security interest and to name the secured creditor holding such security interest.



Following the completion of a termination of a GATS Trust (as described in D.4), the E-Ledger is automatically electronically updated to reflect the termination of such GATS Trust.

Following the completion of a successor trustee appointment (as described in D.5), the E-Ledger is automatically electronically updated to reflect the name of the successor as the trustee of such GATS Trust or if such transfer required the termination of the original GATS Trust, the transfer of legal title to the new trust and the creation of a new GATS Trust, the E-Ledger is automatically updated to reflect such termination and such new trust (which will have a new UIN).

Following the completion of a trust branch transfer (as described in D.6), the E-Ledger is automatically electronically updated to reflect the new trust branch of the trustee.

Following the completion of an amendment to a GATS instrument (as described in D.7), the E-Ledger is automatically electronically updated to reflect the amendments made to such GATS instrument.

Following the completion of change of name of a GATS Entity (as described in D.8), the E-Ledger is automatically electronically updated to reflect such name change.

## **I.2      Searching the E-Ledger and Search Certificates**

### **(a)      Search terms**

The E-Ledger is searchable by a person with a GATS account, following the procedures in the GATS Platform, against:

- the name of the GATS Trust
- the UIN
- the aircraft equipment (manufacturer, generic model, manufacturer's serial number or registration mark)
- the current or any previous beneficiary of the GATS Trust

In order to open a GATS Account, an individual is required to provide certain information (including name and email address) but they do not need to complete the identity verification process needed to obtain a digital certificate/signature.

### **(b)      Generation of search certificate**

The GATS Platform produces a search certificate listing the following information:

- Name of the GATS Trust
- UIN of the GATS Trust
- The date of creation of the GATS Trust
- Names of the current trustee and the current beneficiary
- Names of any predecessor trustee and any predecessor beneficiary
- The manufacturer name, model type and serial number of the airframe (if any) and engine(s) (if any) currently held in such GATS Trust
- The nationality and registration mark (if any) of the aircraft equipment currently held in such GATS Trust (if any)
- The manufacturer name, model type and serial number of the airframe (if any) and engine(s) (if any) previously held in such GATS Trust
- The nationality and registration mark (if any) of the aircraft equipment previously held in such GATS Trust (if any)

- Whether or not any security interest currently exists in respect of the GATS Trust (and if so, the date of its creation and in whose favour it has been granted)
- Whether or not any security interest previously existed in respect of the GATS Trust (and if so, the date of its creation, the date of its release and in whose favour it had been granted)
- Whether or not any of the GATS instruments relating to such GATS Trust have been amended or transferred and if so, the dates of such amendments and transfers
- A complete and chronological list of all Designated Transactions applicable to the GATS Trust since its creation or migration onto GATS

A GATS Platform fee of US\$120 will apply per search.

(c) Advance Requirements are not searchable

The GATS Platform does not permit members of the public to search or to see Advance Requirements added by any GATS Entity. The list of Advance Requirements added to the GATS Platform in respect of a particular transaction is only visible to (a) the GATS Entity who added such Advance Requirements to the GATS Platform, (b) the party in whose favour such Advance Requirements were granted and (c) subject to any confidentiality provisions outside of GATS, third parties to whom the GATS Entity who added such Advance Requirements to the GATS Platform agrees to provide access.

### **I.3 Assistance, Technical and Legal**

Fexco, as the E-Ledger Support Provider, has a help desk to assist with IT and application issues. Assistance addressing legal issues, while not providing legal advice, will be provided through explanatory videos and documentation posted on the GATS Platform and other resources specified in the GATS Platform from time to time.

## **Part J. Recognition of Trusts**

While legal advice would need to be taken as to the recognition of trusts in the jurisdiction where the lessee is based (lessee jurisdiction), the use of trusts is increasing in the aviation industry. Many countries recognize trusts as a matter of national law. Many others recognize validly created foreign trusts, that is, trusts established in accordance with the laws specified in and establishing the trust and defining the trust relations. As GATS Trusts are designed to be validly created under US, Irish and Singapore laws, this choice of law rule substantially expands the number of lessee jurisdictions that recognize GATS Trust for commercial law purposes. Importantly, countries that are parties to the Cape Town Convention must, by virtue of Article VI of its Aircraft Protocol, recognize such a validly created foreign trust for purposes of the creation and enforcement of Cape Town Convention related rights.

Three elements may determine whether it is prudent to enter into a GATS Trust:

- will a GATS Trust, that is, a foreign trust (except in cases of leases from a US, Irish, or Singapore GATS Trust to a lessee in the same jurisdiction), be recognized under the commercial law the lessee jurisdiction, permitting enforcement of transaction documents?
- if the lessee jurisdiction registers aircraft on the basis of ownership rather than operation, can ownership be registered in the name of a GATS Trust?
- as addressed in Part L, what will be the withholding tax treatment, through the applicable tax treaty, of payments to a GATS Trust (a foreign trust) and how might that question be impacted by a subsequent change of the beneficiary of the GATS Trust?

Annex IV summarizes the first two elements, and is subject to regular updates. The AWG is undertaking country-specific analysis of the third element.

Countries that are parties to the Cape Town Convention are required to recognize such trusts for commercial law purposes. That aligns with the normal conflict of laws rule: the validity and effect of a declaration of trust and of the appointment and powers of the trustee will usually be the law specified in the instrument establishing the trust.

## **Part K. GATS Forms – Legal Opinions**

As set out in Annex III, AWG has received legal opinion memoranda from leading counsel in each relevant jurisdiction confirming that the GATS form documents, as executed and delivered electronically via the GATS Platform, are legal, valid, binding and enforceable under the laws of the respective trust branches, US, Ireland, and Singapore. The same would apply with respect to the Security Interest Grants and Performance Undertaking under New York law and English law, including, in the case of the Security Interest Grant, where such is executed and delivered electronically via the GATS Platform.

These opinions may not be relied upon by parties other than AWG, but are attached to confirm the legal soundness of the GATS documents and their electronic delivery through the GATS Platform.

## **Part L. Key Tax Points relating to GATS**

### **L.1 General**

A GATS objective is to have the GATS Trust treated as a transparent entity (a pass-through) for tax purposes, i.e. the tax authority looks through the trust to the beneficiary.

The standard form trust instrument contains features designed to support the treatment of the trust as transparent for tax purposes.

The sections in the standard form GATS Trust Instrument (incorporating the standard form GATS Trust instrument master terms) supporting this are those with the following headings:

- Declaration of Trust
- Trust Estate
- Receipt and Distribution of Income and Proceeds
- Trustee
- Representations, Warranties and Covenants

The tax treatment of a GATS Trust will, however, depend on the tax legislation in each country and therefore will vary from country to country. AWG continues work on a country-by-country assessment.

A GATS Trust with the above mentioned features would likely be considered transparent for tax purposes in the US, Ireland and Singapore. Specific advice should, however, be obtained.

A trust that has separate legal personality, such as a statutory trust, may create issues with the treatment of the trust as transparent for tax purposes. This could have various outcomes (to be determined based on the jurisdictions involved), one of which being no treaty applying.

### **L.2 Tax Aspects**

a) Beneficiary entitlement to claim tax depreciation

A beneficiary, tax resident in the US, Ireland or Singapore, should be entitled to claim tax depreciation on the consideration incurred for the acquisition of the beneficial interest in the aircraft held in a GATS Trust considered transparent for tax purposes. Specific advice would need to be obtained.

b) Access to tax treaties

Entitlement of the GATS Trust or beneficiary to the benefits of tax treaties will vary depending on the tax rules in each country.

The features mentioned at L.1 above should be helpful in supporting the look through nature of the trust but this will not be enough in some cases. Certain countries may not allow access to tax treaties where a trust is used (and AWG, in due course, may seek have such rules changed). In such circumstances it may be necessary to hold the aircraft in a company. This should be no worse than the more common ownership structure currently used for aircraft.

Specific advice will be required in each case.

c) Transfer taxes

In general, the transfer of a beneficial interest in a GATS Trust should be within the scope of transfer taxes, so specific advice should be sought on the transfer of such interests.

### **L.3 Scenarios**

a) Establishment of a GATS Trust

As mentioned at L.2 (a) and ((b) above, it is important that the GATS Trust is considered transparent for tax purposes so that the beneficiary can claim tax depreciation on the cost of acquiring the beneficial interest in the aircraft and also qualify for the benefits of tax treaties.

If the separation of legal and beneficial ownership of aircraft through the use of a GATS Trust creates issues with accessing tax treaties, it may be helpful to have the trustee and beneficiary tax resident in the same jurisdiction. This would need to be looked at on a case by case basis.

Alternatively, it may be possible to put the aircraft into a GATS Trust and lease to the lessee through a company owned by the GATS Trust. This would need to be looked at on a case by case basis.

b) Transfer of beneficial interest

Where a trust is considered transparent for tax treaty purposes, there should be no requirement to move the tax residence of the trustee to the same country as the tax residence of the beneficiary following a transfer of the beneficial interest. A change of trust branch or novation of the lease should therefore be avoided.

Where the trust is not considered transparent for tax depreciation purposes, it may be necessary to transfer the legal and beneficial owner to the purchaser in order for the purchaser to qualify for tax depreciation on the cost incurred by it on purchase of the aircraft. In such circumstances a change of trust branch and a novation of the lease would likely be required. This would be no worse than if the aircraft had been held in a company.

As mentioned above, in general the transfer of a beneficial interest in a GATS Trust should be within the scope of transfer taxes, so specific advice should be sought on the transfer of such interests.

c) New lease

Where an aircraft comes off lease and there are issues with the treatment of the trust in the country of a new lessee, a transfer to move the legal interest to a trustee tax resident in the same jurisdiction as the beneficiary may help the tax treaty analysis. This would need to be looked at on a case by case basis. As the aircraft could be off lease, a lease novation could be avoided.

Alternatively, it may also be possible for the trustee to reallocate the legal interest in the aircraft held by the trustee to a branch of the trustee in the same jurisdiction that the beneficiary is tax resident in. This will depend on the trustee. Whether this improves the entitlement to the benefits of a tax treaty would need to be looked at on a case by case basis.

It may also be possible to lease through a company owned by the GATS Trust to the new lessee. This would also need to be looked at on a case by case basis.

## Annex I



### **GATS Template Transfer Clause (Lease Agreement)**

\* \* \*

*GENERAL NOTE: this clause (numbered as clause 1.1 below) is intended to supplement, and not replace, the more general assignment and transfer clause in the Lease Agreement (as indicated by clause 1 below) in order to allow GATS Participants to take full advantage of GATS mechanisms to reduce the burden on, or involvement of, lessees when selling and/or financing leased aircraft. GATS Participants are free to adopt this clause in full or in part and may make any amendments that might better fit their lease form, drafting style, their requirements or their customer requirements. NO GATS PARTICIPANT OR LESSEE IS REQUIRED TO INCORPORATE IN FULL OR IN PART THIS CLAUSE INTO ANY LEASE AGREEMENT. Square bracketed capitalized terms refer to terms that are likely to be defined elsewhere in the Lease Agreement but, if not, should be adapted accordingly.*

#### **1. ASSIGNMENTS AND TRANSFERS**

[...]

##### **1.1 GATS Transfers**

Without prejudice to any other provision in Clause 1, this Clause [x] applies to any GATS Beneficial Interest Transfer or any GATS Security Transfer.

##### **(a) Lessee Protections**

- (i) The Lessor and the Lessee agree that unless a GATS Advance Requirement Release Event has occurred, prior to the Lessor issuing a GATS Transfer Notice or any GATS Security Transfer Notice, the GATS Advance Requirements shall be [expressly confirmed by the Lessee on the GATS Platform as being]<sup>1</sup> satisfied (or, in the Lessee's sole discretion, waived). [Such confirmation shall constitute the legally binding agreement of the Lessee that the GATS Advance Requirements have been satisfied or waived and conclusive evidence of that legally binding and enforceable agreement (without the need for a digital signature or certificate) to the extent as if the GATS Advance Requirements had been satisfied or waived manually or outside of the GATS Platform]<sup>2</sup>.

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<sup>1</sup> NOTE: This and the second set of bracketed words should be deleted if the Lessee does not agree to use the GATS Platform to make such confirmations.

<sup>2</sup> NOTE: Delete the entire provision if there are no such requirements. (Such requirements might include, e.g., net worth requirement, quiet enjoyment undertaking from the GATS Beneficiary, etc.)

- (ii) The Lessee's obligations under this Agreement [and the other [Lease Documents]] will not increase as a result of a GATS Beneficial Interest Transfer or a GATS Security Transfer. Any such increase shall be determined by reference to the Lessee's obligations at the relevant GATS Transfer Effective Time based on the law in effect at such time. Neither a change to the GATS Beneficiary, nor an increase in the number of, nor a change in the nature of, the beneficiaries under any indemnification, insurance or other obligation will, in each case, constitute by itself or in the aggregate an increase in the obligations of the Lessee under this Agreement [or any other [Lease Document]].<sup>3</sup>
  - (iii) The Lessor shall promptly reimburse or cause to be reimbursed to the Lessee its reasonable out-of-pocket expenses (including, without limitation, legal expenses) actually incurred in connection with any GATS Beneficial Interest Transfer or any GATS Security Transfer, provided that such expenses are substantiated to the Lessor's reasonable satisfaction.
  - (iv) [The Lessor agrees that prior to the completion of any GATS Transfer all of the GATS Advance Requirements relating to such GATS Transfer shall be entered onto the GATS Platform, with a 'description' matching its AR Description and a 'time to act' matching its AR Time to Act, and having an 'expiry date' no earlier than the [Scheduled Expiry Date]].<sup>4</sup>
  - (v) [The Lessee agrees that it shall promptly confirm through the GATS Platform once any GATS Advance Requirement of which it has been notified through the GATS Platform, has been satisfied (on waived in Lessee's discretion)].<sup>5</sup>
  - (vi) [Lessee further agrees that in the event that, after being notified through the GATS Platform that it needs to respond to confirm whether or not a GATS Advance Requirement has been satisfied, Lessee fails to respond within the relevant AR Time to Act to confirm that such GATS Advance Requirement is not yet satisfied, such Advance Requirement shall be deemed to have been waived by Lessee].<sup>6</sup>
- (b) GATS Transfer Procedure
- (i) In relation to a GATS Beneficial Interest Transfer or a GATS Security Transfer, no later than [●] Business Days prior to the relevant GATS Transfer Effective Time, the Lessor shall deliver to the Lessee an executed GATS Transfer Advance Notice in respect of such GATS Beneficial Interest Transfer or such GATS Security Transfer. Each GATS Transfer Advance Notice, unless revoked in accordance with the terms thereof, shall expire on the date falling [●] days after the date of delivery of such GATS Transfer Advance Notice.
  - (ii) Subject to and in accordance with this Clause [x], each of the Lessor and the Lessee agrees that, as between the Lessor and the Lessee, such GATS Beneficial Interest Transfer or a GATS Security Transfer shall be effected at the relevant GATS Transfer Effective Time stated in the executed GATS Transfer Notice or executed GATS Security Transfer Notice, as applicable, delivered to the Lessee and populated with information not materially inconsistent with the information set out in the corresponding GATS Advance Notice.

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<sup>3</sup> NOTE: The 'no increased obligations' clause either should be consistent with the agreed wording used elsewhere in the Lease Transfer Clause (for novations, etc.) or could be deleted and replaced with a cross reference to such wording.

<sup>4</sup> NOTE: Delete the entire provision if there are no such requirements.

<sup>5</sup> NOTE: This should be deleted if the Lessee does not agree to use the GATS Platform to make such confirmations.

<sup>6</sup> NOTE: To be deleted if no "AR Times to Act" are agreed with the Lessee.

(c) Indemnitees, Payment Accounts and Insurance Certificates

Each of Lessor and Lessee agrees that with effect from the relevant GATS Transfer Effective Time:

(i) subject to paragraph (ii) below, if such GATS Transfer is a GATS Beneficial Interest Transfer, if so indicated in the relevant GATS Transfer Notice, New GATS Beneficiary (as defined in such GATS Transfer Notice) will be the [Loss Payee];

(ii) if either (A) such GATS Transfer is a GATS Security Transfer or (B) such GATS Transfer is a GATS Beneficial Interest Transfer and is effected on the same date as a GATS Security Transfer, the GATS Secured Party (as defined in the relevant GATS Security Transfer Notice) will be the [Loss Payee]; and

(iii) in relation to each GATS Beneficial Interest Transfer and each GATS Security Transfer,

(A) the [Indemnitees] shall be updated in accordance with the relevant GATS Transfer Notice and/or the relevant GATS Security Transfer Notice, as applicable;

(B) Lessee shall pay all amounts due and payable to or for the benefit of Lessor under the Lease to the new [Payment Account] specified in the relevant GATS Transfer Notice or the relevant GATS Security Transfer Notice, as applicable, or, if such notice indicates that there is no new account into which such amounts should be paid, it shall continue to pay all amounts due and payable to Lessor into the existing [Payment Account]; and

(C) upon receipt of Lessee of notice of a GATS Beneficial Interest Transfer and/or a GATS Security Transfer, Lessee shall promptly instruct its insurers [and reinsurers] to issue a new certificate of insurance [and a new certificate of reinsurance] and cause the issuance of [a] new certificate[s] of insurance [and reinsurance], as of the relevant GATS Transfer Effective Time, reflecting the updated Relevant Insurance Certificate Information for such GATS Beneficial Interest Transfer and/or such GATS Security Transfer.

(d) Additional Provisions relating to GATS Security Transfers

The confirmations set out in Schedule [●] (*GATS Security Transfer Confirmations*) apply to each GATS Security Transfer and effective at the corresponding GATS Transfer Effective Time, Lessee gives each such confirmation to and in favour of the GATS Secured Party identified in the GATS Security Transfer Notice relating to such GATS Security Transfer.

(e) GATS Platform and Electronic Delivery

Each of the Lessor and the Lessee agrees that any document, agreement, or approval contemplated by this Clause [x] may be provided through the GATS Platform, and signed, executed, delivered, effected, authenticated and time-stamped electronically or digitally through the GATS Platform as if it had been, as applicable, signed, executed, delivered, effected, authenticated or time-stamped manually or outside of the GATS Platform.

(f) Unilateral Remove of Advance Requirements

Each of the Lessor and the Lessee agrees that following the occurrence of a GATS Advance Requirement Release Event, the GATS Advance Requirements shall cease to apply and may be removed from the GATS Platform without any further action of the Lessee. The Lessee hereby consents to such removal.



\* \* \*

# APPENDIX

## Definitions

**AR Description** means, with respect to a GATS Advance Requirement, the shorthand name or description set out opposite such GATS Advance Requirement in the defined term "GATS Advance Requirement", to be used when describing such GATS Advance Requirement on the GATS Platform.

**AR Time to Act** means, in respect to a GATS Advance Requirement, the number of days (if any) set out opposite such GATS Advance Requirement in the defined term "GATS Advance Requirement" within which Lessee must confirm that either such GATS Advance Requirement is not yet satisfied or that it has been satisfied or waived.

**GATS Advance Requirement Release Event** means [either (a)] the leasing of the Aircraft to the Lessee pursuant to this Agreement has expired [./or (b) [...]]<sup>7</sup>

**GATS Advance Requirements** means<sup>8</sup>:

(a) in respect of a GATS Beneficial Interest Transfer, the following:

	<b>GATS Advance Requirement</b>	<b>AR Description</b>	<b>AR Time to Act</b>
1.			[●] days
2.			[●] days
3.			[●] days

(b) in respect of a GATS Security Transfer:

	<b>GATS Advance Requirement</b>	<b>AR Description</b>	<b>AR Time to Act</b>
1.			[●] days
2.			[●] days
3.			[●] days

**GATS Beneficiary** means, for so long as the Lessor is the owner trustee of the GATS Trust:

- (a) as at the date of this Agreement, [●] as GATS beneficiary of the GATS Trust; or
- (b) following one or more GATS Beneficial Interest Transfers, the Person identified in the most recent GATS Transfer Notice as the 'New GATS Beneficiary'.

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<sup>7</sup> NOTE: Parties may wish to agree on a trigger event which would allow the Lessor to unilaterally remove the GATS Advance Requirements.

<sup>8</sup> NOTE: Describe any applicable requirements that apply to a GATS Beneficial Interest Transfer or a GATS Security Transfer, as negotiated with the Lessee. These might be identical to, or subset of, the transfer requirements described elsewhere in the Lease Agreement which would apply to any non-GATS transfers and one or more cross references here might suffice. The GATS Platform will allow for any such requirements to be confirmed by the Lessee as being satisfied or waived electronically.

**GATS Beneficial Interest Transfer** means the assignment or transfer by the GATS Beneficiary of the beneficial interest in the GATS Trust to a new beneficiary participating in GATS.

**GATS Platform** means the GATS website, which can be found at <https://e-gats.aero/>.

**GATS Security Assignment** means, for so long as the Lessor is the owner trustee of the GATS Trust, a security assignment or grant of a security interest by the Lessor in all of rights, title and interest in and to, *inter alia*, the Lease Agreement.

**GATS Security Interest Grant** means, for so long as the Lessor is the owner trustee of the GATS Trust, a security assignment or grant of a security interest by the GATS Beneficiary in all of its rights, title and interest in and to the GATS Trust.

**GATS Security Transfer** means a GATS Security Assignment coupled with a GATS Security Interest Grant.

**GATS Security Transfer Notice** means a GATS Security Transfer Notice substantially in the form set forth in Schedule [●] (*Form of GATS Security Transfer Notice*).

**GATS Transfer** means a GATS Beneficial Interest Transfer or a GATS Security Transfer.

**GATS Transfer Advance Notice** means a GATS Transfer Advance Notice substantially in the form set forth in Schedule [●] (*Form of GATS Transfer Advance Notice*).

**GATS Transfer Effective Time** means:

- (a) in respect of a GATS Beneficial Interest Transfer, the effective time and date of such GATS Beneficial Interest Transfer as identified in the corresponding GATS Transfer Notice; and
- (b) in respect of a GATS Security Transfer, the date of the GATS Security Transfer Notice relating to such GATS Security Transfer.

**GATS Transfer Notice** means a GATS Transfer Notice substantially in the form set forth in Schedule [●] (*Form of GATS Transfer Notice*).

**GATS Trust** means the GATS trust currently known as '[NAME OF GATS TRUST]' and assigned GATS trust number [UNIQUE GATS TRUST NUMBER].

**Global Aircraft Trading System** or **GATS** means the Global Aircraft Trading System as more particularly described on the GATS Platform.

**Payment Account** means, in relation to all payments by the Lessee to the Lessor under this Agreement:

- (a) until updated in accordance with paragraph (b) or (c) below, the account[s] set forth in Clause [●] (*Payments*);
- (b) following a GATS Beneficial Interest Transfer or a GATS Security Transfer, the account(s) identified, if any, as the new 'Payment Account' set forth in the Schedule to the GATS Transfer Notice or the GATS Security Transfer Notice relating thereto; or
- (c) subject to paragraph 2(b) of Schedule [●] (*GATS Security Transfer Confirmations*), the account(s) notified by the Lessor to the Lessee from time to time in accordance with Clause [●] (*Payments*).

**Relevant Insurance Certificate Information** means the following provisions of the certificate[s] of insurance [and reinsurance], to be updated in connection with a GATS Beneficial Interest Transfer or a GATS Security Transfer:

- (a) in the AVN67B 'Airline Finance/Lease Contract Endorsement' applicable to [each] such certificate, the list of 'Contract Parties' (in respect of the Lessee's hull and hull war insurances and its legal liability insurances) and the list of 'Contracts'; and
- (b) the list of [Persons] to whom [each] such certificate, or the broker letter of undertaking accompanying or incorporated within the terms of [each] such certificate, is to be addressed.

**Secured Party** means, in relation to a GATS Security Transfer, the 'Secured Party' as defined in the relevant GATS Security Transfer Notice.



## **Schedules to GATS Template Transfer Clause (Lease Agreement)**

\* \* \*

### **SCHEDULE [●] (Form of GATS Transfer Advance Notice)**

From: [insert name of Lessor] (the **Lessor**)

To: [insert name of Lessee] (the **Lessee**)

[insert date]

**Aircraft Lease Agreement dated [as of] [insert date] between the Lessor and the Lessee (as assigned, assumed and amended from time to time, the Lease Agreement) relating to one (1) [insert aircraft model] aircraft bearing manufacturer's serial number [insert serial number]**

4. We refer to the Lease Agreement. This is a GATS Transfer Advance Notice relating to an anticipated [GATS Beneficial Interest Transfer][GATS Security Transfer] (the **Anticipated GATS Transfer**).
5. Words and expressions defined in the Lease Agreement (including by reference to another document) shall bear the same respective meanings in this Notice unless otherwise defined in this Notice or the context otherwise indicates or requires.
6. [FOR GATS BENEFICIAL INTEREST TRANSFERS] At the GATS Transfer Effective Time relating to the Anticipated GATS Transfer all of the beneficial interest in the GATS Trust will be assigned and transferred to [●], a [●] [incorporated] [formed] [organized] and existing under the laws of [●], as the new GATS Beneficiary.
3. [FOR GATS SECURITY TRANSFERS] The Secured Party is anticipated to be [●].
7. The new Servicer is anticipated to be [●].

[OR]

[It is not anticipated that there will be any change to the Servicer resulting from the Anticipated GATS Transfer.

8. [The new Payment Account information is anticipated to be as follows:

[●]]

[OR]

[It is not anticipated that there will be any change to the Payment Account resulting from the Anticipated GATS Transfer.

This Notice shall be governed by and construed in accordance with the laws of [England][the State of New York.]

**IN WITNESS WHEREOF** the Lessor has executed and delivered this Notice on the date first above written.

**[INSERT NAME OF LESSOR]**,  
as Lessor

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

**SCHEDULE [●]  
(Form of GATS Transfer Notice)**

From: [insert name of Lessor] (the **Lessor**)

To: [insert name of Lessee] (the **Lessee**)

[insert date]

**Aircraft Lease Agreement dated [as of] [insert date] between the Lessor and the Lessee (as assigned, assumed and amended from time to time, the Lease Agreement) relating to one (1) [insert aircraft model] Aircraft bearing manufacturer's serial number [insert serial number]**

9. We refer to the Lease Agreement and the GATS Transfer Advance Notice dated [insert date] given by the Lessor and addressed to the Lessee relating to the GATS Beneficial Interest Transfer described in this Notice.
10. Words and expressions defined in the Lease Agreement (including by reference to another document) shall bear the same respective meanings in this Notice unless otherwise defined in this Notice or the context otherwise indicates or requires.
11. As at the Effective Time (as defined below), [●] (the **Prior GATS Beneficiary**) has assigned and transferred all of the beneficial interest in the GATS Trust to [●], a [●] duly organized under the laws of [●], as the new GATS Beneficiary (the **New GATS Beneficiary**).
12. The effective time of the GATS Beneficial Interest Transfer (the **Effective Time**) is \_\_\_\_\_ [a.m./p.m.] (\_\_\_\_\_ time) this [insert day] day of [insert month and year] whilst the Aircraft and the Engines [installed thereon] bearing serial numbers [insert engine serial number] and [insert engine serial number] were located at [insert location of Aircraft and Engines].
13. The new Payment Account (if applicable), the new Servicer (if applicable), the new [Loss Payee], changes to the [Indemnities] and the updated Relevant Insurance Certificate Information are set out in the Schedule to this Notice.

The Lessee is an express third party beneficiary of this Notice. This Notice may not be amended or modified without the prior written consent of the Lessee.

This Notice shall be governed by and construed in accordance with the laws of [England][the State of New York].

**IN WITNESS WHEREOF** the Lessor has executed and delivered this Notice on the date first above written.

**[INSERT NAME OF LESSOR]**,  
as Lessor

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

SCHEDULE TO  
GATS TRANSFER NOTICE

**1. Payment Account**

[With effect from the Effective Time, the new Payment Account information is as follows:

[•]]

[OR]

[There is no change to the Payment Account resulting from the GATS Beneficial Interest Transfer described in this Notice.]

**2. Servicer**

[With effect from the Effective Time, the new Servicer is [•], and [•] will cease to be the Servicer.]

[OR]

[There is no change to the Servicer resulting from the GATS Beneficial Interest Transfer described in this Notice.]

**3. Loss Payee**

[With effect from the Effective Time, for the purposes of clause [•] (*Events of Loss*) of the Lease Agreement, the New GATS Beneficiary is the [Loss Payee].]

[OR]

[There is no change to the [Loss Payee] resulting from the GATS Beneficial Interest Transfer described in this Notice.]

**4. Indemnitees<sup>9</sup>**

- 4.1 [With effect from the Effective Time, each of the following [Persons] is an [Indemnatee]:

the Prior GATS Beneficiary;  
[the New GATS Beneficiary]<sup>10</sup>; and  
[•].]

- 4.2 Upon [the earlier of (a) the date on which the next [Heavy Maintenance Check] occurs, and (b) the date falling two (2) years after the Effective Time]<sup>11</sup>, each of the following [Persons] who is, immediately prior to the Effective Time, an [Indemnatee] shall cease to be an [Indemnatee]:

the Prior GATS Beneficiary;  
[•]; and  
[its][each of their respective][shareholders, subsidiaries, affiliates, partners, directors, agents, employees, members and officers].

**5. Relevant Insurance Certificate Information**

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<sup>9</sup> NOTE: this paragraph assumes that, under the definition of 'Indemnatee', additional persons may be included from time to time by written notice to the Lessee.

<sup>10</sup> NOTE: this paragraph (b) may be deleted if the definition of Indemnatee should already include the 'GATS Beneficiary' from time to time.

<sup>11</sup> NOTE: this period should conform to 'tail coverage' period agreed in the Lease Agreement.



The certificate[s] of insurance [and reinsurance] [has][have] been or will be updated as follows:

- 5.1 The list of 'Contract Parties' (for the purposes of the AVN67B 'Airline Finance/Lease Contract Endorsement') has been updated or will be updated to read:

[●];

AND, in addition, in respect of Legal Liability Insurances, [●].

- 5.2 The list of 'Contracts' (for the purposes of the AVN67B 'Airline Finance/Lease Contract Endorsement') has been updated or will be updated to read:

Aircraft Lease Agreement dated [as of] [●] between [*insert name of Lessor*], as Lessor, and [*insert name of Lessee*], as Lessee, as assigned, assumed, novated, supplemented and amended from time to time.

[*Describe the GATS Trust instrument*]; and

[●].

- 5.3 The list of [Persons] to whom [each] such certificate, or the broker letter of undertaking accompanying or incorporated within the terms of [each] such certificate is to be addressed has been updated or will be updated with the following:

[●].

**SCHEDULE [●]  
(Form of GATS Security Transfer Notice)**

From: [insert name of Lessee] (the **Lessor**)  
[insert name of Secured Party] (the **Secured Party**)

To: [insert name of Lessee] (the **Lessee**)

[insert date]

**Aircraft Lease Agreement dated [as of] [insert date] between the Lessor and the Lessee (as assigned, assumed and amended from time to time, the Lease Agreement) relating to one (1) [insert aircraft model] Aircraft bearing manufacturer's serial number [insert serial number]**

1. We refer to the Lease Agreement and the GATS Transfer Advance Notice dated [insert date] given by the Lessor and addressed to the Lessee relating to the GATS Security Transfer described in this Notice.
2. Words and expressions defined in the Lease Agreement (including by reference to another document) shall bear the same respective meanings in this Notice unless otherwise defined in this Notice or the context otherwise indicates or requires.
3. The Lessor hereby gives you notice that by:  
  
[describe relevant Security Assignment(s) relating to the security assignment of the Lease Agreement];  
a GATS Beneficial Interest Security Agreement dated [as of] the date of this Notice, the GATS Beneficiary assigned as security to the Secured Party all of its rights, title and interest in and to the GATS Trust,  
(each, a '**Security Agreement**').
4. The Lessor hereby gives you notice that the new Payment Account (if applicable), the new Servicer (if applicable), the new [Loss Payee], changes to the [Financing Parties], changes to the [Indemnitees] and the updated Relevant Insurance Certificate Information are set out the Schedule to this Notice.
5. The Secured Party confirms for the benefit of the Lessee that:  
  
[insert quiet enjoyment language consistent with the Lessor's quiet enjoyment undertaking under the Lease Agreement]; and  
to the extent that the Secured Party seeks to exercise any rights, remedy or privilege of the Lessor under the Lease Agreement, the Secured Party shall be bound by all of the terms of the Lease Agreement which are applicable to any such exercise.

This Notice is given expressly subject to the confirmations in Schedule [●] (*GATS SI Confirmations*) which apply to the GATS Security Transfer described in this Notice.

The Lessee is an express third party beneficiary of this Notice. This Notice cannot be amended or modified, but may be revoked, without the express written consent of the Lessee. This Notice cannot be revoked without the express written consent of the Secured Party (which consent may be included in a Security Release Notice).

This Notice may be executed in two or more counterparts, each of which will be an original, but all of which will constitute but one and the same instrument.

This Notice shall be governed by and construed in accordance with the laws of [England][the State of New York].

**IN WITNESS WHEREOF** the Lessor [and the Secured Party] has executed and delivered this Notice on the date first above written.

**[INSERT NAME OF LESSOR],**  
as Lessor

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

**INSERT NAME OF SECURED PARTY],**  
as Secured Party

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

SCHEDULE TO  
GATS SECURITY TRANSFER NOTICE

**1. Payment Account**

[With effect from and including the date of this Notice, the new Payment Account information is as follows:

[•]]

[OR]

[There is no change to the Payment Account resulting from the GATS Security Transfer described in this Notice.]

**2. Servicer**

[With effect from and including the date of this Notice, the new Servicer is [•] and [•] will cease to be the Servicer.]

[OR]

[There is no change to the Servicer resulting from the GATS Security Transfer described in this Notice.]

**3. Loss Payee**

With effect from and including the date of this Notice and for so long as the Lessee has not received a Security Release Notice from the Secured Party, for the purposes of clause [•] (*Events of Loss*) of the Lease Agreement the Secured Party is the [Loss Payee].

**4. Financing Parties**

With effect from and including the date of this Notice and for so long as the Lessee has not received a Security Release Notice from the Secured Party, each of the following [Persons] is a [Financing Party]:

[•].

**5. Indemnitees**

With effect from and including the date of this Notice and for so long as the Lessee has not received a Security Release Notice from the Secured Party, each of the [Financing Parties] listed in paragraph 4 to this Schedule above is an [Indemnitee].

**6. Relevant Insurance Certificate Information**

The certificate[s] of insurance [and reinsurance] [has][have] been or will be updated as follows:

- 6.1 The list of 'Contract Parties' (for the purposes of the AVN67B 'Airline Finance/Lease Contract Endorsement') has been updated or will be updated to read:

[•];

AND, in addition, in respect of Legal Liability Insurances, [•].

- 6.2 The list of 'Contracts' (for the purposes of the AVN67B 'Airline Finance/Lease Contract Endorsement') has been updated or will be updated to read:

Aircraft Lease Agreement dated [as of] [●] between [*insert name of Lessor*], as Lessor, and [*insert name of Lessee*], as Lessee, as assigned, assumed, novated, supplemented and amended from time to time.

[*Describe the GATS Trust instrument*]; and  
[●].

- 6.3 The list of [Persons] to whom [each] such certificate, or the broker letter of undertaking accompanying or incorporated within the terms of [each] such certificate is to be addressed has been updated or will be updated with the following:

[●].

**SCHEDULE [•]<sup>12</sup>**  
**(GATS Security Transfer Confirmations)**

In relation to each GATS Security Transfer:

1. The Lessee consents for the benefit of the Lessor and the Secured Party (as defined in the relevant GATS Security Transfer Notice) to the security assignment or grant of the security interest described as being constituted by each Security Agreement (as defined in the relevant GATS Security Transfer Notice).
2. The Lessee agrees for the benefit of the Lessor and the Secured Party that, with effect from the relevant GATS Transfer Effective Time and until the Lessee receives a written notice from such Secured Party stating that it has released and reassigned such security assignment or security interest (such notice, a **Security Release Notice**), that:

upon receipt by it of written notice from such Secured Party stating that such security assignment or security interest has become enforceable in accordance with its terms (such notice, if any, a Security Enforcement Notice):

- (i) all moneys that may be payable by it under this Agreement shall be paid to such account as may be specified by such Secured Party in such Security Enforcement Notice or in the invoice relating to the relevant payment which shall be provided by such Secured Party to the Lessee; and
- (ii) all rights, powers, options and discretions conferred on the Lessor and all consents, approvals, waivers and confirmations to be given by the Lessor under this Agreement shall be exercisable only by or as directed by such Secured Party as if such Secured Party were named as 'Lessor' under this Agreement;

prior to the receipt by the Lessee of a Security Enforcement Notice, it shall pay all amounts due and payable to the Lessor under this Agreement to the new Payment Account specified in the relevant GATS Security Transfer Notice or, if the relevant GATS Security Transfer Notice indicates that there is no new account into which such amounts should be paid, it shall continue to pay all amounts due and payable to the Lessor into the existing Payment Account;

it shall perform all its obligations under this Agreement in favour of the Lessor and shall recognize the exercise by the Lessor of the Lessor's rights, powers and discretions under this Agreement unless and until it has received a Security Enforcement Notice whereupon it will cease to recognize such exercise by the Lessor and it shall perform all of its obligations under this Agreement in favour of such Secured Party; and

for so long as the Lessee has not received a Security Release Notice, such Secured Party will be the [Loss Payee] and, each [Financing Party] (if any) identified in the relevant GATS Security Transfer Notice will be an [Indemnatee].

3. The Lessor agrees for the benefit of the Lessee that:

the Lessor will continue to be solely responsible for the performance of its obligations under or in connection with this Agreement;

the Lessee will be entitled to rely on any Security Enforcement Notice or any Security Release Notice purporting to have been given by such Secured Party without enquiry as to whether or not such Security Enforcement Notice or Security Release Notice has been validly given; and

the Lessee will have no liability to the Lessor for complying with any instruction or direction received from such Secured Party.

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<sup>12</sup> NOTE: Financiers would also be entitled to require, from the lessor through the GATS Platform, additional advance requirements, including further confirmations or documentation to be made or given by the lessee.

4. Such Secured Party is an express third party beneficiary of the confirmations set out in this Schedule given in its favour. This Schedule may be amended without the consent of any Secured Party, provided that any such amendment shall not have any retroactive effect in respect of any such confirmations given in favour of such Secured Party prior to the effective time of such amendment.

## **Annex II**

### **Forms of Performance Undertaking**



## FORM OF PERFORMANCE UNDERTAKING (VERSION A)

**NOTE 1:** this Version A of the Form of Performance Undertaking contemplates that the GATS Beneficiary (or other Performance Obligor) will be liable for the performance by the Lessor (i.e. the GATS Trustee) of all of the Lessor's obligations. Accordingly, this Form of Performance Undertaking makes the Lessor's obligations owed to the Lessee enforceable by the Lessee against the GATS Beneficiary (or other Performance Obligor).

**NOTE 2:** it is anticipated that the Form of Performance Undertaking is added as a schedule to the Lease Agreement.

**NOTE 3:** while typically the Performance Obligor would be the GATS Beneficiary from time to time, this need not be the case.

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### SCHEDULE [●] (Form of Performance Undertaking)

From: *[insert name of GATS Beneficiary or other performance obligor]* (the **Performance Obligor**)

To: *[insert name of Lessee]* (the **Lessee**)

*[insert date]*

**Aircraft Lease Agreement dated [as of] *[insert date]* between *[insert name of Lessor]* (the **Lessor**) and the Lessee (as assigned, assumed and amended from time to time, the **Lease Agreement**) relating to one (1) *[insert aircraft model]* Aircraft bearing manufacturer's serial number *[insert serial number]***

1. We refer to the Lease Agreement.
2. Words and expressions defined in the Lease Agreement (including by reference to another document) shall bear the same respective meanings in this Undertaking unless otherwise defined in this Undertaking or the context otherwise indicates or requires.
3. In this Undertaking:

**Relevant GATS Beneficiary** means [the Performance Obligor][*or, if different, insert name of GATS Beneficiary*].

**Relevant Period** means the period commencing at the GATS Transfer Effective Time described in the GATS Transfer Notice pursuant to which the Relevant GATS Beneficiary became the 'GATS Beneficiary' (or, if the Relevant GATS Beneficiary was the 'GATS Beneficiary' at the date of the Lease Agreement, the date of the Lease Agreement), and ending at the GATS Transfer Effective Time described in the GATS Transfer Notice pursuant to which the Relevant GATS Beneficiary ceases to be the 'GATS Beneficiary'.

4. In consideration of the Lessee entering into the Lease, the Performance Obligor, for the benefit of the Lessee:
  - (a) consents to the terms of the Lease Agreement [and each other [Lease Document] to which the Lessor is a party]; and
  - (b) shall cause the Lessor to pay and perform when due all of its obligations under the Lease Agreement arising or required to be performed during the Relevant Period.

This Undertaking shall be governed by and construed in accordance with the laws of [England][the State of New York].

**IN WITNESS WHEREOF** the Performance Obligor has executed and delivered this Undertaking [as a deed] on the date first above written.

[EXECUTED AS A DEED]<sup>1</sup>

[INSERT NAME OF PERFORMANCE OBLIGOR],  
as Performance Obligor

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

---

<sup>1</sup> NOTE: It is recommended that, if governed by English law, this Performance Undertaking should be executed and delivered as a deed.

## FORM OF PERFORMANCE UNDERTAKING (VERSION B)

**NOTE 1:** this Version B of the Form of Performance Undertaking contemplates that the GATS Beneficiary (or other Performance Obligor) agrees to a standalone set of representations, warranties and other obligations directly with the Lessee (i.e. the 'Relevant Obligations', which might also include an obligation to cause the Lessor to perform its obligations under the Lease Agreement). However, these need not be set out in a separate tri-partite 'participation agreement', but instead in a schedule to the Lease Agreement or in some other document which, by operation of this Form of Performance Undertaking, the GATS Beneficiary (or other Performance Obligor) from time to time agrees to become bound by and perform without having to novate/assign such document on each Beneficial Interest Transfer. Accordingly, this Form of Undertaking makes the Relevant Obligations enforceable by the Lessee against the GATS Beneficiary (or other Performance Obligor).

**NOTE 2:** it is anticipated that the Form of Performance Undertaking is added as a schedule to the Lease Agreement.

**NOTE 3:** while typically the Performance Obligor would be the GATS Beneficiary from time to time, this need not be the case.

---

### SCHEDULE [•] (Form of Performance Undertaking)

From: *[insert name of GATS Beneficiary or other performance obligor]* (the **Performance Obligor**)

To: *[insert name of Lessee]* (the **Lessee**)

*[insert date]*

**Aircraft Lease Agreement** dated *[as of] [insert date]* between *[insert name of Lessor]* (the **Lessor**) and the Lessee (as assigned, assumed and amended from time to time, the **Lease Agreement**) relating to one (1) *[insert aircraft model]* Aircraft bearing manufacturer's serial number *[insert serial number]*

1. We refer to the Lease Agreement.
2. Words and expressions defined in the Lease Agreement (including by reference to another document) shall bear the same respective meanings in this Undertaking unless otherwise defined in this Undertaking or the context otherwise indicates or requires.
3. In this Undertaking:

**Relevant GATS Beneficiary** means [the Performance Obligor][*or, if different, insert name of GATS Beneficiary*].

**Relevant Obligations** means [*describe the relevant clause or schedule in the Lease Agreement or other document containing the Performance Obligor's obligations intended to be covered by paragraph 4(b) below.*]

**Relevant Period** means the period commencing at the GATS Transfer Effective Time described in the GATS Transfer Notice pursuant to which the Relevant GATS Beneficiary became the 'GATS Beneficiary' (or, if the Relevant GATS Beneficiary was the 'GATS Beneficiary' at the date of the Lease Agreement, the date of the Lease Agreement), and ending at the GATS Transfer Effective Time described in the GATS Transfer Notice pursuant to which the Relevant GATS Beneficiary ceases to be the 'GATS Beneficiary'.

4. In consideration of the Lessee entering into the Lease, the Performance Obligor, for the benefit of the Lessee:
- (a) consents to the terms of the Lease Agreement [and each other [Lease Document] to which the Lessor is a party]; and
  - (b) agrees to be bound by and shall perform all of the Relevant Obligations arising or required to be performed during the Relevant Period.

This Undertaking shall be governed by and construed in accordance with the laws of [England][the State of New York].

**IN WITNESS WHEREOF** the Performance Obligor has executed and delivered this Undertaking [as a deed] on the date first above written.

[EXECUTED AS A DEED]<sup>1</sup>

[INSERT NAME OF PERFORMANCE OBLIGOR],  
as Performance Obligor

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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<sup>1</sup> NOTE: It is recommended that, if governed by English law, this Performance Undertaking should be executed and delivered as a deed.

## Annex III

### Legal Opinions

AWG has received legal opinions from leading counsel in each relevant jurisdiction to the effect that the GATS form documents, as executed and delivered electronically via the GATS Platform, are legal, valid, binding, and enforceable, subject to standard exceptions. The same applies to the e-Terms and each version of the form of Performance Undertaking. Below is a chart detailing each of the documents opined on by each law firm.

	Law Firm	Governing Law	Documents covered
<b>Part 1.</b>	Milbank LLP	New York	<ol style="list-style-type: none"> <li>1. GATS Security Instrument (US Trust Branch) (incorporating the GATS Security Instrument Master Terms (US Trust Branch))</li> <li>2. GATS Amendment Instrument (Security Instrument) (US Trust Branch)</li> <li>3. GATS Security Transfer Instrument (US Trust Branch)</li> <li>4. GATS Release and Discharge (US Trust Branch)</li> <li>5. GATS Performance Undertaking (Version A) (New York law)</li> <li>6. GATS Performance Undertaking (Version B) (New York law)</li> </ol>
<b>Part 2.</b>	A&L Goodbody	Ireland	<ol style="list-style-type: none"> <li>1. GATS Trust Instrument (Irish Trust Branch) (incorporating the GATS Trust Instrument Master Terms (Irish Trust Branch))</li> <li>2. GATS Transfer Instrument (Full Beneficial Interest) (Irish Trust Branch)</li> <li>3. GATS Transfer Instrument (Partial/Residual Beneficial Interest) (Irish Trust Branch)</li> <li>4. GATS Security Instrument (Irish Trust Branch) (incorporating the GATS Security Instrument Master Terms (Irish Trust Branch))</li> <li>5. GATS Amendment Instrument (Trust Instrument) (Irish Trust Branch)</li> <li>6. GATS Amendment Instrument (Security Instrument) (Irish Trust Branch)</li> <li>7. GATS Security Transfer Instrument (Irish Trust Branch)</li> <li>8. GATS Release, Discharge and Reassignment (Irish Trust Branch)</li> <li>9. GATS Termination Instrument (Irish Trust Branch)</li> <li>10. GATS Transfer Instrument (Successor Trustee Transaction) (Irish Trust Branch)</li> </ol>
<b>Part 3.</b>	Allen & Gledhill LLP	Singapore	<ol style="list-style-type: none"> <li>1. GATS Trust Instrument (Singapore Trust Branch) (incorporating the GATS Trust Instrument Master Terms (Singapore Trust Branch))</li> <li>2. GATS Transfer Instrument (Full Beneficial Interest) (Singapore Trust Branch)</li> <li>3. GATS Transfer Instrument (Partial/Residual Beneficial Interest) (Singapore Trust Branch)</li> <li>4. GATS Security Instrument (Singapore Trust Branch) (incorporating the GATS Security Instrument Master Terms (Singapore Trust Branch))</li> <li>5. GATS Amendment Instrument (Trust Instrument) (Singapore Trust Branch)</li> </ol>

			<ol style="list-style-type: none"> <li>6. GATS Amendment Instrument (Security Instrument) (Singapore Trust Branch)</li> <li>7. GATS Security Transfer Instrument (Singapore Trust Branch)</li> <li>8. GATS Release, Discharge and Reassignment (Singapore Trust Branch)</li> <li>9. GATS Termination Instrument (Singapore Trust Branch)</li> <li>10. GATS Transfer Instrument (Successor Trustee Transaction) (Singapore Trust Branch)</li> </ol>
<b>Part 4.</b>	Utah	Ray Quinney & Nebeker	<ol style="list-style-type: none"> <li>1. GATS Trust Instrument (Utah Common Law Trust Branch) (incorporating the GATS Trust Instrument Master Terms (US Trust Branch))</li> <li>2. GATS Transfer Instrument (Full Beneficial Interest) (Utah Common Law Trust Branch)</li> <li>3. GATS Transfer Instrument (Partial/Residual Beneficial Interest) (Utah Common Law Trust Branch)</li> <li>4. GATS Amendment Instrument (Trust Instrument) (Utah Common Law Trust Branch)</li> <li>5. GATS Termination Instrument (Utah Common Law Trust Branch)</li> <li>6. GATS Transfer Instrument (Successor Trustee Transaction) (Utah Common Law Trust Branch)</li> </ol>
<b>Part 5.</b>	Delaware	Morris James LLP	<ol style="list-style-type: none"> <li>1. GATS Trust Instrument (Delaware Common Law Trust Branch) (incorporating the GATS Trust Instrument Master Terms (US Trust Branch))</li> <li>2. GATS Transfer Instrument (Full Beneficial Interest) (Delaware Common Law Trust Branch)</li> <li>3. GATS Transfer Instrument (Partial/Residual Beneficial Interest) (Delaware Common Law Trust Branch)</li> <li>4. GATS Amendment Instrument (Trust Instrument) (Delaware Common Law Trust Branch)</li> <li>5. GATS Termination Instrument (Delaware Common Law Trust Branch)</li> <li>6. GATS Transfer Instrument (Successor Trustee Transaction) (Delaware Common Law Trust Branch)</li> </ol>
<b>Part 6.</b>	England	Watson Farley & Williams	<p>Opinion A</p> <ol style="list-style-type: none"> <li>1. GATS Performance Undertaking (Version A) (English law)</li> <li>2. GATS Performance Undertaking (Version B) (English law)</li> </ol> <p>Opinion B</p> <ol style="list-style-type: none"> <li>1. e-Terms</li> </ol>

**Part 1. – Milbank LLP**

# Milbank

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June 1, 2020

Aviation Working Group  
Global Aircraft Trading System (GATS)

Ladies and Gentlemen:

We have been asked to opine on the enforceability under the laws of the State of New York of the GATS Form New York Instruments (as defined below). All capitalized terms used but not defined herein have the respective meanings given to such terms in the GATS Form New York Instruments.

In rendering the opinion expressed below, we have examined the GATS standard form (version 1) of each of the following instruments (together the “GATS Form New York Instruments” and each a “GATS Form New York Instrument”):

- (a) the GATS Security Instrument (US Trust Branch), which incorporates therein the terms of the GATS Security Instrument Master Terms (US Trust Branch);
- (b) the GATS Amendment Instrument (Security Instrument) (US Trust Branch);
- (c) the GATS Security Transfer Instrument (US Trust Branch);
- (d) the GATS Release and Discharge (US Trust Branch);
- (e) the GATS Release and Discharge (Partial Release) (US Trust Branch) (the GATS Form New York Instruments (a) – (e) being referred to herein as the “GATS Platform New York Instruments”);

MILBANK LLP

NEW YORK | LOS ANGELES | WASHINGTON, D.C. | SÃO PAULO | FRANKFURT  
LONDON | MUNICH | BEIJING | HONG KONG | SEOUL | SINGAPORE | TOKYO



- (f) the GATS Performance Undertaking (Version A), as such document is conformed to reflect that it is governed in accordance with the laws of the State of New York; and
- (g) the GATS Performance Undertaking (Version B), as such document is conformed to reflect that it is governed in accordance with the laws of the State of New York.

In our examination, we have assumed that each GATS Form New York Instrument will have been executed in the same form in all respects as the form provided to us for review (such forms attached hereto as Exhibit A). When relevant facts were not independently established, we have relied upon representations to be made in or pursuant to the GATS Form New York Instruments.

We have also assumed that:

- (i) the laws that are relevant to the opinion provided herein will not have changed after the date hereof;
- (ii) each GATS Form New York Instrument will have been duly authorized by, and will have been duly executed and delivered by all of the parties thereto (including, with respect to the GATS Platform New York Instruments, when electronically executed by way of the GATS electronic platform);
- (iii) all signatories thereto will have been duly authorized (including, with respect to the GATS Platform New York Instruments, those parties electronically executing by way of the GATS electronic platform);
- (iv) all such parties will have been duly organized and validly existing and will have had the power and authority (corporate, trust or other) to execute, deliver and perform the same;
- (v) all consents, approvals, licenses and authorizations of, or filings and registrations with, any court, arbitrator or governmental authority required under any law or any corporate or other organizational documents of any party to such documents or any agreement or instrument to which such party is a party or that binds or affects it or any of its property, for the making and performance by such party of the GATS Form New York Instruments will have been obtained or made and will have been valid and sufficient for their intended purposes and in full force and effect; and
- (vi) insofar as any obligation provided for or referred to in the GATS Form New York Instruments is to be performed in, or by a party organized under the laws of, any jurisdiction outside the State of New York, its performance will not be illegal or ineffective in that jurisdiction by virtue of the law of that jurisdiction.

Based upon and subject to the foregoing and subject also to the comments and qualifications set forth below, and having considered such questions of law as we have deemed necessary as a basis for the opinion expressed below, we are of the opinion that each GATS Form New York Instrument, when executed by the parties thereto (including, with respect to the GATS Platform New York Instruments, when electronically executed by way of the GATS electronic platform), will constitute legal, valid and binding obligations of such parties, enforceable against each in accordance with its terms, except (i) as may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or transfer or other similar laws relating to or affecting the rights of creditors generally, and subject to the possible judicial application of non-United States laws or governmental actions affecting the rights of creditors generally, and (ii) as the enforceability of each GATS Form New York Instrument is or will be subject to the application of general principles of equity (regardless of whether considered in a proceeding in equity or at law), including, without limitation, (a) the possible unavailability of specific performance, injunctive relief or any other equitable remedy and (b) concepts of materiality, reasonableness, good faith and fair dealing.

The foregoing opinion is subject to the following comments and qualifications:

(A) The enforceability of provisions in any GATS Form New York Instrument to the effect that terms may not be waived or modified except in writing may be limited under certain circumstances.

(B) Our opinion does not address any provision, however expressed, providing for (i) a limitation on reliance, exculpation, disclaimer, limitation or extension of liability, limitation or exclusion of remedies, contribution, indemnification, or waiver, or (ii) the shortening or lengthening of the period that a suit otherwise could be brought under the applicable statute of limitations.

(C) We express no opinion as to (i) Section 12.2 of the GATS Security Instrument Master Terms (US Trust Branch) insofar as such section relates to the subject matter jurisdiction of the United States District Court for the Southern District of New York to adjudicate any controversy related to the GATS Form New York Instruments, (ii) the waiver of inconvenient forum set forth in the GATS Form New York Instruments with respect to proceedings in the United States District Court for the Southern District of New York, (iii) the waiver of a trial by jury as set forth in the GATS Form New York Instruments, (iv) any provision of the GATS Form New York Instruments that provides for an absolute and unconditional obligation to perform under a GATS Form New York Instrument even though such GATS Form New York Instrument is invalid, terminated or such performance would be illegal or that provides a waiver of any other defense that cannot, as a matter of law, be effectively waived and (v) any provision allowing for service of process by mail or through compliance with the notice provision of any GATS Form New York Instruments.

(D) We express no opinion as to Section 12.3 of the GATS Security Instrument Master Terms (US Trust Branch) (or any similar provision of any other GATS Form New York Instrument) to the extent it relates to immunity acquired after the date of execution and delivery of a GATS Form New York Instrument.

(E) The waiver of immunity set forth in Section 12.3 of the GATS Security Instrument Master Terms (US Trust Branch) (and any similar provision of any other GATS Form New York Instrument) is subject to the limitations set forth in the Foreign Sovereign Immunities Act of 1976.

(F) We wish to point out that the obligations of the parties, and the rights and remedies of the parties, under a GATS Form New York Instrument may be subject to possible limitations upon the exercise of remedial or procedural provisions contained in the GATS Form New York Instruments, provided that such limitations do not, in our opinion (but subject to the other comments and qualifications set forth in this opinion letter), make the remedies and procedures that will be afforded to the parties inadequate for the practical realization of the substantive benefits purported to be provided to the parties by the GATS Form New York Instruments.

(G) We express no opinion as to the existence of, or the right, title or interest of any party in, to or under, any of the Collateral.

(H) We express no opinion as to the creation, perfection or priority of any security interest in, or other lien on, the Collateral.

(I) We express no opinion as to the applicability to the obligations of the parties under a GATS Form New York Instrument or any undertaking or guarantee of (or the enforceability of such obligations under) Section 548 of the Bankruptcy Code, Article 10 of the New York Debtor and Creditor Law or any other provision of law relating to fraudulent conveyances, transfers or obligations, or the provisions of the law of the jurisdiction of incorporation of such parties restricting dividends, loans or other distributions by a corporation for the benefit of its stockholders.

(J) Insofar as our opinion above pertains to the selection of New York law as the governing law of the GATS Form New York Instruments, such opinion is based upon the application of New York General Obligations Law Section 5-1401 as upholding the choice of New York law to govern such agreement; however, we express no opinion as to the validity of said statute under the Constitution of the United States of America.

(K) We express no opinion as to the enforceability of any provision of any GATS Form New York Instrument which purports to (i) permit the Secured Party or any other person to take possession of, sell, collect, redeem or otherwise dispose of any Collateral, apply or account for proceeds of Collateral or accept collateral in discharge of liabilities except in compliance with the UCC and applicable laws, (ii) impose on the Secured Party standards for the care of any of the Collateral in the Secured Party's possession or control other than as provided in § 9-207 and § 9-208 of the UCC, (iii) permit the Secured Party to vote or otherwise exercise any rights with respect to any of the Collateral absent compliance with the requirements of applicable law as to the voting of or exercise of rights with respect to such Collateral or (iv) waive, release or vary any defense, right or privilege of, or any duties owing to, any obligor to the extent such waiver, release or variation may be limited by § 1-302, § 9-602 or § 9-603 of the UCC or other provisions of applicable law.

(L) We express no opinion as to any securities laws or export control, foreign assets control, sanctions, anti-money laundering and anti-terrorism laws and regulations (without limiting other laws, regulations or rules excluded by customary practice).

The foregoing opinion is limited to matters involving the law of the State of New York, and we do not express any opinion as to the laws of any other jurisdiction. In particular, we express no opinion as to any matters governed by Irish or Singapore law or the laws of the States of Utah or Delaware.

This opinion is addressed solely to the Aviation Working Group for information purposes only. This opinion may only be disclosed to members of the Aviation Working Group and may not be relied upon by, nor does it create any legal rights in favor of, any of its members or any other person. We assume no responsibility or liability to any person in receipt of this opinion (including the Aviation Working Group or any of its members) and we disclaim absolutely all such responsibility and liability.

Very truly yours,

DocuSigned by:  
  
48EF966DC8604EC...

DSF/HS/BT

## Exhibit A

*[Attachments removed for purposes of inclusion in the GATS Guidance Materials. To access the complete Milbank LLP opinion, please visit the GATS Help page at <https://e-gats.aero/help>]*

## **Part 2. – A&L Goodbody**



A&L Goodbody

Our  
ref

DJB 01424145

Your  
ref

Date | 1 June 2020

Aviation Working Group

**Global Aircraft Trading System (GATS)**

Dear Sirs

We have been asked to opine as the enforceability under Irish law of the GATS Instruments.

- 1 We have examined the standard form GATS instruments listed in the Schedule (together the **GATS Instruments** and each a **GATS Instrument**).
- 2 Capitalised terms used but not otherwise defined in this opinion shall have the meanings given to them in (or incorporated by reference into) the GATS Instruments. A GATS Party incorporated or registered in Ireland is referred to in this opinion as an **Irish GATS Party**.
- 3 We express no opinion as to any matters falling to be determined other than under the laws of Ireland and, without reference to provisions of other laws imported by Irish private international law, in Ireland as of the date of this letter. Subject to that qualification and to the other qualifications set out herein, we are of the opinion that:
  - 3.1 the obligations under the GATS Instruments are valid and legally binding on and are in a form capable of enforcement against the parties thereto under the laws of Ireland in the courts of Ireland, in accordance with their terms;
  - 3.2 other than the requirement for the relevant Trust Company to register as a trust company service provider pursuant to the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, no authorisations, approvals, licences, exemptions or consents of governmental or regulatory authorities with respect to the GATS Instruments are required to be obtained in Ireland;
  - 3.3 the GATS Instruments will not be liable to any stamp duty, registration tax or any similar tax or duty imposed by a competent authority of or within Ireland;
  - 3.4 the Irish courts will recognise the security interests created by the GATS Security Instrument as valid security interests over the assets which are expressed to be subject to it; and
  - 3.5 it is not necessary or advisable under the laws of Ireland in order to ensure the legality, validity, enforceability or priority of the obligations or rights of any party to the GATS Instruments, or the perfection or priority of any security interest created under the GATS Security Instrument, that any GATS Instrument be filed, registered, recorded, or notarised in any public office or elsewhere or that any other instrument relating thereto be signed, delivered, filed, registered or recorded other than, in the case of an Irish GATS

Party, the requirement to file particulars of the charges purported to be created pursuant to the GATS Security Instrument with the Irish Registrar of Companies.

- 4 The opinions set forth in this opinion letter are given subject to the following qualifications:
  - 4.1 in order for a GATS Instrument to be valid and binding against an Irish GATS Party, such Irish GATS Party must:
    - 4.1.1 duly execute and unconditionally deliver such GATS Instrument (electronically through the GATS electronic platform);
    - 4.1.2 have all necessary capacity and power, and must obtain all necessary consents, licences and approvals to enter into such GATS Instrument and to perform its obligations thereunder;
    - 4.1.3 validly authorise the entry into such GATS Instrument;
    - 4.1.4 enter into such GATS Instrument in good faith, for its legitimate business purposes, for good consideration, without any fraudulent purpose or intention and, without any intention to prefer any creditor over any other creditor;
    - 4.1.5 derive commercial benefit from the transaction effected by such GATS Instrument commensurate with the risks undertaken by it in such transaction; and
    - 4.1.6 not be insolvent, unable to pay its debts or deemed unable to pay its debts under any applicable law at the time of entry into such GATS Instrument;
  - 4.2 in each case, as a matter of all relevant laws other than the laws of Ireland:
    - 4.2.1 all obligations under each GATS Instrument must be valid, legally binding and enforceable in accordance with their terms against the parties thereto;
    - 4.2.2 the choice of the laws of Ireland as the governing law of each GATS Instrument must be *bona fide* and valid and there must not be any ground to avoid such choice based on public policy;
    - 4.2.3 all consents, approvals, notices, filings, recordings, registrations and other steps necessary to permit the execution, delivery or performance of each GATS Instrument or to perfect, protect or preserve any of the interests created by a GATS Instrument, must be duly obtained, made or taken;
    - 4.2.4 the legal effect of each GATS Instrument must be as set out in such GATS Instrument;
  - 4.3 the execution, delivery or performance of any GATS Instrument could contravene provisions of the laws of jurisdictions other than Ireland and the opinions expressed in this opinion could be affected by such laws;
  - 4.4 the presence of fraud, undue influence, coercion or duress on the part of any party to a GATS Instrument could invalidate or render such GATS Instrument unenforceable or non-binding;
  - 4.5 in order for a GATS Security Instrument to create valid security interests over the assets which are expressed to be subject to it:
    - 4.5.1 such security must exist or (where any security is a chose in action) have been validly and lawfully constituted in accordance with all applicable laws (other than the laws of Ireland);
    - 4.5.2 such GATS Security Instrument must be valid, binding and enforceable in accordance with the terms of the applicable laws (other than the laws of Ireland); and



- 4.5.3 the security interests purported to be created pursuant to the GATS Security Instrument must be capable of being created under all applicable laws (other than the laws of Ireland) and pursuant to the terms of the documents constituting such security (if any);
- 4.6 an order of specific performance or any other equitable remedy is a discretionary remedy and is not available when damages are considered to be an adequate remedy;
- 4.7 this opinion is given subject to general provisions of Irish law relating to insolvency, bankruptcy, liquidation, reorganisation, receivership, moratoria, court scheme of arrangement, administration and examination, and the fraudulent preference of creditors and other Irish law generally affecting the rights of creditors;
- 4.8 this opinion is subject to the general laws relating to the limitation of actions in Ireland;
- 4.9 a determination, description, calculation, opinion or certificate of any person as to any matter provided for in the GATS Instruments might be held by the Irish courts not to be final, conclusive or binding if it could be shown to have an unreasonable, incorrect, or arbitrary basis or not to have been made in good faith;
- 4.10 additional interest imposed by any clause of any GATS Instrument might be held to constitute a penalty and the provisions of that clause imposing additional interest would thus be held to be void. The fact that such provisions are held to be void would not in itself prejudice the legality and enforceability of any other provisions of such GATS Instrument but could restrict the amount recoverable by way of interest under such GATS Instrument;
- 4.11 claims may be or become subject to defences of set-off or counter-claim;
- 4.12 an Irish court has power to stay an action where it is shown that there is some other forum having competent jurisdiction which is more appropriate for the trial of the action, in which the case can be tried more suitably for the interests of all the parties and the ends of justice, and where staying the action is not inconsistent with Regulation (EU) No 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the **Brussels Regulation**);
- 4.13 there is some possibility that depending on the actual course of dealing between the parties to the GATS Security Instrument, any fixed charge contained in the GATS Security Instrument may not be construed as a fixed charge but as a floating charge and so become subject to prior claims of certain statutory preferential creditors;
- 4.14 the enforceability of severance clauses is at the discretion of the court and may not be enforceable in all circumstances;
- 4.15 a waiver of all defences to any proceedings may not be enforceable;
- 4.16 any undertaking contained in any GATS Instrument in respect of stamp duty may not be held to be binding;
- 4.17 an Irish court may refuse to give effect to undertakings contained in any GATS Instrument that a party will pay legal expenses and costs in respect of any action before the Irish courts;
- 4.18 we express no opinion as to the priority of any of the security created by the GATS Security Instrument or whether the property or assets comprised in such security is owned by the Beneficiary or whether such property or assets is or are now or may become subject to any equities or subject to any rights or interests of any other person ranking in priority to or free of such security or whether they could be transferred to any other person free of any such security;
- 4.19 we express no opinion on any taxation matters other than as expressly set out in paragraph 3.3 or on the contractual terms of the relevant documents other than by reference to the legal character thereof;

- 4.20 we express no opinion on matters relating to the Convention on International Interests in Mobile Equipment signed in Cape Town on 16 November 2001 (**Convention**) and the Protocol to the Convention on Matters Specific to Aircraft Equipment; and
- 4.21 under Section 1002 of the Taxes Consolidation Act, 1997, any debt of an Irish GATS Party to a person (including any deposit with a financial institution) may be attached by the Revenue Commissioners in order to discharge any liabilities of that person in respect of outstanding tax whether the liabilities are due on its own account or as an agent or trustee. This right of the Revenue Commissioners (on which there is no case law) may override the rights of the holders of security (whether fixed or floating) in relation to the debt in question. Section 1002 could be relevant to the security created pursuant to the GATS Security Instrument.

This opinion is addressed solely to the Aviation Working Group for information purposes only. This opinion may be disclosed to members of the Aviation Working Group on the basis that it may not be relied upon by, nor does it create any legal rights in favour of the Aviation Working Group, any of its members or any other person. We assume no responsibility or liability to any receipt of this opinion (including the Aviation Working Group or any of its members) and we disclaim absolutely all such responsibility and liability.

Yours faithfully

A handwritten signature in black ink, appearing to read 'A&L Goodbody', written in a cursive, flowing style.

A&L Goodbody

## SCHEDULE

- 1 Version 1 of the GATS Trust Instrument (Irish Trust Branch) which incorporates therein the terms of version 1 of the GATS Trust Instrument Master Terms (Irish Trust Branch) (the **GATS Trust Instrument**)
- 2 Version 1 of the GATS Transfer Instrument (Full Beneficial Interest) (Irish Trust Branch) (the **GATS Transfer Instrument (Full Beneficial Interest)**)
- 3 Version 1 of the GATS Transfer Instrument (Partial/Residual Beneficial Interest) (Irish Trust Branch) (the **GATS Transfer Instrument (Partial/Residual Beneficial Interest)**) and together with the GATS Transfer Instrument (Full Beneficial Interest), the **GATS Transfer Instruments** and each a **GATS Transfer Instrument**)
- 4 Version 1 of the GATS Security Instrument (Irish Trust Branch) which incorporates therein the terms of the GATS Security Instrument Master Terms (Irish Trust Branch) (the **GATS Security Instrument**)
- 5 Version 1 of the GATS Amendment Instrument (Trust Instrument) (Irish Trust Branch)
- 6 Version 1 of the GATS Amendment Instrument (Security Instrument) (Irish Trust Branch)
- 7 Version 1 of the GATS Security Transfer Instrument (Irish Trust Branch)
- 8 Version 1 of the GATS Release, Discharge and Reassignment (Irish Trust Branch)
- 9 Version 1 of the GATS Termination Instrument (Irish Trust Branch)
- 10 Version 1 of the GATS Transfer Instrument (Successor Trustee Transaction) (Irish Trust Branch) (the **GATS Transfer Instrument**)

### **Part 3. – Allen & Gledhill LLP**

From : Gina Lee Wan / Michelle Zheng / Li Qing  
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Our reference : GLW /MZHENG /LIQNG /1018011973      1 June 2020  
/weesi

Your reference :

## Aviation Working Group

Dear Sirs

### Global Aircraft Trading System ("GATS")

1. We have acted as your legal advisers in Singapore in connection with:
  - 1.1 the GATS Trust Instrument (Singapore Trust Branch), which incorporates therein the terms of the GATS Trust Instrument Master Terms (Singapore Trust Branch) (the "**GATS Trust Instrument**");
  - 1.2 the GATS Security Instrument (Singapore Trust Branch), which incorporates therein the terms of the GATS Security Instrument Master Terms (Singapore Trust Branch) (the "**GATS Security Instrument**");
  - 1.3 the GATS Transfer Instrument (Beneficial Interest) (Singapore Trust Branch);
  - 1.4 the GATS Transfer Instrument (Partial/Residual Beneficial Interest) (Singapore Trust Branch) (the "**GATS Transfer Instrument (Partial / Residual Beneficial Interest)**");
  - 1.5 the GATS Transfer Instrument (Successor Trustee Transaction) (Singapore Trust Branch);
  - 1.6 the GATS Security Transfer Instrument (Singapore Trust Branch) (the "**GATS Security Transfer Instrument**");
  - 1.7 the GATS Amendment Instrument (GATS Trust Instrument) (Singapore Trust Branch);
  - 1.8 the GATS Amendment Instrument (GATS Security Instrument) (Singapore Trust Branch);

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- 1.9 the GATS Release and Discharge (Singapore Trust Branch);
- 1.10 the GATS Release and Discharge (Partial Release) (Singapore Trust Branch); and
- 1.11 the GATS Termination Instrument (Singapore Trust Branch).

In this opinion:

- 1.11.1 the term “**Documents**” means the documents referred to in paragraphs 1.1 to 1.11 above; and
  - 1.11.2 the term “**GATS Party**” means each party to a Document.
- 2. This opinion is limited to Singapore law of general application at the date of this opinion, as currently applied by the courts of Singapore, and is given on the basis that it will be governed by and construed in accordance with the laws of Singapore. We have made no investigation of, and do not express or imply any views on, the laws of any country other than Singapore.
- 3. For the purpose of this opinion, we have examined:
  - 3.1 the standard form draft of each of the Documents accessed by us on the date of this opinion at the GATS project page of the Aviation Working Group's website at <http://awg.aero/projects/gats/>; and
  - 3.2 such other documents and records as we have deemed necessary to examine in order that we may render this opinion.
- 4. Terms defined and references construed in the Documents shall, unless otherwise defined herein or the context requires otherwise, have the same meaning and construction in this opinion.
- 5. Except as stated above, we have not examined any contract, instrument or other document entered into by or affecting the GATS Parties or any of the corporate records of the GATS Parties and have not made any other enquiries concerning the GATS Parties.
- 6. We have assumed:
  - 6.1 that each GATS Party is a company duly incorporated and validly existing in accordance with the laws of its jurisdiction of incorporation;
  - 6.2 that each of the Documents, and the electronic execution of the Documents through the GATS electronic platform (i.e. the fully electronic GATS, with e-signatures, e-delivery of documents and use of a secure e-ledger to record transactions), is within the capacity and powers of each party thereto;



- 6.3 that each of the Documents has been validly authorised by or on behalf of each party thereto, including authorisation which permits the electronic execution of the Documents through the GATS electronic platform by that party;
- 6.4 that each of the Documents will be validly executed, delivered by or on behalf of each party thereto and duly dated, electronically through the GATS electronic platform, in the form which we have reviewed;
- 6.5 that the Documents (other than the GATS Trust Instrument) will make reference to a legal, valid, binding and enforceable GATS Trust Instrument and (if applicable) GATS Security Instrument;
- 6.6 that the GATS Transfer Instrument (Partial / Residual Beneficial Interest) will when completed, refer to specific, ascertainable and identifiable asset(s) as the Transferred Beneficial Interests therein;
- 6.7 that the e-signatures applied through the GATS electronic platform are genuine and authentic, that all aspects of the GATS electronic platform used for the electronic execution, delivery, and recordal of the Documents are secure and there is no reason to doubt the integrity of any Documents executed through or available from the GATS electronic platform;
- 6.8 that there are no provisions of the laws of any jurisdiction other than Singapore which would be contravened by the execution or delivery by the GATS Party of each Document to which it is a party through the GATS electronic platform, or which would affect whether the Documents as electronically executed through the GATS electronic platform are legal, valid, binding or enforceable under the laws of that jurisdiction, and that, in so far as any obligation expressed to be incurred under each such Document is to be performed in or is otherwise subject to the laws of any jurisdiction other than Singapore, or where the electronic execution through the GATS electronic platform by a party causes the laws of any jurisdiction other than Singapore to apply, its performance of such obligation will not be illegal and such obligation will be valid and binding on and enforceable against the relevant party by virtue of the laws of that jurisdiction;
- 6.9 that all authorisations, consents, approvals and orders required from any governmental or other authorities outside Singapore and all other requirements outside Singapore for the legality, validity and enforceability of each Document have been duly obtained or fulfilled and are and will remain in full force and effect and that any conditions to which they are subject have been satisfied;
- 6.10 the legal, valid and binding nature of the obligations of each of the parties under the Documents, including the Documents as executed through the GATS electronic platform, under all applicable laws other than the laws of Singapore;
- 6.11 that each GATS Party has not, at the time of entry into the transactions contemplated by the Documents to which it is a party:

- 6.11.1 entered into or initiated any process for any scheme of arrangement or compromise;
- 6.11.2 initiated any corporate voluntary arrangements or entered into any composition agreement with its creditors;
- 6.11.3 been declared insolvent;
- 6.11.4 commenced or been the subject of any winding-up procedure whatsoever;
- 6.11.5 requested or been subject to the appointment of, or any application being made for the appointment of, any receiver (including a receiver and manager), trustee, judicial manager, liquidator, sequestrator, administrative receiver, administrator or similar officer;
- 6.11.6 been in a position where it is otherwise insolvent within the meaning of Section 100(4) of the Bankruptcy Act, Chapter 20 of Singapore or has become insolvent (in each sense of the word used in this paragraph 6.11) by reason of the entering into or completion of the transactions contemplated by the Documents to which it is a party;
- 6.11.7 been unable to pay its debts or has become unable to pay its debts by reason of the entering into or the completion of the transactions contemplated by the Documents to which it is a party (the phrase "being unable to pay its debts" being within the meaning of Sections 254(1)(e) and 254(2) of the Companies Act, Chapter 50 of Singapore (the "**Companies Act**")); or
- 6.11.8 been subject to any event similar to any of the above under the laws of any jurisdiction; and
- 6.11.9 the transactions contemplated in the Documents in connection with any Assets (as defined below) did not involve any undervaluation by it;
- 6.12 that no party to any of the Documents is, or will be, engaging in misleading or unconscionable conduct or seeking to conduct any relevant transaction or associated activity in a manner or for a purpose not evident on the face of the Documents which might render any of the Documents or any relevant transaction or associated activity illegal, void or voidable;
- 6.13 that there are no dealings between the parties that affect any of the Documents or the GATS electronic platform;
- 6.14 that there are no provisions of the laws of any jurisdiction outside Singapore which would have any implication for the opinions we express and, insofar as the laws of any jurisdiction outside Singapore may be relevant, such laws have been or will be complied with or do not affect electronic execution, delivery, or recordal through the GATS electronic platform;





- 6.15 that no director of the GATS Party has an interest in the transactions contemplated by the Documents to which it is a party;
- 6.16 that the relevant GATS Party has good title and rights to the property and assets conveyed or transferred on trust, charged, assigned, mortgaged or otherwise secured or held on trust pursuant to the GATS Security Instrument and/or the GATS Trust Instrument to which it is a party and there are no other existing or future equity interests or rights, direct or indirect, or any claims from third parties which may affect the title and/or rights that the relevant GATS Party has to such property and assets;
- 6.17 that in exercising the power of each GATS Party to enter into each Document to which it is a party, create the security expressed to be created by it thereunder, settle or create the trust and/or hold Assets thereunder, undertake and perform the obligations expressed to be undertaken and performed by it under each Document, its directors and each GATS Party are acting in good faith and in furtherance of its substantive objects and for its legitimate purpose and that the entry into of each of the Documents to which it is a party may reasonably be considered to have been in the interests, and for the commercial benefit, of the GATS Party;
- 6.18 that, other than the security expressed to be created under or pursuant to the GATS Security Instrument to which it is a party, the relevant GATS Party has not:
- 6.18.1 created any security prior to the date of the GATS Security Instrument to which it is a party; nor
- 6.18.2 created any security by way of assignment, notice of which has been given, to the third parties to the agreements or contracts which are the subject of such assignment,
- over the assets expressed to be charged or assigned pursuant to the GATS Security Instrument;
- 6.19 that none of the GATS Parties nor any of their officers or employees had any notice (a) on the date of each Document, (1) of any security interests over, or any other existing equity, interests or right in, any of the assets expressed to be charged, mortgaged, pledged, held on trust or otherwise secured thereby (the “**Assets**”) or (2) that the creation by the relevant GATS Party of any such security or the performance by each GATS Party of each Document to which it is party would give rise to a breach of trust or (b) that the performance, execution or observance by each GATS Party of each Document to which it is party is contrary to any contractual or other obligations binding on it;
- 6.20 that the relevant GATS Party intended to create the trust expressed to be created under the relevant Document and that the relevant GATS Party will comply with any duties to exercise reasonable care and skill in the discharge of any powers, to exercise any discretion properly, and to abide by the directions of the relevant Document;

- 6.21 that all arrangements set out in the GATS Security Instrument in relation to the creation and perfection of the security expressed to be created under the GATS Security Instrument will be or have been fully carried out; and
- 6.22 the correctness of all facts stated in each of the Documents (other than those stated below).
7. Based on the foregoing and subject as mentioned herein, we are of the opinion that:
- 7.1 Each Document is in a form which, when validly executed, delivered by or on behalf of each party thereto and duly dated (including electronically executing through the GATS electronic platform), will be recognised under the laws of Singapore as capable of constituting the legal, valid and enforceable obligations of the GATS Party party thereto under the laws of Singapore.
- 7.2 Save for:
- 7.2.1 the registration of each of the GATS Security Instrument and the GATS Security Transfer Instrument with the ACRA within 30 days of execution by the parties thereto if the Beneficiary is either a company incorporated in Singapore or a foreign company registered under Division 2 of Part XI of the Companies Act, Chapter 50 of Singapore; and
- 7.2.2 the registration of the Trust Company as a licensed trust company pursuant to the Trust Companies Act, Chapter 336 of Singapore,
- no registration, filing, consents, licences, approvals and authorisations of, exemptions, orders or similar formalities are required by each GATS Party from any governmental or other regulatory authorities in Singapore for the entry into, performance, execution or delivery of the Documents to which it is a party.
- 7.3 No stamp duty or documentary tax or similar tax or duty of any kind imposed by any governmental or other regulatory authorities in Singapore is payable in connection with the execution and delivery of each of the Documents, except that stamp duty of S\$10 is payable in respect of the GATS Trust Instrument, within 14 days after it has first been executed in Singapore or, if it is first executed outside Singapore, within 30 days after it has been first received in Singapore.
- 7.4 Subject to the qualifications below and other provisions of this opinion, the GATS Security Instrument is in a form which would generally be recognised under the laws of Singapore as effective in creating a security interest over the Assets.

Our opinion as regards the enforceability in Singapore of the security (the "**Security**") created by the relevant GATS Party under the GATS Security Instrument is subject to the qualification that certain statutory preferences and other priorities arising by law may rank ahead of the Security.

8. The term “**enforceable**” as used above means that the obligations assumed or to be assumed by a GATS Party under each of the Documents to which it is a party are of a type which the Singapore courts enforce. It does not mean that those obligations will necessarily be enforced in all circumstances in accordance with their terms. In particular:
- 8.1 enforcement may be limited by bankruptcy, insolvency, liquidation, reorganisation and other laws of general application relating to or affecting the rights of creditors;
  - 8.2 enforcement may be limited by general principles of equity - for example, equitable remedies may not be available where damages or equitable compensation are considered to be an adequate remedy;
  - 8.3 claims may become barred under the Limitation Act, Chapter 163 of Singapore or may be or become subject to defences of set-off or counterclaim; and
  - 8.4 where obligations are to be performed in a jurisdiction outside Singapore, they may not be enforceable in Singapore to the extent that performance would be illegal or contrary to public policy under the laws of that jurisdiction.
9. In addition, this opinion is subject to the following qualifications:
- 9.1 a certificate, determination, notification or opinion from or by any GATS Party as to any matter provided for in any of the Documents may be held by the Singapore courts not to be conclusive if it could be shown to have an unreasonable or arbitrary basis or in the event of manifest error;
  - 9.2 provisions in any of the Documents providing for the payment of additional or an increased rate of interest may not be enforceable if any such provisions amount to a penalty under Singapore law;
  - 9.3 any provision in any of the Documents which involves an indemnity for the costs of litigation is subject to the discretion of the Singapore court to decide whether and to what extent a party to the litigation should be awarded the costs incurred by it in connection with the litigation;
  - 9.4 where a party is to perform an obligation in a place other than Singapore, a court will not enforce that obligation to the extent that its performance would be illegal by the laws of that place;
  - 9.5 any term of an agreement may be amended orally by all the parties notwithstanding any provisions to the contrary in any of the Documents;
  - 9.6 any provision in any of the Documents providing for the severance of any provision which is illegal, invalid or unenforceable may not be effective - it depends on the nature of the illegality, invalidity or unenforceability in question;

- 9.7 where under any of the Documents, any person is vested with a discretion or may determine a matter in its opinion, Singapore law may require that such discretion is exercised reasonably or that such opinion is based on reasonable grounds;
- 9.8 except in paragraph 7.3 of our opinion above, we give no opinion on tax matters and in particular give no opinion on the tax consequences of any transaction contemplated by any of the Documents or any related document;
- 9.9 we express no opinion as to whether or to what extent all or any Document or any provision contained therein would be given effect to or be valid binding and enforceable outside Singapore;
- 9.10 duties to enter into negotiations and further agreements (including but not limited to those in relation to the Documents and any other documents which are currently contemplated or which have been entered into but which are incomplete) in due course may not be effectively enforceable;
- 9.11 any provision of any of the Documents providing that certain calculations and/or certifications will be conclusive and binding (a) will not be effective if such calculations and/or certifications are fraudulent, incorrect, unreasonable, arbitrary, or shown not to have been given or made in good faith and (b) will not necessarily prevent judicial enquiry into the merits of any claim by an aggrieved party;
- 9.12 the enforcement in Singapore of the Documents and of foreign judgments will be subject to Singapore rules of civil procedure;
- 9.13 we express no opinion on whether any Document is effective in relation to any Asset outside Singapore;
- 9.14 any provision in any of the Documents providing for the retention of security after payment may not be effective;
- 9.15 it is the essence of a fixed security that the person creating security does not have liberty to deal with the assets which are the subject matter of the security in the sense of disposing of such assets or expending or appropriating the moneys or claims constituting such assets. Accordingly, if a purported fixed security gives the chargor or assignor such rights (or, as the case may be, the chargor or assignor exercised such rights as a matter of fact) then such fixed security might well be classified as, and take effect as, a floating security interest;
- 9.16 a Singapore court may refuse to give effect to any provision in any of the Documents purporting to absolve any GATS Party from exercising a duty of care in relation to the enforcement of its security interest over any of the assets over which any security interest has been created by that document or in relation to any other matter or thing under any of the Documents;

- 9.17 security over certain types of assets will only take effect as legal charges if certain formalities and registrations are complied with and made;
- 9.18 security created by any of the Documents over debts from or other rights against third parties (including contracts and insurance policies) may be subject to rights of those third parties and may be invalid to the extent that charges or assignments of those debts or other rights are prohibited by their terms;
- 9.19 we express no opinion on the priority of any security interest created by any of the Documents, whether any asset in which a security interest is purported to be created pursuant to any of the Documents is now or may become subject to any equities or subject to any right or interest of any person ranking now or in the future in priority to or free of that security, nor whether any such asset could be transferred to any other person free of that security;
- 9.20 we express no opinion on the effect any insolvency, bankruptcy, liquidation reorganisation, restructuring or other similar or analogous procedure, action or process in relation to any GATS Party may have on any Document;
- 9.21 a court in the Republic of Singapore may stay proceedings if concurrent proceedings are brought elsewhere;
- 9.22 except as may be provided for under the Contracts (Rights of Third Parties) Act, Chapter 53B of Singapore, a person who is not a contracting party to an agreement is not entitled to the benefits of the agreement and may not enforce the agreement;
- 9.23 this opinion is of a general nature and is restricted to the form of the Documents only and the electronic execution, delivery, dating and recordal of the Documents through the GATS electronic platform. We do not express any opinion (express or implied, direct or indirect) on any specific transaction, matter, action or proceeding or on any party which must be considered on its own terms and specific legal advice sought where required. For the avoidance of doubt, paragraph 7 does not give any opinion on whether the terms of the Documents are suitable for any party either generally or in the context of any transaction, nor whether such terms represent normal market practice, nor whether any of the Documents could be modified or amended in order to better protect the interests of any of the parties thereto, nor as to the safety, security, integrity or authenticity of any electronic transactions between parties or of any electronic platform. Further than that, we assume no responsibility and do not and have not considered or advised on the commercial terms of any of the Documents. This opinion is strictly restricted to the form of the Documents we have reviewed and any substantive changes made to the form of the Documents shall be strictly excluded from our opinions herein; and
- 9.24 insofar as electronic execution, delivery, dating and recordal of the Documents through the GATS electronic platform is concerned, generally there are no prohibitions or restrictions under Singapore law on the concluding of contracts electronically but it should be noted that:



- 9.24.1 our opinion in paragraph 7.1 is given on the basis that the Documents will be executed electronically under hand, and we do not express any opinion as to whether any of the Documents can be validly executed as a deed by any of the GATS parties (and in this respect we note that none of the Documents are intended to be executed as deeds);
- 9.24.2 our opinion in paragraph 7.1 is in part based on Singapore case law and not Part II of the Electronic Transactions Act, Chapter 88 of Singapore (“**ETA**”) (the ETA will not apply to all of the Documents but in our opinion the ETA will not disqualify the Documents from being executed electronically under hand) and in this respect, Singapore case law has shown a willingness on the part of Singapore courts to accept electronic documentation and electronic forms of signature as meeting requirements of the law for writing and signature;
- 9.24.3 we do not expect the evidentiary presumptions in Part III of the ETA to be available to the GATS parties, although this does not derogate from our opinion in paragraph 7.1; and
- 9.24.4 whether or not specific electronic records of such Documents or signatures on such Documents are admissible in proceedings before the Singapore court will depend on the specific factual scenario and the Singapore courts have generally been given a wide discretion to call for evidence to authenticate the electronic evidence in any manner that the Singapore courts deem appropriate; that said where the electronic documentation are properly executed, reliable, authentic and properly stored and retrieved, the Singapore courts are generally facilitative in receiving evidence of such electronic documents as to its contents.

This opinion is addressed solely to the Aviation Working Group for information purposes only. It is strictly limited to the matters stated therein and is not to be read as extending by implication to any other matter or document in connection with the Documents, any other document mentioned in the Documents or any other document signed in connection therewith. It may be disclosed to members of the Aviation Working Group on the basis that it may not be relied upon by, nor does it create any legal rights in favour of the Aviation Working Group, any of its members or any other person. We assume no responsibility or liability to any recipient of this opinion (including the Aviation Working Group or any of its members) and we disclaim absolutely all such responsibility and liability.

Yours faithfully

A handwritten signature in black ink, consisting of a stylized 'A' followed by a series of loops and a final upward stroke.

Allen & Gledhill LLP

#### **Part 4. - Ray Quinney & Nebeker**

June 1, 2020

Aviation Working Group  
Global Aircraft Trading System (GATS)

**Re: GATS Form Utah Instruments**

Ladies and Gentlemen:

We have been asked to opine on the enforceability under the laws of the State of Utah of the GATS Form Utah Instruments (as defined below). All capitalized terms used but not defined herein have the respective meanings given to such terms in the GATS Form Utah Instruments.

In rendering the opinions expressed below, we have examined the GATS standard form of each of the following instruments (the “**GATS Form Utah Instruments**” and each a “**GATS Form Utah Instrument**”):

(a) the GATS Trust Instrument, US Trust Branch (Utah Common Law Trust), which incorporates therein the terms of the GATS Trust Instrument Master Terms (US Trust Branch);

(b) the GATS Trust Instrument Master Terms, US Trust Branch (collectively, with the GATS Trust Instrument for Utah common law trusts in paragraph (a) above and the GATS Trust Instrument for Utah business trusts in paragraph (h) below, the “**GATS Trust Instrument**”);

(c) the GATS Transfer Instrument (Beneficial Interest), US Trust Branch (Utah Common Law Trust);

(d) the GATS Transfer Instrument (Partial/Residual Beneficial Interest), US Trust Branch (Utah Common Law Trust);

(e) the GATS Transfer Instrument (Successor Trustee Transaction), US Trust Branch (Utah Common Law Trust);

(f) the GATS Amendment Instrument (GATS Trust Instrument), US Trust Branch (Utah Common Law Trust);

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(g) the GATS Termination Instrument, US Trust Branch (Utah Common Law Trust);

(h) the GATS Trust Instrument, US Trust Branch (Utah Business Trust), which incorporates therein the terms of the GATS Trust Instrument Master Terms (US Trust Branch);

(i) the GATS Trust Instrument Master Terms, US Trust Branch (Utah Business Trust);

(j) the GATS Certificate of Beneficial Interest, US Trust Branch (Utah Business Trust);

(k) the GATS Certificate of Beneficial Interest (Partial/Residual Beneficial Interest), US Trust Branch (Utah Business Trust);

(l) the GATS Transfer Instrument (Beneficial Interest), US Trust Branch (Utah Business Trust);

(m) the GATS Transfer Instrument (Partial/Residual Beneficial Interest), US Trust Branch (Utah Business Trust);

(n) the GATS Transfer Instrument (Successor Trustee Transaction), US Trust Branch (Utah Business Trust);

(o) the GATS Amendment Instrument (GATS Trust Instrument), US Trust Branch (Utah Business Trust); and

(p) the GATS Termination Instrument, US Trust Branch (Utah Business Trust).

In our examination, we have assumed that:

(i) each GATS Form Utah Instrument will be executed in the same form in all respects as the form provided to us for review (such forms attached hereto as Exhibit A);

(ii) each GATS Form Utah Instrument will be duly authorized, executed and delivered by all of the parties thereto (including, with respect to the GATS Form Utah Instruments, when electronically executed by way of the GATS electronic platform);

(iii) all signatories and signatures to GATS Form Utah Instruments will be duly authorized (including, with respect to the GATS Form Utah Instruments, those parties electronically executing by way of the GATS electronic platform);

(iv) all parties to GATS Form Utah Instruments will be duly organized and validly existing and have the power and authority to execute, deliver and perform the same;

(v) all consents, approvals, licenses and authorizations of, filings and registrations with, or notices to, any court, arbitrator, governmental authority or third party required under any law or under any organizational or other document binding on any party or its properties, in order for such party to enter into and perform its obligations under any GATS Form Utah Instrument, will have been obtained, made or given and will have been valid and sufficient for their intended purposes and in full force and effect; and

(vi) insofar as any obligation provided for or referred to in the GATS Form Utah Instruments is to be performed in, or by, a party organized under the laws of, any jurisdiction outside the State of Utah, its performance will not be illegal or ineffective in that jurisdiction by virtue of the law of that jurisdiction.

When relevant facts were not independently established, we have relied upon representations to be made in or pursuant to the GATS Form Utah Instruments.

Based upon and subject to the foregoing, and subject further to the qualifications set forth below, we are of the opinion that:

1. each GATS Form Utah Instrument, when duly authorized, executed and delivered by the parties thereto (including, with respect to the GATS Form Utah Instruments, those parties electronically executing by way of the GATS electronic platform), will constitute a legal, valid and binding obligation of the parties thereto, enforceable against each in accordance with their respective terms; and

2. the GATS Trust Instrument, when duly authorized, executed and delivered by the parties thereto (including, with respect to the GATS Form Utah Instruments, those parties electronically executing by way of the GATS electronic platform), will create a legal and valid common law trust or business trust, as applicable, pursuant to the laws of the State of

Utah, and the trust created by the GATS Trust Instrument (i) will have been duly created for the benefit of the Beneficiary thereunder the rights and interests in the Trust Estate, and (iii) will have created for the benefit of the Beneficiary the rights and interests in the Trust Estate which the GATS Trust Instrument by its terms purports to create.

The foregoing opinions are subject to the following assumptions, exceptions and qualifications:

A. The foregoing opinions are limited to the laws of the State of Utah. In addition, without limiting the foregoing we express no opinion with respect to: (i) federal securities laws, including the Securities Act of 1933, as amended, the Securities Exchange Act of 1934, as amended, and the Trust Indenture Act of 1939, as amended; (ii) Title 49 of the United States Code Annotated, sometimes referred to as the Transportation Act, which was enacted in substitution of the Federal Aviation Act of 1986 and the regulations promulgated pursuant thereto, as amended from time to time and any similar law of the United States enacted in substitution or replacement thereof; (iii) the Convention on International Interests in Mobile Equipment (sometimes referred to as the Cape Town Convention); (iv) the Federal Communications Act of 1934, as amended; (v) federal or state pension or employee benefit laws and regulations; or (vi) state securities or blue sky laws.

B. Each party that is required to be a "citizen of the United States" within the meaning of Section 40102(a)(15) of Title 49 of the United States Code is in fact such a citizen.

C. The foregoing opinions regarding enforceability and perfection are subject to: (i) applicable bankruptcy, insolvency, moratorium, reorganization, receivership, fraudulent conveyance, transfer and similar laws relating to or affecting the rights and remedies of creditors generally; and (ii) general principles of equity and public policy, regardless of whether such enforceability is considered in a proceeding in equity or at law.

D. We do not purport to be experts in, have not made an investigation of and express no opinion concerning laws, rules or regulations applicable to the particular nature of the equipment that may be involved in any transaction subject to the GATS Form Utah Instruments.

E. We have made no investigation of, and express no opinion concerning, the nature of the title to any part of the equipment involved in in any transaction subject to the GATS Form Utah Instruments or the priority of any Trustee interest.

F. We have assumed that the GATS Form Utah Instruments and the transactions contemplated thereby are not within the prohibitions of Section 406 of the Employee Retirement Income Owner Trustee Act of 1974.

G. In addition to any other limitation by operation of law upon the scope, meaning or purpose of this opinion, this opinion speaks only as of the date hereof. We have no obligation to advise the recipient of this opinion (or any third party) of changes of law or fact or to any of the GATS Form Utah Instruments that may occur after the date hereof, even though the change may affect the legal analysis, a legal conclusion or any information contained herein.

H. The opinions expressed in this letter are solely for the use of the Aviation Working Group, and solely for informational purposes, in matters directly related to the GATS Form Utah Instruments, and they may not be relied on by any other persons or for any other purpose without our prior written approval; *provided, however*, that this opinion may be disclosed to, but not relied upon by, and nor does it create any legal rights in favor of, any members of the Aviation Working Group or any other person. The opinions expressed in this letter are limited to the matters set forth in this letter and no other opinions should be inferred beyond the matters expressly stated. We assume no responsibility or liability to any person in receipt of this opinion (including the Aviation Working Group or any of its members) and we disclaim absolutely all such responsibility and liability.

Very truly yours,

RAY QUINNEY & NEBEKER P.C.

*Ray Quinney & Nebeker, P.C.*

## Exhibit A

[Attachments removed for purposes of inclusion in the GATS Guidance Materials. To access the complete Ray Quinney & Nebeker PC opinion, please visit the GATS Help page at <https://e-gats.aero/help>.]

**Part 5. – Morris James LLP**



June 1, 2020

Aviation Working Group  
Global Aircraft Trading System ("GATS")

**Re: GATS Form Delaware Instruments**

Ladies and Gentlemen:

We have been asked to opine on the enforceability under the laws of the State of Delaware of the GATS Form Delaware Instruments (as defined below). All capitalized terms used but not defined herein shall have the respective meanings given to such terms in the GATS Form Delaware Instruments.

In rendering the opinions expressed below, we have examined the GATS standard form of each of the following instruments, in the form provided to us for review (such forms attached hereto as Exhibit A):

(a) the GATS Trust Instrument, US Trust Branch, Delaware Common Law Trust, which incorporates therein the terms of the GATS Trust Instrument Master Terms;

(b) the GATS Trust Instrument Master Terms (collectively, with the GATS Trust Instrument in paragraph (a) above, the "**GATS Common Law Trust Instrument**");

(c) the GATS Transfer Instrument (Partial/Residual Beneficial Interest Transfer), US Trust Branch, Delaware Common Law Trust;

(d) the GATS Transfer Instrument (Beneficial Interest), US Trust Branch, Delaware Common Law Trust;

(e) the GATS Transfer Instrument (Successor Trustee Transaction), US Trust Branch, Delaware Common Law Trust;

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Aviation Working Group  
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June 1, 2020  
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(f) the GATS Amendment Instrument (GATS Trust Instrument), US Trust Branch, Delaware Common Law Trust;

(g) the GATS Termination Instrument, US Trust Branch, Delaware Common Law Trust;

(h) the GATS Trust Instrument, US Trust Branch, Delaware Statutory Trust, which incorporates therein the terms of the GATS Trust Instrument Master Terms (collectively, with the GATS Trust Instrument Master Terms in paragraph (b) above, the **“GATS Statutory Trust Instrument”**);

(i) the GATS Transfer Instrument (Partial/Residual Beneficial Interest Transfer), US Trust Branch, Delaware Statutory Trust;

(j) the GATS Transfer Instrument (Beneficial Interest), US Trust Branch, Delaware Statutory Trust;

(k) the GATS Transfer Instrument (Successor Trustee Transaction), US Trust Branch, Delaware Statutory Trust;

(l) the GATS Amendment Instrument (GATS Trust Instrument), US Trust Branch, Delaware Statutory Trust; and

(m) the GATS Termination Instrument, US Trust Branch, Delaware Statutory Trust.

The documents identified in items (a) through (m) above being collectively referred to herein as the **“GATS Form Delaware Instruments”**, and each a **“GATS Form Delaware Instrument”**.

For purposes of this opinion letter, we have not reviewed any documents other than the documents listed in paragraphs (a) through (m) above. In particular, we have not reviewed any document (other than the documents listed in paragraphs (a) through (m) above) that is referred to in, or incorporated by reference into, any document reviewed by us. We have assumed that there exists no provision in any document that we have not reviewed that bears upon, is inconsistent with or is contrary to the opinions stated herein. We have conducted no factual investigation of our own and have relied solely upon the documents listed above, the statements and information set forth in such documents, and the additional matters recited or assumed in this letter, all of which we assume to be true, complete and accurate in all material respects.



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Based upon and subject to the foregoing, and subject further to the assumptions, exceptions and qualifications set forth in this letter, we are of the opinion that:

1. Each GATS Form Delaware Instrument, when duly authorized, executed and delivered (including, with respect to the GATS Form Delaware Instruments, when electronically executed by way of the GATS platform) by the parties thereto, will constitute a legal, valid and binding obligation of the parties thereto, enforceable against each in accordance with their respective terms.
2. The GATS Common Law Trust Instrument, when duly authorized, executed and delivered by the parties thereto, will create a legal and valid common law trust pursuant to the laws of the State of Delaware, and the trust created by the GATS Common Law Trust Instrument (i) will have been duly created for the benefit of the Beneficiary thereunder, and (ii) will have created for the benefit of the Beneficiary the rights and interests in the Trust Estate which the GATS Common Law Trust Instrument by its terms purports to create.
3. The GATS Statutory Trust Instrument, when duly authorized, executed and delivered by the parties thereto, will create a legal and valid “statutory trust” within the meaning of the Delaware Statutory Trust Act, 12 Del.C. c.38 pursuant to the laws of the State of Delaware, and the trust created by the GATS Statutory Trust Instrument (i) will have been duly created for the benefit of the Beneficiary thereunder, and (ii) will have created for the benefit of the Beneficiary the rights and interests in the Trust Estate which the GATS Statutory Trust Instrument by its terms purports to create.

The foregoing opinions are subject to the following exceptions, qualifications and assumptions in addition to those noted above:

- A. The foregoing opinions are limited to the laws of the State of Delaware and we have not considered and express no opinion on the effect of, concerning matters involving or otherwise with respect to any other laws of any jurisdiction, or rules, regulations, orders and judicial and administrative decisions relating to such laws, including, without limitation (i) the federal laws of the United States of America, including without limitation, the Internal Revenue Code of 1986, as amended, the Securities Act of 1933, as amended, the Securities Exchange Act of 1934, as amended, the Trust Indenture Act of 1939, as amended, and the Investment Company Act of 1940, as amended, (ii) laws, rules and regulations relating to money laundering and terrorist groups (including any requirements imposed under the USA PATRIOT Act of 2001, as amended), (iii) state securities or blue sky laws, including, without

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Global Aircraft Trading System (GATS)  
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limitation, the securities laws of the State of Delaware, (iv) Title 49 of the United States Code Annotated, sometimes referred to as the Transportation Act, which was enacted in substitution of the Federal Aviation Act of 1986 and the regulations promulgated pursuant thereto, as amended from time to time and any similar law of the United States enacted in substitution or replacement thereof, (v) the Convention on International Interests in Mobile Equipment (sometimes referred to as the Cape Town Convention), (vi) the Federal Communications Act of 1934, as amended, (vii) federal or state pension or employee benefit laws and regulations, and (viii) laws applicable to the particular nature of the equipment which is subject to the documents listed herein, and any rules and regulations thereunder. Insofar as the foregoing opinions relate to the validity and enforceability of documents which are expressed to be governed by laws other than the laws of the State of Delaware, we have assumed that such documents constitute legal, valid, binding and enforceable documents or instruments under such laws (as to which we express no opinion).

B. The foregoing opinions, to the extent they address the enforceability of any obligation are subject to (i) applicable bankruptcy, insolvency, moratorium, receivership, reorganization, fraudulent conveyance and other similar laws relating to or affecting the rights and remedies of creditors generally, (ii) principles of equity (regardless of whether considered and applied in a proceeding in equity or at law), and (iii) the effect of federal or state securities laws and public policy considerations on the enforceability of provisions relating to indemnification or contribution.

C. We have assumed the due incorporation or due formation, as the case may be, due organization, and valid existence in good standing of each of the parties (other than natural persons) to the documents reviewed by us under the laws of all relevant jurisdictions; (ii) the legal capacity of all relevant natural persons, (iii) the due authorization, execution, and delivery of each of the documents (including, with respect to the GATS Form Delaware Instruments, those parties electronically executing by way of the GATS platform) which are the subject of this opinion by each of the parties thereto; and (iv) that each of such parties had and has the power and authority to execute, deliver, and perform such documents.

D. We have assumed that each party that is required to be a “citizen of the United States” within the meaning of Section 40102(a)(15) of Title 49 of the United States Code is in fact such a citizen.

E. Each GATS Form Delaware Instrument will be executed in the same form in all respects as the form provided to us for review and attached as Exhibit A hereto;

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Global Aircraft Trading System (GATS)  
June 1, 2020  
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F. All consents, approvals, licenses and authorizations of, filings and registrations with, or notices to, any court, arbitrator, governmental authority or third party required under any law or under any organizational or other document binding on any party or its properties, in order for such party to enter into and perform its obligations under any GATS Form Delaware Instrument, will have been obtained, made or given and will have been valid and sufficient for their intended purposes and in full force and effect.

G. Insofar as any obligation provided for or referred to in the GATS Form Delaware Instruments is to be performed in, or by, a party organized under the laws of, any jurisdiction outside the State of Delaware, its performance will not be illegal or ineffective in that jurisdiction by virtue of the law of that jurisdiction.

H. We have assumed that (i) all signatures on all documents which are the subject of this opinion are genuine (including, with respect to the GATS Form Delaware Instruments, those parties electronically executing by way of the GATS platform), (ii) each document which is the subject of this opinion constitutes the entire agreement among the parties thereto with respect to the subject matter thereof, and (iii) except as set forth in the foregoing opinions with regard to the trust, each document which is the subject of this opinion constitutes a legal, valid and binding obligation of each of the parties thereto, enforceable against each of such parties in accordance with its terms.

I. We have made no investigation of, and express no opinion concerning, the nature of the title to any part of the equipment involved in any transaction subject to the GATS Form Delaware Instruments or the priority of any security or beneficial interest.

J. We have assumed that the GATS Form Delaware Instruments and the transactions contemplated thereby are not within the prohibitions of Section 406 of the Employee Retirement Income Security Act of 1974.

K. In addition to any other limitation by operation of law upon the scope, meaning or purpose of this opinion, this opinion speaks only as of the date hereof. We have no obligation to advise the recipient of this opinion (or any third party) of changes of law or fact or to any of the GATS Form Delaware Instruments that may occur after the date hereof, even though the change may affect the legal analysis, a legal conclusion or any information contained herein.

The opinions expressed in this letter are solely for the use of the Aviation Working Group, and solely for informational purposes, in matters directly related to the GATS

Aviation Working Group  
Global Aircraft Trading System (GATS)  
June 1, 2020  
Page 6

Form Delaware Instruments, and they may not be relied on by any other persons or for any other purpose without our prior written approval; *provided, however*, that this opinion may be disclosed to, but not relied upon by, and nor does it create any legal rights in favor of, any members of the Aviation Working Group or any other person. The opinions expressed in this letter are limited to the matters set forth in this letter and no other opinions should be inferred beyond the matters expressly stated. We assume no responsibility or liability to any person in receipt of this opinion (including the Aviation Working Group or any of its members) and we disclaim absolutely all such responsibility and liability.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Morris James LLP", is written below the "Very truly yours," text.

LCL/pab

## **EXHIBIT A**

*[Attachments removed for purpose of inclusion in the GATS Guidance Materials. To access the Complete Morris James LLP opinion, please visit the GATS Help page at <https://e-gats.aero/help>]*

**Part 6. – Watson Farley & Williams**

Opinion A – Performance Undertaking

# WATSON FARLEY & WILLIAMS

ATHENS BANGKOK DUBAI FRANKFURT HAMBURG HONG KONG LONDON  
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Aviation Working Group ("**AWG**")  
Clarendon House, 2 Church Street,  
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Our Reference: PEAD1/EUROPE/64109624v2

8 June 2020

Dear Sirs

## Global Aircraft Trading System (GATS) – Forms of Performance Undertaking

### 1 BACKGROUND

#### 1.1 This opinion letter

We have been asked to issue this opinion letter on the enforceability under English law of the two forms of performance undertaking (the "**Version A Form**" and the "**Version B Form**", respectively and, together, the "**Forms**" and each a "**Form**") appended to this opinion in Schedule 3 (*Forms of Performance Undertaking*).

#### 1.2 The GATS structure

The Forms are contemplated to be used in connection with future aircraft and engine leasing transactions making use of the GATS trust structures to be established in (or in a territorial unit of, as applicable) one of the GATS trust branches, initially the United States, Ireland and Singapore, whereby (i) legal title to the relevant asset will be held by a trustee (or, where applicable, the GATS trust as a separate legal entity) for the benefit of a beneficiary from time to time, (ii) the trustee or the GATS trust, as applicable (in this capacity, the "**Lessor**") will lease the relevant asset to the lessee (the "**Lessee**") under a Lease Agreement and (iii) the beneficiary of the GATS trust or other party from time to time will enter into an Version A Form or an Version B Form in favour of the Lessee.

#### 1.3 Nature of this opinion letter

This opinion letter accordingly does not relate to actual documents in a specific transaction but only to forms of documents in the abstract. It is addressed to the AWG for information purposes only. This opinion letter may be disclosed to members of the AWG and in the GATS guidance materials to be published on the AWG website and/or the GATS platform and website (<http://e-gats.aero/>) (the "**GATS Platform**"), on the basis that it may not be relied upon by, nor does it create any legal rights in favour of, the AWG, any of its members or any other person. We assume no, and disclaim any, responsibility or liability to the AWG, any of its members or any other person.

#### 1.4 GATS Transactions

Without prejudice to the generality of paragraph 1.3, this opinion letter may not be relied upon by any party from time to time or at any time entering into any GATS Transaction.

#### 1.5 Version A Form and Version B Form

In the assumptions in Schedule 1 (*Assumptions*) and the qualifications in Schedule 2 (*Qualifications*) certain provisions apply specifically to one only but not both of the Forms, as indicated by the reference to the applicable Form in bold type.

### 2 DEFINITIONS

#### 2.1 Definitions

Terms defined in each Form (either explicitly or by cross reference) which are not otherwise defined shall have the same meaning in this opinion letter.

#### 2.2 Certain definitions and expressions

In this opinion letter:

**"GATS Transaction"** means a transaction using the GATS structure as outlined in paragraph 1.2 and involving the execution of a performance undertaking by a Lessor in the form of either of the Forms;

**"Insolvency Proceedings"** means winding-up, the appointment of a provisional liquidator, an administration (whether appointed by the court or out of court), a voluntary arrangement, a moratorium, and a scheme of arrangement, including any form of territorial, secondary or ancillary insolvency proceeding; also any form of receivership or administrative receivership, whether the receiver is appointed by the court or otherwise and any other English insolvency proceedings without limitation; and any proceedings or procedure under the laws of any other jurisdiction which is comparable to any of the foregoing;

**"Performance Undertaking"** means an executed performance undertaking in the form of either Form, conformed to reflect that it is governed in accordance with the laws of England; and

**"any other jurisdiction"** or **"another jurisdiction"** means a jurisdiction other than England.

#### 2.3 Headings

Headings in this opinion letter are for ease of reference and shall not affect the construction.

### 3 SCOPE OF OPINION

#### 3.1 Structure and basis of opinion

(a) The opinions in paragraph 4 are given:

(i) on the basis of the assumptions set out in Schedule 1 (*Assumptions*);



- (ii) subject to the qualifications set out in Schedule 2 (*Qualifications*).
- (b) A number of the qualifications in Schedule 2 (*Qualifications*) may not appear to be applicable on the face of the Forms but may be applicable to the (unknown) provisions of the Lease Agreement. Accordingly, all such qualifications are or could be relevant to the enforceability of the Forms, having regard to the Version A Form taking effect as a performance guarantee and the Version B Form being an undertaking to perform Relevant Obligations.
- (c) This opinion letter is not to be read as implying any opinion on any matter not covered by its express terms.

### **3.2 English law only**

This opinion letter is confined to matters of English law in force on the date of this opinion letter as currently applied and interpreted by the English courts. No opinion is expressed as to the laws of any other jurisdiction.

### **3.3 No updating**

We assume no responsibility to update this opinion letter to take account of changes in law taking place after its date of issue, or any amendments made to or updated versions of the Forms posted to the AWG website after the date on which we accessed them.

### **3.4 Fact**

No opinion is expressed on matters of fact, commercial matters or intention.

## **4 OPINIONS**

We are of the opinion that:

### **4.1 Applicable law**

The English courts, applying English conflict of laws rules, would hold that English law is the applicable law of a Performance Undertaking.

### **4.2 Enforceability**

The obligations of a Performance Obligor under a Performance Undertaking will constitute the valid, binding and enforceable obligations of that Performance Obligor.

### **4.3 No consents or registrations**

No consent of any governmental or official authority in England applicable to companies generally would be required in connection with a Performance Undertaking in order for it to be valid or enforceable under English law or to be admissible in an English court; and it is not necessary to deliver or register a Performance Undertaking at any public office in England.


**4.4 No stamp duty**

No stamp duty or registration duty or similar charge or tax would be payable in the UK on the execution and delivery of a Performance Undertaking.

**5 GOVERNING LAW**

This opinion letter, and all obligations (whether contractual or non-contractual) arising out of it, shall be governed by and constituted in accordance with English law.

Yours faithfully



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**Watson Farley & Williams LLP**

## SCHEDULE 1

### ASSUMPTIONS

We have assumed the following:

#### **1 Parties: capacity etc.**

- (a) The due incorporation and valid existence under the laws of its jurisdiction of incorporation of each of the parties to the Lease Agreement and the Performance Undertaking.
- (b) The capacity and authority of each of the parties to the Lease Agreement and the Performance Undertaking to execute it to exercise its rights and perform its obligations under them.
- (c) The due execution (and, where relevant, delivery) of the Lease Agreement and the Performance Undertaking by each of the parties to them.
- (d) That the entry into and performance by a Performance Obligor party to a Performance Undertaking does not contravene any of its obligation, whether express or implied, under any contract or document entered into by the Performance Obligor.

#### **2 Execution**

Without prejudice to the generality of paragraph 1(c), that the Performance Undertaking is duly executed and delivered as a deed in accordance with the requirements of English law.

#### **3 Governing Law**

That the Lease Agreement is expressed to be governed by English law and that English law is selected as the governing law of the Performance Undertaking.

#### **4 Lease Agreement obligations**

That the obligations of each of the parties to the Lease Agreement are valid, binding and enforceable and that the terms of the Lease Agreement contemplate the execution of the Performance Undertaking.

#### **5 Version A Form: Notice of terms**

That the Performance Obligor has full notice of all the terms of the Lease Agreement.

#### **6 Version B Form: Notice of terms**

That the Performance Obligor has full notice of the terms of the Relevant Obligations.

#### **7 Version B Form: Nature of obligations**

That the Relevant Obligations are obligations which are capable of performance by the Performance Obligor notwithstanding that it is neither a party to the Lease Agreement nor the legal owner of the asset which is the subject of the Lease Agreement.

**8 Other laws etc.**

That the laws of any other jurisdiction which may apply with respect to the transactions and matters contemplated in a Performance Undertaking will not affect any of the opinions stated in this opinion letter.

**9 Filings in other jurisdictions**

That all consents, approvals, licences and filings which are necessary under any applicable laws of any other jurisdiction to permit the execution, delivery and performance of a Performance Undertaking have been made or will be made or obtained within any permitted period.

**10 No modification etc.**

That no side-letter or other communication (written or oral) modifies any provision of a Performance Undertaking.

**11 Fraud etc.**

A Performance Undertaking is not void, voidable, repudiated, rescinded frustrated or capable of being so by reason of fraud, misrepresentation, undue influence, duress, mistake, bribery, corruption or any other reason which is not apparent from its face.

**12 No Insolvency Proceedings**

That there are no Insolvency Proceedings in any party to a Lease Agreement or a Performance Undertaking, and no steps taken with a view to any such Insolvency Proceedings.

**13 Financial Services and Markets Act 2000**

Each of the parties to a Lease Agreement or Performance Undertaking has complied and will comply with all applicable provisions of the Financial Services and Markets Act 2000, and any related or similar legislation, and all applicable regulations and rules from time to time in effect thereunder or in connection therewith with respect to anything done by it in relation to a Lease or Performance Undertaking in, from or otherwise involving the United Kingdom.

**14 Anti-terrorism etc.**

Each of the parties to a Lease Agreement or Performance Undertaking complies with all applicable anti-terrorism, anti-corruption, anti-money laundering and human rights laws and regulations, and that there is nothing in the transaction that is inconsistent with all such laws and regulations.

## SCHEDULE 2

### QUALIFICATIONS

#### **1 Enforceability**

##### **1.1 General**

In stating that a Performance Undertaking constitutes valid, binding and enforceable obligations of a Performance Obligor we refer to the relevant terms not as read literally, but as they would be construed by the English courts. It is not necessarily the case that a Performance Undertaking will be enforced in accordance with its terms in all circumstances, as indicated by the matters set out below.

##### **1.2 Remedies**

Apart from claims for the payment of debts, contractual obligations are normally enforced by an award of damages for the loss suffered as a result of a breach of contract; and recoverable loss is restricted by principles such as causation, remoteness and mitigation. Orders for specific performance of contractual obligations, forfeiture and injunctions are discretionary remedies and are only available in limited circumstances.

##### **1.3 Equity and public policy**

Enforcement may be limited by general principles of equity or public policy from time to time.

##### **1.4 Time barring of claims**

Claims may become time-barred under the Limitation Act 1980 or the Foreign Limitation Periods Act 1984, or by application of the doctrines of laches or estoppel.

##### **1.5 Foreign illegality**

English courts will not enforce obligations to be performed in another jurisdiction to the extent that such performance would be illegal or contrary to principles of public policy under the laws of that jurisdiction.

##### **1.6 Frustration**

Enforcement may be limited by the doctrine of frustration.

##### **1.7 Version A Form: Rights of sureties**

The Version A Form is an undertaking by the Performance Obligor to "*cause the Lessor to pay and perform when due all of its obligations under the Lease Agreement arising or required to be performed during the Relevant Period*". This is likely to be construed by the English courts as a guarantee, i.e. a suretyship obligation. English law is protective of the right of sureties in a number of respects, including without limitation:

- (a) releasing a surety from liability if there is an amendment or variation of the underlying obligations;

- (b) limiting the scope of the surety's liability to the "purview" of the suretyship obligations.

We note that English law guarantees usually contain provisions which attempt to address defences available to a surety but that the Version A Form does not contain these.

#### **1.8 Version A Form: Specific suretyship issues**

The wording of the Version A Form would likely be construed by an English court as a 'pure' or 'see to it' guarantee. This is a secondary liability with the following consequences:

- (a) the Lessee's remedy against the Performance Obligor is in the first instance a remedy in damages (see paragraph 1.2 above);
- (b) the liability of the Performance Obligor to the Lessee will be no greater than the liability of the Lessor; and
- (c) the Performance Obligor would have rights of subrogation against the Lessor arising from performance of the Performance Guarantor's obligations (and we note that such rights are not deferred for the benefit of the Lessee, as is customary in an English law guarantee).

#### **1.9 Version B Form: Extent of Performance Obligor's obligations**

The scope of the Performance Guarantor's obligations will be construed to be limited to the express terms of the Relevant Obligations, i.e. the Performance will be under no more extensive or varied obligations unless it expressly agrees.

#### **1.10 Jurisdiction**

The Forms do not contain any submission to the jurisdiction of the English Courts (with appointment of a process agent) and we express no opinion as regards jurisdictional issues.

#### **1.11 Consideration**

The Forms express the consideration for the Performance Obligor's obligations being the Lessee entering into the Lease Agreement which, depending on the applicable circumstances, could be invalid as past consideration. If a Performance Undertaking is validly executed and delivered as a deed in accordance with English law, however, lack of consideration would not negate its validity and enforceability.

#### **1.12 Assignment and transfer**

We give no opinion on the ability of either party to a Performance Undertaking to assign its rights or transfer its obligations.

#### **1.13 Third party rights**

The Forms are not expressed to exclude the rights of third parties.

#### **1.14 Repudiatory breach**

If a party is in repudiatory breach of a contract, the innocent party is discharged from further performance of that contract if it accepts that repudiation as terminating the contract.

#### **1.15 Contractual interpretation**

The meaning which the English courts will give to a Performance Undertaking is the meaning which the Performance Undertaking would convey to a reasonable person having all the background knowledge which would reasonably have been available to the parties in the situation in which they were at the time of the contract. A document might be capable of having terms implied or of being rectified by an English court if it is found not to reflect the common intention of the parties. Where language is capable of more than one interpretation an English court will prefer the interpretation which is consistent with business common sense.

#### **1.16 Certificates and determinations**

The English courts may hold that a certificate, determination or notification is not conclusive or final if it might be shown that it was made on an incorrect basis or if the relevant power or discretion was exercised on an arbitrary or capricious basis; or if manifest error applies. This is so despite any provision to the contrary, for example a provision stating that the exercise of a power or discretion or the making of a determination shall be conclusive and binding.

#### **1.17 Negotiation and co-operation**

A term obliging a party to negotiate or co-operate may not be legally binding.

#### **1.18 General indemnities**

A person claiming under an indemnity might be unable to recover in respect of losses which he could have avoided by taking reasonable steps; or losses of a kind which was outside the contemplation of the parties at the time of contracting.

#### **1.19 Costs indemnity**

A contractual indemnity for costs will not cover costs unreasonably incurred or unreasonable in amount, nor override the court's discretion under Section 51 of the Senior Courts Act 1981 and the Civil Procedure Rules as to costs connected with proceedings. Moreover, costs may be subject to quantification by the courts.

#### **1.20 Stamp duty indemnity**

An indemnity in respect of stamp duty might be void under Section 117 of the Stamp Act 1891.

#### **1.21 Exclusion clauses**

A term which seeks to exclude or restrict a duty of care, or liability for breach of such a duty is limited by law.

#### **1.22 Sums payable on default**

A term providing that, in the event of a person committing a breach of contract (or in the event of a breach or certain other events), that person shall pay a certain sum (including default interest) or shall transfer a certain asset, or cease to have a certain right, may be held to be unenforceable on the ground that it is a penalty or a forfeiture clause.

#### **1.23 Severance**

If a Lease Agreement contains a provision to the effect that an invalid provision is to be severed in order to preserve the validity of the remaining provisions, severance will not be permitted if:

- (a) it does not accord with English public policy; or
- (b) the illegal provision forms a main part of the consideration; or
- (c) the provisions in an agreement are all so closely related that to sever one will completely rewrite the contract;

#### **1.24 Waivers**

A failure or delay in enforcing a right may in certain circumstances be construed by an English court as constituting a waiver of that right notwithstanding any provisions to the contrary in a Lease Agreement.

#### **1.25 Oral variations**

Provisions requiring any waiver, variation or amendment to a Lease Agreement to be in writing may not be effective.

#### **1.26 Judgment interest**

It is possible that any provision relating to interest will be held by an English court to be superseded by interest at the rate prescribed by the court following any judgment, whether in England or another jurisdiction.

#### **1.27 Entire agreement clause**

English courts may refuse to give effect to an entire agreement clause.

#### **1.28 Deemed receipt of notices**

No opinion is expressed as to whether a court would give effect to a provision that a notice shall be deemed to have been served at a fixed time after dispatch, where it is proved that the notice was not in fact received by the addressee or that he received it after the time fixed.

#### **1.29 Process Agent**

No opinion is expressed as to whether the appointment of a process agent in England pursuant to a Lease Agreement would remain in force after a purported termination by the appointing party or a



winding up or other Insolvency Proceedings in respect of the appointing party; or as to whether a relevant party would have any remedy in the event of that process agent declining to accept service.

## **2 Insolvency**

### **2.1 General**

The obligations of a Performance Obligor are subject to laws affecting creditors' rights generally, such as those relating to insolvency (which includes liquidation, administration, administrative receivership and reorganisation).

### **2.2 Cross-border insolvency issues**

The jurisdiction or jurisdictions in which a company may be made subject to Insolvency Proceedings will be determined, where applicable, by European Union Council Regulation (EC) No. 2015/848 on insolvency proceedings (recast). The Cross-Border Insolvency Regulations 2006 (SI 2006/1030), implementing in English law the UNCITRAL Model Law on cross-border insolvency, provides for recognition in England of foreign insolvency proceedings and co-operation between the English courts and foreign courts. A foreign company can be made subject to Insolvency Proceedings in England in certain circumstances. Finally, Section 426 of the Insolvency Act 1986 provides for the English courts to assist foreign courts in specified jurisdictions in Insolvency Proceedings. This is subject to change depending on when, and the basis on which, the United Kingdom withdraws from the European Union.

## **3 Choice of law**

The choice of English law as the governing law of a Performance Undertaking would be upheld by the English courts as regards contractual matters subject to EC Regulation No. 593/2008 on the law applicable to contractual obligations ("**Rome I**"), provided that the relevant contractual obligation is within the scope of, and the choice is permitted by, Rome I. This is subject to change depending on when, and the basis on which, the United Kingdom withdraws from the European Union. We express no opinion on choice of law as regards non-contractual matters.

## **4 Foreign currency judgments**

English courts sometimes give judgments in currencies other than sterling. However, a judgment would have to be converted into sterling for the purposes of enforcement or for claiming in a liquidation or administration, and no opinion is expressed as to whether, in such circumstances, any currency indemnity clause in the Lease Agreement would be enforceable.

## **5 Sanctions**

The opinions expressed in this opinion letter are subject to the effect of sanctions imposed by the laws of the United Kingdom (including sanctions imposed by the European Union, the United Nations or otherwise which are, or are made, a part of English law) on:

- (a) parties which are expressly designated by such sanctions;

- (b) parties resident or incorporated in a country which is the subject of such general, country-wide sanctions;
- (c) parties controlled by or connected with parties referred to in (a) or (b);
- (d) activities which are the subject of such sanctions,

and this is subject to change depending on when, and the basis on which, the United Kingdom withdraws from the European Union.

**SCHEDULE 3**

**FORMS OF PERFORMANCE UNDERTAKING**

[Attachments removed for purposes of inclusion in the GATS Guidance Materials. To access the complete Watson Farley & Williams LLP opinion, please visit the GATS help page at <https://e-gats.aero/help/>.]

## Opinion B – e-Terms

# WATSON FARLEY & WILLIAMS

ATHENS BANGKOK DUBAI FRANKFURT HAMBURG HONG KONG LONDON  
MADRID MILAN MUNICH NEW YORK PARIS ROME SINGAPORE

Aviation Working Group ("**AWG**")  
Clarendon House, 2 Church Street,  
Hamilton HM11,  
Bermuda

Our Reference: PEAD1/EUROPE/64125665v4

8 June 2020

Dear Sirs

## Global Aircraft Trading System (GATS) – GATS e-Terms

### 1 BACKGROUND

#### 1.1 This opinion letter

We have been asked to issue this opinion letter on the enforceability under English law of the GATS e-terms (the "**GATS e-Terms**") appended to this opinion in Schedule 3 (*GATS e-Terms*).

#### 1.2 Formation of Agreement to Participate and incorporation of GATS e-Terms

As part of the admission process of a person seeking to use the services provided by the GATS online Platform, it is contemplated that:

- (a) the GATS e-Terms are incorporated in full into, and exclusively govern, the agreement to such services entered into between such person (each such person a "**GATS Entity**", being either a GATS Participant, a GATS Trustee or a GATS Professional Entity, and each as defined in the GATS e-Terms) and AWG (each such agreement, to the extent the GATS e-Terms are so incorporated into it and do so exclusively govern it, an "**Agreement to Participate**");
- (b) each GATS Entity enters into a separate Agreement to Participate with AWG; and
- (c) each Agreement to Participate is entered into electronically through the GATS platform and website at <http://e-gats.aero/> (the "**GATS Platform**") as follows:
  - (i) an offer to enter into an Agreement to Participate exclusively on the terms set out in the GATS e-Terms is made by AWG and communicated electronically and on-screen to a GATS Entity, and
  - (ii) that offer is electronically accepted by such GATS Entity by it ticking a 'check box' indicating its agreement to the GATS e-Terms and clicking on a button indicating its acceptance.

### 1.3 Nature of this opinion letter

This opinion letter accordingly does not relate to actual documents in a specific transaction but only to forms of documents in the abstract. It is addressed to the AWG for information purposes only. This opinion letter may be disclosed to members of the AWG and in the GATS guidance materials to be published on the AWG website and/or the GATS Platform, on the basis that it may not be relied upon by, nor does it create any legal rights in favour of, the AWG, any of its members or any other person. We assume no, and disclaim any, responsibility or liability to the AWG, any of its members or any other person.

### 1.4 GATS Entities

Without prejudice to the generality of paragraph 1.3, this opinion letter may not be relied upon by any GATS Entity or any other person accessing or using the GATS Platform.

## 2 DEFINITIONS

### 2.1 Definitions

Terms defined in the GATS e-Terms (either explicitly or by cross reference) which are not otherwise defined shall have the same meaning in this opinion letter.

### 2.2 Certain definitions and expressions

In this opinion letter:

**"Contracting Party"** means a GATS Entity, as defined above, or AWG.

**"Cross-Referenced Provisions"** means any provisions incorporated into the GATS e-Terms by reference to another document or URL.

**"GATS e-Terms Obligations"** means the obligations of a Contracting Party expressed to be applicable to it in the GATS e-Terms and excludes (a) any purported obligations which the GATS e-Terms provide that a Contracting Party 'may' perform, and (b) any obligations contained in any Cross-Referenced Provisions.

**"Insolvency Proceedings"** means winding-up, the appointment of a provisional liquidator, an administration (whether appointed by the court or out of court), a voluntary arrangement, a moratorium, and a scheme of arrangement, including any form of territorial, secondary or ancillary insolvency proceeding; also any form of receivership or administrative receivership, whether the receiver is appointed by the court or otherwise and any other English insolvency proceedings without limitation; and any proceedings or procedure under the laws of any other jurisdiction which is comparable to any of the foregoing;

and

**"any other jurisdiction"** or **"another jurisdiction"** means a jurisdiction other than England.

## **2.3 Headings**

Headings in this opinion letter are for ease of reference and shall not affect the construction.

## **3 SCOPE OF OPINION**

### **3.1 Structure and basis of opinion**

(a) The opinions in paragraph 4 are given:

- (i) on the basis of the assumptions set out in Schedule 1 (*Assumptions*);
- (ii) subject to the qualifications set out in Schedule 2 (*Qualifications*).

(b) A number of the qualifications in Schedule 2 (*Qualifications*) may not appear to be applicable on the face of the GATS e-Terms but may be applicable to the (unknown) provisions incorporated into the GATS e-Terms by reference to a URL on the GATS Platform, a GATS Instrument, the Site Terms of Use (each as defined in the GATS e-Terms) or any other document. Accordingly, all such qualifications are or could be relevant to the enforceability of the GATS e-Terms. We have not examined any Agreement to Participate or any Cross-Referenced Provisions.

(c) This opinion letter is not to be read as implying any opinion on any matter not covered by its express terms.

### **3.2 English law only**

This opinion letter is confined to matters of English law in force on the date of this opinion letter as currently applied and interpreted by the English courts. No opinion is expressed as to the laws of any other jurisdiction.

### **3.3 No updating**

We assume no responsibility to update this opinion letter to take account of changes in law taking place after its date of issue, or any amendments made to or updated versions of the GATS e-Terms, whether posted to the GATS Platform or otherwise, after the date on which we accessed them.

### **3.4 Fact**

No opinion is expressed on matters of fact, commercial matters or intention.

## **4 OPINIONS**

We are of the opinion that:

### **4.1 Applicable law and arbitration**

(a) The English courts, applying English conflict of laws rules, would hold that English law is the applicable law of the GATS e-Terms.

- (b) Subject to the Contracting Parties to an Agreement to Participate not having settled their Dispute before the completion or deemed completion of the mediation undertaken subject to and in accordance with clause 16.5 of the GATS e-Terms, the agreement by each such Contracting Party in the GATS e-Terms that any Dispute shall be referred to and resolved by arbitration is effective.
- (c) The English courts will, on application of a party to an arbitration agreement, stay proceedings in respect of a matter which under the GATS e-Terms is to be referred to arbitration.

#### **4.2 Enforceability**

- (a) The GATS e-Term Obligations of each Contracting Party to an Agreement to Participate will constitute the valid, binding and enforceable obligations of that Contracting Party.
- (b) No GATS e-Term Obligation will be rendered unenforceable under English law by reason only that it has been validly incorporated into an Agreement to Participate which has been validly executed and delivered electronically under applicable law.

#### **4.3 No consents or registrations**

No consent of any governmental or official authority in England applicable to companies generally would be required in connection with the GATS e-Terms in order for them to be valid or enforceable under English law or to be admissible in an English court; and it is not necessary to deliver or register an Agreement to Participate at any public office in England.

#### **4.4 No stamp duty**

No stamp duty or registration duty or similar charge or tax would be payable in the UK on the execution and delivery of an Agreement to Participate.

### **5 GOVERNING LAW**

This opinion letter, and all obligations (whether contractual or non-contractual) arising out of it, shall be governed by and constituted in accordance with English law.

Yours faithfully



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**Watson Farley & Williams LLP**



## **SCHEDULE 1**

### **ASSUMPTIONS**

We have assumed the following:

**1 Parties: capacity etc.**

- (a) The due incorporation and valid existence under the laws of its jurisdiction of incorporation of each Contracting Party.
- (b) The capacity and authority of each Contracting Party to execute an Agreement to Participate and to exercise its rights and perform its obligations under it.
- (c) The due execution (and, where relevant, delivery), by electronic means through the GATS Platform, of each Agreement to Participate by each Contracting Party.
- (d) That the entry into and performance by a Contracting Party of an Agreement to Participate does not contravene any of its obligations, whether express or implied, under any contract or document entered into by that Contracting Party.

**2 Execution platform and procedures**

That the procedures for electronic execution through the GATS Platform comply with the English law requirements for the effective execution and delivery of an Agreement to Participate.

**3 Agreement to Participate**

That an Agreement to Participate is governed by English law.

**4 Incorporation of Obligations from Cross-Referenced Provisions**

That the obligations of each of the Contracting Parties set out in any Cross-Referenced Provisions are valid, binding and enforceable and there is no conflict between any Cross-Referenced Provisions and the GATS e-Terms Obligations.

**5 Nature of obligations**

That the GATS e-Terms Obligations of a Contracting Party are expressly set out and incorporated by reference in and by the terms of an Agreement to Participate, and are obligations which are capable of performance by and are expressed to be applicable to such Contracting Party, notwithstanding that the GATS e-Terms contain obligations other than the GATS e-Terms Obligations which are applicable to such Contracting Party.

**6 Other laws etc.**

That the laws of any other jurisdiction which may apply with respect to the transactions and matters contemplated in the GATS e-Terms and each Agreement to Participate will not affect any of the opinions stated in this opinion letter.

**7 Filings in other jurisdictions**

That all consents, approvals, licences and filings which are necessary under any applicable laws of any other jurisdiction to permit the execution, delivery and performance of the GATS e-Terms and each Agreement to Participate have been made or will be made or obtained within any permitted period.

**8 No modification etc.**

That no side-letter or other communication (written or oral) modifies any provision of the GATS e-Terms or an Agreement to Participate.

**9 Fraud etc.**

Neither the GATS e-Terms nor an Agreement to Participate are void, voidable, repudiated, rescinded frustrated or capable of being so by reason of fraud, misrepresentation, undue influence, duress, mistake, bribery, corruption or any other reason which is not apparent from its face.

**10 No Insolvency Proceedings**

That there are no Insolvency Proceedings in relation to any Contracting Party, and no steps taken with a view to any such Insolvency Proceedings.

**11 Financial Services and Markets Act 2000**

Each of the Contracting Parties has complied and will comply with all applicable provisions of the Financial Services and Markets Act 2000, and any related or similar legislation, and all applicable regulations and rules from time to time in effect thereunder or in connection therewith with respect to anything done by it in relation to an Agreement to Participate in, from or otherwise involving the United Kingdom.

**12 Anti-terrorism etc.**

Each of the Contracting Parties complies with all applicable anti-terrorism, anti-corruption, anti-money laundering and human rights laws and regulations, and that there is nothing in the transaction that is inconsistent with all such laws and regulations.

## SCHEDULE 2

### QUALIFICATIONS

#### **1 Enforceability**

##### **1.1 General**

In stating that the GATS e-Terms Obligations constitute valid, binding and enforceable obligations of a Contracting Party we refer to the relevant terms not as read literally, but as they would be construed by the English courts. It is not necessarily the case that an Agreement to Participate will be enforced in accordance with its terms in all circumstances, as indicated by the matters set out below.

##### **1.2 Remedies**

Apart from claims for the payment of debts, contractual obligations are normally enforced by an award of damages for the loss suffered as a result of a breach of contract; and recoverable loss is restricted by principles such as causation, remoteness and mitigation. Orders for specific performance of contractual obligations, forfeiture and injunctions are discretionary remedies and are only available in limited circumstances.

##### **1.3 Equity and public policy**

Enforcement may be limited by general principles of equity or public policy from time to time.

##### **1.4 Time barring of claims**

Claims may become time-barred under the Limitation Act 1980 (as amended by the GATS e-Terms) or the Foreign Limitation Periods Act 1984, or by application of the doctrines of laches or estoppel.

##### **1.5 Foreign illegality**

English courts will not enforce obligations to be performed in another jurisdiction to the extent that such performance would be illegal or contrary to principles of public policy under the laws of that jurisdiction.

##### **1.6 Frustration**

Enforcement may be limited by the doctrine of frustration.

##### **1.7 Jurisdiction**

Notwithstanding any other provision of this opinion letter, we express no opinion as regards jurisdictional issues, other than as described in paragraph 4.1.

##### **1.8 Assignment and transfer**

We give no opinion on the ability of any Contracting Party to assign its rights or transfer its obligations.

## **1.9 Repudiatory breach**

If a party is in repudiatory breach of a contract, the innocent party is discharged from further performance of that contract if it accepts that repudiation as terminating the contract.

## **1.10 Contractual interpretation**

The meaning which the English courts will give to the GATS e-Terms and an Agreement to Participate is the meaning which the GATS e-Terms and that Agreement to Participate would convey to a reasonable person having all the background knowledge which would reasonably have been available to the parties in the situation in which they were at the time of the contract. A document might be capable of having terms implied or of being rectified by an English court if it is found not to reflect the common intention of the parties. Where language is capable of more than one interpretation an English court will prefer the interpretation which is consistent with business common sense.

## **1.11 Certificates and determinations**

The English courts may hold that a certificate, determination or notification is not conclusive or final if it might be shown that it was made on an incorrect basis or if the relevant power or discretion was exercised on an arbitrary or capricious basis; or if manifest error applies. This is so despite any provision to the contrary, for example a provision stating that the exercise of a power or discretion or the making of a determination shall be conclusive and binding.

## **1.12 Negotiation and co-operation**

A term obliging a party to negotiate or co-operate may not be legally binding.

## **1.13 General indemnities**

A person claiming under an indemnity might be unable to recover in respect of losses which he could have avoided by taking reasonable steps; or losses of a kind which was outside the contemplation of the parties at the time of contracting.

## **1.14 Costs indemnity**

A contractual indemnity for costs will not cover costs unreasonably incurred or unreasonable in amount, nor override the court's discretion under Section 51 of the Senior Courts Act 1981 and the Civil Procedure Rules as to costs connected with proceedings. Moreover, costs may be subject to quantification by the courts.

## **1.15 Stamp duty indemnity**

An indemnity in respect of stamp duty might be void under Section 117 of the Stamp Act 1891.

## **1.16 Exclusion clauses**

A term which seeks to exclude or restrict a duty of care, or liability for breach of such a duty is limited by law.

#### **1.17 Sums payable on default**

A term providing that, in the event of a person committing a breach of contract (or in the event of a breach or certain other events), that person shall pay a certain sum (including default interest) or shall transfer a certain asset, or cease to have a certain right, may be held to be unenforceable on the ground that it is a penalty or a forfeiture clause.

#### **1.18 Severance**

If an Agreement to Participate contains a provision to the effect that an invalid provision is to be severed in order to preserve the validity of the remaining provisions, severance will not be permitted if:

- (a) it does not accord with English public policy; or
- (b) the illegal provision forms a main part of the consideration; or
- (c) the provisions in an agreement are all so closely related that to sever one will completely rewrite the contract;

#### **1.19 Waivers**

A failure or delay in enforcing a right may in certain circumstances be construed by an English court as constituting a waiver of that right notwithstanding any provisions to the contrary.

#### **1.20 Oral variations**

Provisions requiring any waiver, variation or amendment to an Agreement to Participate to be in writing may not be effective.

#### **1.21 Judgment interest**

It is possible that any provision relating to interest will be held by an English court to be superseded by interest at the rate prescribed by the court following any judgment, whether in England or another jurisdiction.

#### **1.22 Entire agreement clause**

English courts may refuse to give effect to an entire agreement clause.

#### **1.23 Deemed receipt of notices**

No opinion is expressed as to whether a court would give effect to a provision that a notice shall be deemed to have been served at a fixed time after dispatch, where it is proved that the notice was not in fact received by the addressee or that he received it after the time fixed.

#### **1.24 Process Agent**

No opinion is expressed as to whether the appointment of a process agent in England pursuant to an Agreement to Participate would remain in force after a purported termination by the appointing

party or a winding up or other Insolvency Proceedings in respect of the appointing party; or as to whether a relevant party would have any remedy in the event of that process agent declining to accept service.

### **1.25 Third party rights**

We express no opinion on the enforceability of any third party rights expressed to be granted (or not excluded) by the GATS e-Terms or an Agreement to Participate.

## **2 Insolvency**

### **2.1 General**

The obligations of a Contracting Party are subject to laws affecting creditors' rights generally, such as those relating to insolvency (which includes liquidation, administration, administrative receivership and reorganisation).

### **2.2 Cross-border insolvency issues**

The jurisdiction or jurisdictions in which a company may be made subject to Insolvency Proceedings will be determined, where applicable, by European Union Council Regulation (EC) No. 2015/848 on insolvency proceedings (recast). The Cross-Border Insolvency Regulations 2006 (SI 2006/1030), implementing in English law the UNCITRAL Model Law on cross-border insolvency, provides for recognition in England of foreign insolvency proceedings and co-operation between the English courts and foreign courts. A foreign company can be made subject to Insolvency Proceedings in England in certain circumstances. Finally, Section 426 of the Insolvency Act 1986 provides for the English courts to assist foreign courts in specified jurisdictions in Insolvency Proceedings. This is subject to change depending on when, and the basis on which, the United Kingdom withdraws from the European Union.

## **3 Jurisdictional issues**

Any jurisdiction which the English courts may have, may be subject, as applicable, to the European Union Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters/European Parliament and Council Regulation (EU) No 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast); the 1968 Brussels Convention; the 1988 Lugano Convention; the 2007 Lugano Convention; the Civil Procedure Rules; and the English common law. Notwithstanding any provisions of an Agreement to Participate in respect of jurisdiction of the English courts, an English court may, and in some circumstances must, stay or terminate proceedings before it, or decline to restrain proceedings in the court of another jurisdiction. This is subject to change depending on when, and the basis on which, the United Kingdom withdraws from the European Union.

## **4 Choice of law**

### **4.1 Contractual matters**

The choice of English law as the governing law of an Agreement to Participate would be upheld by the English courts as regards contractual matters subject to EC Regulation No. 593/2008 on the law

applicable to contractual obligations ("**Rome I**"), provided that the relevant contractual obligation is within the scope of, and the choice is permitted by, Rome I. This is subject to change depending on when, and the basis on which, the United Kingdom withdraws from the European Union.

#### **4.2 Non-contractual matters**

The choice of English law as the governing law of any non-contractual obligations arising out of an Agreement to Participate would be upheld by the English courts subject to EC Regulation 864/2007 on the law applicable to non-contractual obligations ("**Rome II**") (provided that the relevant non-contractual obligation is within the scope of, and the choice is permitted by, Rome II) or, to the extent that Rome II does not apply to proceedings before an arbitral tribunal, the provisions of the Arbitration Act 1996. This is subject to change depending on when, and the basis on which, the United Kingdom withdraws from the European Union.

#### **4.3 Arbitration**

- (a) The governing law of an agreement to arbitrate may be held to be different from the governing law of the underlying contract to which it relates.
- (b) Under certain circumstances, the conduct of a party may prejudice its election for arbitration proceedings or its right to apply for a stay of court proceedings.
- (c) Under certain circumstances, an English court may determine whether there is a valid arbitration agreement or whether an arbitral tribunal has jurisdiction to determine any question, notwithstanding any arbitration provision to the contrary. An English court may also be required to recognise and give effect to a decision of a court of another member state of the EU or Iceland, Norway or Switzerland that an arbitration agreement is not valid or not effective, given as a preliminary issue in proceedings before that court, even if the subject matter of those proceedings has been referred to arbitration with a seat in England in accordance with the arbitration provisions of an Agreement to Participate.
- (d) Under certain circumstances an arbitral tribunal may decline jurisdiction and an English court may decline to stay English court proceedings.
- (e) An English court may be unable to restrain proceedings commenced in another court, notwithstanding a provision requiring the subject matter of those proceedings to be referred to arbitration.

#### **4.4 Enforceability of judgments and arbitral awards**

- (a) An arbitral award rendered by a tribunal constituted in accordance with the dispute resolution provisions in an Agreement to Participate may be subject to an application before the English courts to be set aside for various reasons under the Arbitration Act 1996.
- (b) An English court may refuse to grant leave to enforce an award for various reasons under the Arbitration Act 1996. We express no opinion as to whether an arbitral award may be enforced otherwise than by leave of the court under the Arbitration Act 1996.

- (c) No opinion is expressed as to the enforceability outside England and Wales of a judgment or arbitral award given or made in any jurisdiction. However, an arbitral award made by a tribunal in an arbitration in England should be recognised and enforced in any state which is a party to the Convention on the Recognition and Enforcement of Foreign Arbitration Awards (New York, 10 June 1958) (the "**New York Convention**"), although enforcement of the award may be subject to challenge on the grounds set out in Article V of the New York Convention.

## **5 Foreign currency judgments**

English courts sometimes give judgments in currencies other than sterling. However, a judgment would have to be converted into sterling for the purposes of enforcement or for claiming in a liquidation or administration, and no opinion is expressed as to whether, in such circumstances, any currency indemnity clause in an Agreement to Participate would be enforceable.

## **6 Sanctions**

The opinions expressed in this opinion letter are subject to the effect of sanctions imposed by the laws of the United Kingdom (including sanctions imposed by the European Union, the United Nations or otherwise which are, or are made, a part of English law) on:

- (a) parties which are expressly designated by such sanctions;
- (b) parties resident or incorporated in a country which is the subject of such general, country-wide sanctions;
- (c) parties controlled by or connected with parties referred to in (a) or (b);
- (d) activities which are the subject of such sanctions,

and this is subject to change depending on when, and the basis on which, the United Kingdom withdraws from the European Union.



**SCHEDULE 3**

**GATS E-TERMS**

[Attachments removed for purposes of inclusion in the GATS Guidance Materials. To access the complete Watson Farley & Williams LLP opinion, please visit the GATS help page at <https://e-gats.aero/help/>.]

## Annex IV

### Summary Chart of National Laws on Recognition of Foreign Trusts

Country	Basic Recognition (Commercial Law)	Eligibility of Nationality Registration
Afghanistan	✓ - Cape Town Convention, Protocol, art VI	
Albania	✓ - Cape Town Convention, Protocol, art VI	
Algeria		
Andorra		
Angola	✓ - Cape Town Convention, Protocol, art VI	
Antigua and Barbuda		
Argentina	✓ - Cape Town Convention, Protocol, art VI	
Armenia		
Australia	✓ - Cape Town Convention, Protocol, art VI	
Austria		
Azerbaijan		
Bahamas		
Bahrain	✓ - Cape Town Convention, Protocol, art VI	

Country	Basic Recognition (Commercial Law)	Eligibility of Nationality Registration
	VI	
Bangladesh	✓ - Cape Town Convention, Protocol, art VI	
Barbados		
Belarus	✓ - Cape Town Convention, Protocol, art VI	
Belgium		
Belize		
Benin		
Bermuda	✓ - Cape Town Convention, Protocol, art VI	✓
Bhutan	✓ - Cape Town Convention, Protocol, art VI	
Bolivia		
Bosnia and Herzegovina		
Botswana		
Brazil	✓ - Cape Town Convention, Protocol, art VI	
Brunei Darussalarn		

Country	Basic Recognition (Commercial Law)	Eligibility of Nationality Registration
Bulgaria		
Burkina Faso	✓ - Cape Town Convention, Protocol, art VI	
Burundi	✓ - Cape Town Convention, Protocol, art VI	
Cabo Verde	✓ - Cape Town Convention, Protocol, art VI	
Cambodia		
Cameroon	✓ - Cape Town Convention, Protocol, art VI	
Canada	✓ - Cape Town Convention, Protocol, art VI	
Central African Republic		
Chad		
Chile	✓ - Cape Town Convention, Protocol, art VI	
China		
Colombia	✓ - Cape Town Convention, Protocol, art VI	

Country	Basic Recognition (Commercial Law)	Eligibility of Nationality Registration
Comoros		
Congo	✓ - Cape Town Convention, Protocol, art VI	
Costa Rica	✓ - Cape Town Convention, Protocol, art VI	
Croatia		
Cuba	✓ - Cape Town Convention, Protocol, art VI	
Cyprus		
Czech Republic	✓	✓
Cote d'Ivoire	✓ - Cape Town Convention, Protocol, art VI	
Democratic People's Republic of Korea		
Democratic Republic of the Congo	✓ - Cape Town Convention, Protocol, art VI	
Denmark	✓ - Cape Town Convention, Protocol, art VI	
Djibouti		
Dominica		
Dominican Republic		

Country	Basic Recognition (Commercial Law)	Eligibility of Nationality Registration
Ecuador		
Egypt	✓ - Cape Town Convention, Protocol, art VI	
El Salvador		
Equatorial Guinea		
Eritrea		
Estonia		
Eswatini	✓ - Cape Town Convention, Protocol, art VI	
Ethiopia	✓ - Cape Town Convention, Protocol, art VI	
European Union	✓ - Cape Town Convention, Protocol, art VI	
Fiji	✓ - Cape Town Convention, Protocol, art VI	
Finland		
France		
Gabon	✓ - Cape Town Convention, Protocol, art VI	
Gambia		
Georgia		

Country	Basic Recognition (Commercial Law)	Eligibility of Nationality Registration
Germany		
Ghana		
Greece		
Grenada		
Guatemala		
Guinea		
Guinea-Bissau		
Guyana		
Haiti		
Honduras		
Hungary		
Iceland		
India	✓ - Cape Town Convention, Protocol, art VI	✓
Indonesia	✓ - Cape Town Convention, Protocol, art VI	
Iran (Islamic Republic of)		
Iraq		
Ireland	✓ - Cape Town Convention, Protocol, art VI	
Israel		
Italy		
Jamaica		

Country	Basic Recognition (Commercial Law)	Eligibility of Nationality Registration
Japan		
Jordan	✓ - Cape Town Convention, Protocol, art VI	
Kazakhstan	✓ - Cape Town Convention, Protocol, art VI	
Kenya	✓ - Cape Town Convention, Protocol, art VI	
Kiribati		
Kuwait	✓ - Cape Town Convention, Protocol, art VI	
Kyrgyzstan		
Lao People's Democratic Republic		
Latvia	✓ - Cape Town Convention, Protocol, art VI	
Lebanon		
Lesotho		
Liberia		
Libyan Arab Jamahiriya		
Liechtenstein		
Lithuania		

Country	Basic Recognition (Commercial Law)	Eligibility of Nationality Registration
Luxembourg	✓ - Cape Town Convention, Protocol, art VI	
Madagascar	✓ - Cape Town Convention, Protocol, art VI	
Malawi	✓ - Cape Town Convention, Protocol, art VI	
Malaysia	✓ - Cape Town Convention, Protocol, art VI	
Maldives		
Mali		
Malta	✓ - Cape Town Convention, Protocol, art VI	
Marshall Islands		
Mauritania		
Mauritius		
Mexico	✓ - Cape Town Convention, Protocol, art VI	
Micronesia (Federated States of)		
Monaco		
Mongolia	✓ - Cape	

Country	Basic Recognition (Commercial Law)	Eligibility of Nationality Registration
	Town Convention, Protocol, art VI	
Montenegro		
Morocco		
Mozambique	✓ - Cape Town Convention, Protocol, art VI	
Myanmar	✓ - Cape Town Convention, Protocol, art VI	
Namibia	✓ - Cape Town Convention, Protocol, art VI	
Nauru		
Nepal		
New Zealand	✓ - Cape Town Convention, Protocol, art VI	
Nicaragua		
Niger		
Nigeria	✓ - Cape Town Convention, Protocol, art VI	
Norway	✓ - Cape Town Convention, Protocol, art VI	
Oman	✓ - Cape	

Country	Basic Recognition (Commercial Law)	Eligibility of Nationality Registration
	Town Convention, Protocol, art VI	
Pakistan	✓ - Cape Town Convention, Protocol, art VI	
Palau		
Panama	✓ - Cape Town Convention, Protocol, art VI	
Papua New Guinea		
Paraguay		
Peru		
Philippines		
Portugal		
Poland		
Qatar		
Republic of Korea		
Republic of Moldova		
Romania	✓ - Cape Town Convention, Protocol, art VI	
Russian Federation	✓ - Cape Town Convention, Protocol, art VI	
Rwanda	✓ - Cape Town Convention, Protocol, art VI	

Country	Basic Recognition (Commercial Law)	Eligibility of Nationality Registration
Saint Kitts and Nevis		
Saint Lucia		
Saint Vincent and the Grenadines		
Samoa		
San Marino	✓ - Cape Town Convention, Protocol, art VI	
Sao Tome and Principe		
Saudi Arabia	✓ - Cape Town Convention, Protocol, art VI	
Senegal	✓ - Cape Town Convention, Protocol, art VI	
Serbia		
Seychelles		
Sierra Leone	✓ - Cape Town Convention, Protocol, art VI	
Singapore	✓ - Cape Town Convention, Protocol, art VI	
Slovakia		
Slovenia		
Solomon Islands		

Country	Basic Recognition (Commercial Law)	Eligibility of Nationality Registration
Somalia		
South Africa	✓ - Cape Town Convention, Protocol, art VI	
South Sudan		
Spain	✓ - Cape Town Convention, Protocol, art VI	
Sri Lanka		
Sudan		
Suriname		
Swaziland		
Sweden	✓ - Cape Town Convention, Protocol, art VI	
Switzerland		
Syrian Arab Republic		
Tajikistan	✓ - Cape Town Convention, Protocol, art VI	
Thailand		
The Kingdom of the Netherlands	✓ - Cape Town Convention, Protocol, art VI	
The former Yugoslav Republic of Macedonia		

Country	Basic Recognition (Commercial Law)	Eligibility of Nationality Registration
Timor-Leste		
Togo	✓ - Cape Town Convention, Protocol, art VI	
Tonga		
Trinidad and Tobago		
Tunisia		
Turkey	✓ - Cape Town Convention, Protocol, art VI	✓
Turkmenistan		
Tuvalu		
Uganda		
United Arab Emirates	✓ - Cape Town Convention, Protocol, art VI	
Ukraine	✓ - Cape Town Convention,	

Country	Basic Recognition (Commercial Law)	Eligibility of Nationality Registration
	Protocol, art VI	
United Kingdom	✓ - Cape Town Convention, Protocol, art VI	
United Republic of Tanzania	✓ - Cape Town Convention, Protocol, art VI	
United States	✓ - Cape Town Convention, Protocol, art VI	✓
Uruguay		
Uzbekistan		
Vanuatu		
Viet Nam	✓ - Cape Town Convention, Protocol, art VI	✓
Yemen		
Zambia		
Zimbabwe		