FORM B10 (Official Form 10) (04/04)

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF INDIANA

**PROOF OF CLAIM**

| Name of Debtor | Case Number |
|---|---|
| ATA AIRLINES, INC | 04-19868 |

NOTE This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U S C § 503

Name of Creditor (The person or other entity to whom the debtor owes money or property)
KEY EQUIPMENT FINANCE

Name and address where notices should be sent
C/O MICHAEL A AXEL, ESQ
KEYBANK NATIONAL ASSOCIATION
127 PUBLIC SQUARE, SECOND FLOOR
CLEVELAND, OH 44114-1366
Telephone number 216-689-4959

- ☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim Attach copy of statement giving particulars
- ☐ Check box if you have never received any notices from the bankruptcy court in this case
- ☐ Check box if the address differs from the address on the envelope sent to you by the court

RECD JAN 24 2005

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Account or other number by which creditor identifies debtor
Lease #8800018766 / Engine 14854

Check here ☐ replaces if this claim ☐ amends a previously filed claim, dated._____

**1 Basis for Claim**

- ☐ Goods sold
- ☐ Services performed
- ☐ Money loaned
- ☐ Personal injury/wrongful death
- ☐ Taxes
- ☑ Other Lease rejection
- ☐ Retiree benefits as defined in 11 U S C § 1114(a)
- ☐ Wages salaries and compensation (fill out below)
  Last four digits of SS # _____
  Unpaid compensation for services performed
  from _____ (date) to _____ (date)

**2 Date debt was incurred**
January 7 2005

**3 If court judgment, date obtained**
NONE

**4 Total Amount of Claim at Time Case Filed** $ 834,864 12 (unsecured) (see attached) (secured) _____ (priority) _____ (Total)

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 7 below

☑ Check this box if claim includes interest or other charges in addition to the principal amount of the claim Attach itemized statement of all interest or additional charges

**5 Secured Claim**

☐ Check this box if your claim is secured by collateral (including a right of setoff)

Brief Description of Collateral
☐ Real Estate ☐ Motor Vehicle
☑ Other (see attached)

Value of Collateral $_____

Amount of arrearage and other charges at time case filed included in secured claim, if any $_____

**6 Unsecured Nonpriority Claim** $_____

☐ Check this box if a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority

**7 Unsecured Priority Claim**

☐ Check this box if you have an unsecured priority claim

Amount entitled to priority $_____
Specify the priority of the claim

- ☐ Wages, salaries, or commissions (up to $4,925),* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor s business whichever is earlier - 11 U S C § 507(a)(3)
- ☐ Contributions to an employee benefit plan 11 U S C § 507(a)(4)
- ☐ Up to $2 225* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use 11 U S C § 507(a)(6)
- ☐ Alimony maintenance or support owed to a spouse former spouse, or child 11 U S C § 507(a)(7)
- ☐ Taxes or penalties owed to governmental units-11 U S C § 507(a)(8)
- ☐ Other Specify applicable paragraph of 11 U S C § 507(a)(____)

**Amounts are subject to adjustment on 4/1/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment*

**8 Credits** The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim

**9 Supporting Documents** *Attach copies of supporting documents* such as promissory notes purchase orders invoices itemized statements of running accounts contracts court judgments mortgages security agreements, and evidence of perfection of lien DO NOT SEND ORIGINAL DOCUMENTS If the documents are not available explain If the documents are voluminous, attach a summary

**10 Date-Stamped Copy** To receive an acknowledgment of the filing of your claim enclose a stamped self addressed envelope and copy of this proof of claim

THIS SPACE IS FOR COURT USE ONLY

Court file date
1/21/05

| Date | Sign and print the name and title if any of the creditor or other person authorized to file this claim (attach copy of power of attorney if any) |
|---|---|
| Jan 21 2005 | Sally C Barton Designated Signer |

*Penalty for presenting fraudulent claim* Fine of up to $500 000 or imprisonment for up to 5 years or both 18 U S C §§ 152 and 3571

ATA
01339

## Proof of Claim Attachment

**Lease No :** 8800018766 (Engine 14854)
**Lease Date:** 12/20/99

Pursuant to an Order Authorizing Rejection of Leases Pertaining to Engines 14609, 14768 and 14854 entered on January 7, 2005 in these cases (Dkt #1155), ATA Airlines, Inc , debtor and debtor in possession (the "**Debtor**"), was authorized to reject the unexpired lease of personal property described above (the "**Lease**") by and between KeyCorp Leasing, nka Key Equipment Finance, a division of Key Corporate Capital Inc ("**KEF**"), as lessor, and the Debtor, as lessee A copy of the Lease is attached hereto This Proof of Claim evidences KEF's claim against the Debtor based the Debtor's rejection of the Lease pursuant to sections 365(g)(1) and 502(g) of the Bankruptcy Code In addition, KEF may possess certain administrative expense claims against the Debtor on account of the Lease pursuant to sections 365(d)(10) and 503(b)(1)(A), among others, of the Bankruptcy Code, or otherwise, and KEF retains and reserves its right to assert any and all such claims KEF also retains and reserves any and all of its rights with respect to the Lease on account of (a) the Stipulation Regarding Section 1110(b) Extension filed in these cases on December 22, 2004 (Dkt #899) and (b) the Order Authorizing and Approving Agreement Pursuant to 11 U S C § 1110 Filed Under Seal Regarding Two Aircraft and Four Engines entered in these cases on January 3, 2005 (Dkt #1014)

This claim consists of the following

| | | | |
|---|---|---|---|
| Remaining Payments | $830,251 62 | | |
| Late Charges | 4,612 50 | | |
| | | **$834,864.12** | **TOTAL.** |

This claim is a general unsecured claim However, if it is determined that the transaction giving rise to this claim was not a lease, KEF reserves any and all of its rights to assert at any time that this claim is a secured claim

This Lease Agreement has been executed in several counterparts Only the original chattel paper counterpart is marked "Original" on the signature page thereof No security interest in this Lease Agreement may be perfected by possession of any counterpart other than such Original counterpart

# LEASE AGREEMENT 14854

dated as of December 20, 1999

between

KEYCORP LEASING, A DIVISION OF
KEY CORPORATE CAPITAL INC.,

as Lessor,

and

AMERICAN TRANS AIR, INC ,

as Lessee

One Rolls-Royce RB211-524B4 Engine

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Exhibit A Form of Lease Supplement

# Lease Agreement 14854

This Lease Agreement is entered into as of December 20, 1999 between KeyCorp Leasing, a division of Key Corporate Capital Inc ("*Lessor*"), a Michigan corporation, and American Trans Air, Inc ("*Lessee*"), an Indiana corporation

Lessor and Lessee hereby agree as follows

## 1 Definitions, References

1 1 Definitions The following terms, when capitalized as below, have the following meanings

*Appraisal Procedure* a "desk top" appraisal procedure involving three nationally recognized independent aircraft appraisers, one of whom shall be chosen by Lessor and one by Lessee, and the third appraiser shall be chosen by the mutual consent of such two appraisers, *provided* that, if either party fails to appoint an appraiser within ten days after a written request to do so by the other party, or if the two appraisers do not agree or fail to appoint a third appraiser within ten days after the date of the appointment of the second of such appraisers, then such third appraiser shall be appointed by the American Arbitration Association, New York, in accordance with its rules as then in effect The appraisal determined by each of the three appraisers shall be averaged and the appraisal furthest from the average of the three appraisals shall be disregarded The appraisal determined by each of the two remaining appraisers shall be averaged and such average shall be the appraised Fair Market Value or Fair Market Rental Value of such property Lessee and Lessor shall each pay half of all appraiser fees

*Base Term.* the period beginning on January 1, 2000 and ending on December 31, 2006

*Basic Rent* the rent payable pursuant to § 4 1

*Bill of Sale* the full warranty bill of sale covering the Engine, delivered by Seller to Lessor on the Delivery Date

*Business Day* any day, other than a Saturday or Sunday, on which commercial banking institutions in Indianapolis, IN or Albany, NY (or such other city in the United States as Lessor specifies to Lessee by at least 30 days' prior written notice) are generally closed

*Code* the Internal Revenue Code of 1986, as amended from time to time, and analogous provisions of any successor statute

*Default* (1) an event or circumstance that would be an Event of Default but for the requirement(s) that notice be given or time elapse, or (2) an Event of Default

*Default Rate* a rate of interest equal to the following (a) on payments overdue for 30 days or less, the Stipulated Interest Rate plus 1% per annum, and (b) on payments overdue for more than 30 days, the Stipulated Interest Rate plus 3% per annum, in each case computed on the basis of actual days elapsed over a 360-day year, but in no event greater than the maximum rate permitted by applicable law

*Delivery Date* the date on which the Engine is conveyed to Lessor pursuant to the Bill of Sale and unconditionally accepted by Lessee for lease hereunder pursuant to § 2, as evidenced by the execution and delivery of the Lease Supplement dated such date

*Discount Rate* 7% per annum

*DoT* the United States Department of Transportation, or any person, governmental department, bureau, commission, or agency succeeding to the functions of such Department

Early Buyout Date December 31, 2004

*Engine* the Rolls-Royce RB211-524B4 engine listed by manufacturer's serial number in a Lease Supplement, including all Parts incorporated in that engine

*Event of Default* defined in § 16

*Event of Loss* with respect to the Engine, any of the following (i) destruction or damage beyond repair of the Engine or rendition of the Engine permanently unfit for normal use for any reason whatsoever, (ii) any damage to the Engine or other event which results in an insurance settlement with respect to the Engine on the basis of a total loss or constructive or compromised total loss, (iii) condemnation or requisition of title of the Engine, (iv) loss, theft, or disappearance of, or condemnation, confiscation, seizure or requisition of use of, the Engine for a period in excess of 45 consecutive days or which continues beyond the end of the Term, other than a requisition for use (but not of title) by the Government, (v) any requisition for use (but not of title) by the Government for a period which continues beyond the end of the Term, (vi) as a result of any law, rule, regulation, order, or other action by the FAA, DoT, or other governmental body in the United States (including any court) having jurisdiction, the use of the Engine in the normal course of business of air transportation of persons or cargo shall have been prohibited for a period in excess of 180 consecutive days unless Lessee, prior to the expiration of such 180-day period, shall have caused to be undertaken and diligently carried forward all steps

which are necessary or desirable to permit the normal use of the Engine by Lessee, or, in any event, if such prohibition is continuing 225 days after such prohibition commenced or on the last day of the Term, or (vii) any divestiture of title to the Engine treated as an Event of Loss pursuant to § 6 1 or any other provision hereof The date of an Event of Loss shall be the date of the destruction, damage, requisition, loss, etc , involved, except that (1) the date of an Event of Loss described in clause (iv) or (vi) shall be the day after the last day of the period involved or, if earlier, the last day of the Term, and (2) the date of an Event of Loss described in clause (v) shall be deemed to be the last day of the Term

*FAA* the United States Federal Aviation Administration, or any person, governmental department, bureau, commission or agency succeeding to the functions of such Administration

*Fair Market Rental Value* the amount obtainable for the Engine in an arm's-length transaction between an informed and willing lessee under no compulsion to lease and an informed and willing lessor under no compulsion to lease Such amount shall be determined assuming that the Engine is in the condition required by this Lease including the return provisions of § 15, and assuming that all Removable Improvements have been removed If Lessor and Lessee do not agree upon Fair Market Rental Value, it shall be determined in accordance with the Appraisal Procedure

*Fair Market Value* the amount obtainable in an arm's-length transaction between an informed and willing buyer under no compulsion to buy and an informed and willing seller under no compulsion to sell Such amount shall be determined assuming that the Engine is in the condition required by this Lease including the return provisions of § 15, and assuming that all Removable Improvements have been removed If Lessor and Lessee do not agree upon Fair Market Value, it shall be determined in accordance with the Appraisal Procedure

*Government* the government of the United States of America or any instrumentality or agency thereof

*Guarantor* Amtran, Inc , an Indiana corporation

*Guaranty* Guaranty 14854, dated the date of this Lease, issued by Guarantor to Lessor, pertaining to this Lease

*incorporated in* incorporated or installed in, attached to, or otherwise made a part of

*Interim Term* the period beginning on the Delivery Date and ending immediately before the Base Term begins

*Lease* this Lease Agreement

*Lease Supplement* a supplement to this Lease, in the form of Exhibit A

*Lessor's Cost* the purchase price for the Engine set forth in the Lease Supplement therefor

*Lessor's Lien* any Lien arising as a result of (i) claims against Lessor not related to the transactions contemplated by the Operative Documents, or (ii) acts or omissions of Lessor which are not related to the transactions contemplated by the Operative Documents or which are in contravention of such Documents, or (iii) taxes imposed against Lessor not indemnified against by Lessee pursuant to the Tax Indemnity Agreement, or (iv) claims against Lessor arising out of the transfer by Lessor of any interest in the Engine, other than the transfer of possession of the Engine to Lessee by Lessor pursuant to this Lease or a transfer pursuant to § 6, 9, 11, 17, or 18 of this Lease, or (v) any Lien granted by Lessor or its successors and assigns

*Lien* any mortgage, pledge, lien, charge, encumbrance, disposition of title, lease, or security interest

*Operative Documents* this Lease (including each Lease Supplement), the Participation Agreement, the Tax Indemnity Agreement, the Bills of Sale, and the Guaranty

*Participation Agreement* Participation Agreement 14854, dated as of the date hereof, between Lessor and Lessee

*Parts* any and all appliances, parts, instruments, accessories, furnishings, seats, and other equipment of whatever nature which are from time to time incorporated in the Engine, or having been so incorporated, are later removed therefrom, so long as title thereto remains vested in Lessor in accordance with § 9

*Payment Date* January 3, 2000 (with respect to the Interim Term), and the last day of each calendar month thereafter during the Term

*Permitted Air Carrier* (1) any Section 1110 Person, or (2) on and after January 1, 2007, any foreign air carrier that is based in a foreign country listed on Exhibit A to the Participation Agreement, except those that do not maintain normal diplomatic relations with the United States or with which it would constitute a breach of applicable laws for Lessor to engage directly or indirectly in business, provided, in either case, that (at the time that the arrangements between Lessee and such entity become effective) such entity is not (as debtor) part of or subject to any bankruptcy proceeding, petition for bankruptcy, or appointment of a receiver, custodian, trustee, or liquidator for all or most of its property

*Permitted Lien* any Lien permitted pursuant to § 13

*Permitted Sublessee* a sublessee meeting the qualifications set forth in § 6 1(g) or (h)

*Person* any individual, corporation, limited liability company, partnership, joint venture, or other legal or governmental entity

*Prime Rate* a fluctuating rate equal to the rate of interest publicly announced from time to time by Key Bank, N A (or its successor), as its reference, prime, or base lending rate

*Removable Improvement* defined in § 9 4

*Renewal Term* defined in § 18 2

*Rent* Basic Rent and Supplemental Rent, collectively

*Replacement Engine* an engine that (1) has a value, utility, and remaining useful life at least equal to the Engine replaced (such value, utility, and remaining useful life to be determined without regard to hours or cycles remaining until the next scheduled overhaul, but assuming that the Engine replaced was in the condition required by this Lease), and (2) is substituted for an Engine pursuant to § 11 1

*Section 1110 Person.* a "citizen of the United States" (within the meaning of 49 U S C § 40102(a)(15)), who is an air carrier holding a valid air carrier operating certificate issued pursuant to 49 U S C ch 447 for aircraft capable of carrying 10 or more individuals

*Seller* Lessee

*Stipulated Interest Rate* a fluctuating rate per annum equal to the Prime Rate, computed on the basis of actual days elapsed over a 360-day year

*Stipulated Loss Value* for the Engine as of any date of determination the amount determined by multiplying Lessor's Cost for the Engine by the percentage set forth in the Lease Supplement for the Engine opposite the Payment Date following such date of determination (or, if such date of determination is a Payment Date, by the percentage set forth opposite such Payment Date)

*Supplemental Rent* all amounts, liabilities, and obligations (other than Basic Rent) which Lessee assumes or agrees to pay hereunder or under any other Operative Document to Lessor or others

*Tax Indemnity Agreement*: Tax Indemnity Agreement 14854, dated as of the date hereof, between Lessor and Lessee

*Term* the period for which the Engine is leased pursuant to § 3

*Termination Value* as of any date of determination the amount determined by multiplying Lessor's Cost for the Engine by the percentage set forth in the Lease Supplement for the Engine opposite the Payment Date following such date of determination (or, if such date of determination is a Payment Date, by the percentage set forth opposite such Payment Date)

1 2 Usage Any agreement or instrument referred to in § 1 1 means such agreement or instrument as from time to time supplemented and amended References to sections, exhibits, and the like refer to those in or attached to this Agreement unless otherwise specified "Including" means "including but not limited to" "Or" means one or more, or all, of the alternatives listed or described "Herein", "hereof", "hereunder", etc mean in, of, under, etc this Agreement (and not merely in, of, under, etc the section or provision where the reference appears)

## 2 Delivery and Acceptance

On the Delivery Date, subject to § 3 and § 4 of the Participation Agreement, Lessor shall purchase and accept delivery of the Engine from Seller under the Bill of Sale therefor and simultaneously lease the Engine to Lessee hereunder, and Lessee shall accept and lease the Engine hereunder, all as evidenced by their execution and delivery of a Lease Supplement for the Engine

## 3 Term

Subject to § 18 and except as otherwise provided herein, the Term shall commence on the Delivery Date and shall expire at 5 00 p m , Eastern time, on December 31, 2006

## 4 Rent

4 1 Basic Rent Lessee hereby agrees to pay to Lessor Basic Rent for the Engine on January 3, 2000, and throughout the Base Term thereafter monthly in arrears, on each Payment Date, in the amount(s) shown on the Financial Terms Exhibit to the Lease Supplement for the Engine

4 2 Supplemental Rent Lessee shall also pay to Lessor or, at Lessor's direction, to whomever shall be entitled thereto, any and all Supplemental Rent promptly as it becomes due and payable Lessee shall pay to Lessor, as Supplemental Rent, interest at the Default Rate on any part of any installment of Rent not paid on the due date thereof for any period for which it is overdue

4 3 Prohibition Against Setoff, etc Except for a breach of Lessee's quiet enjoyment rights under § 10, Lessee shall pay all Rent payable hereunder without setoff, reduction, or recoupment, and Lessee's obligation to pay all Basic Rent and Supplemental Rent payable hereunder shall not be affected by any circumstance, including (i) any claim which Lessee may have against Lessor or anyone else for any reason whatsoever (whether in connection with the transactions contemplated hereby or any other transactions), including any breach by Lessor of its warranties, agreements, or covenants contained in any of the Operative Documents, (ii) any defect in the title, registration, airworthiness, condition, design, operation, or fitness for use of, or any damage to or loss or destruction of, the Engine, or any interruption or cessation in or prohibition of the use or possession thereof by Lessee (or any Permitted Sublessee) for any reason whatsoever, including any such interruption, cessation, or prohibition resulting from the act of any government authority, (iii) any insolvency, bankruptcy, reorganization, or similar case or proceedings by or against Lessee (or any Permitted Sublessee) or any other person, or (iv) any other circumstance, happening, or event whatsoever, whether or not foreseen or similar to the foregoing, nor shall this Lease terminate because of any such circumstance

4 4 Manner and Place of Payment All amounts to be paid by Lessee hereunder shall be paid to Lessor in U S dollars by wire transfer of immediately available funds, to such account in the United States as Lessor shall designate to Lessee in writing Whenever any payment of Rent is due on a day other than a Business Day, such payment shall be made on the following Business Day, without interest or additional charge

## 5 Disclaimer, Delivery Condition

**Lessor leases and Lessee accepts and leases the Engine"as-is, where-is", and Lessor does not make, and shall not be deemed to have made, and hereby expressly disclaims, any representation or warranty, express or implied, as to the title, airworthiness, condition, value, design, operation, merchantability, or fitness for any particular purpose of the Engine or as to the absence of latent or other defects, whether or not discoverable, as to the infringement of any patent, trademark, copyright, or mask work, as to the absence of obligations based on strict liability in tort, or as to the quality of the material or workmanship in the Engine, or any other express or implied representation or warranty whatsoever with respect thereto,** except that Lessor makes the representations, warranties, and covenants set forth in § 5 2 of the Participation Agreement

## 6 Possession, Use, Lawful Insured Operations, Maintenance, Insignia

6 1 Possession Lessee shall not, without Lessor's prior written consent, sublease or otherwise transfer possession of the Engine, or install the Engine, or permit the Engine to be installed, on any airframe, except that, so long as no Event of Default exists at the beginning of such sublease or other transfer of possession, Lessee may, without Lessor's prior written consent

(a) subject or permit a Permitted Sublessee to subject the Engine to "wet leases" and normal interchange or pooling agreements or arrangements in each case customary in the United States commercial airline industry and entered into by Lessee or such Permitted Sublessee in the ordinary course of its business, provided that no such agreement or arrangement contemplates or requires the transfer or divestiture of title, *provided* that if Lessor's title to the Engine shall be transferred or divested under any such agreement or arrangement, such transfer or divestiture shall be deemed to be an Event of Loss to the Engine and Lessee shall comply with § 11 1,

(b) deliver or permit a Permitted Sublessee to deliver possession of the Engine to the manufacturer thereof for testing or other similar purposes or to any organization for testing, service, repair, maintenance, or overhaul work on the Engine or for alterations or modifications in or additions to the Engine to the extent required or permitted by § 9 4,

(c) subject or permit any Permitted Sublessee to transfer possession of the Engine to the Government pursuant to the Civil Reserve Air Fleet Program (or any similar or substitute program) or otherwise,

(d) install or permit a Permitted Sublessee to install the Engine on an airframe owned by Lessee or such Permitted Sublessee free and clear of all Liens, except (i) those of the type permitted by § 13 and those which do not apply to the Engine, (ii) the rights of other air carriers under normal interchange agreements which are customary in the airline industry and do not contemplate or require the transfer of title to the Engine, and (iii) Liens pursuant to agreements that effectively provide that the secured party thereunder will not acquire any interest in the Engine by reason of its installation on such airframe during the Term,

(e) install or permit a Permitted Sublessee to install the Engine on an airframe leased to Lessee or such Permitted Sublessee or subject to a conditional sale or other security agreement or agreements but only if (i) such airframe is free and clear of all Liens except (aa) the rights of the parties to the lease or conditional sale or other security agreement(s) covering such airframe, (bb) Liens of the type permitted by § 6 1(d), and (cc) Liens which apply only to appliances, parts, instruments, accessories, furnishings, seats, or other equipment installed on such airframe (but not to the airframe as an entirety), and (ii) Lessee or such Permitted Sublessee shall have received from the lessor or secured party of such airframe an agreements (which may be the lease or conditional sale or other security agreement or agreement(s) covering such airframe) whereby such lessor or secured party effectively agrees that it will not acquire any interest in the Engine by reason of its being installed on such airframe any time during the Term,

(f) install or permit a Permitted Sublessee to install the Engine on an airframe owned by Lessee or such Permitted Sublessee, leased to Lessee or such

Permitted Sublessee, or subject to a conditional sale or other security agreement under circumstances where neither clause (d) nor clause (e) of this § 6 1 applies, *provided* that such installation shall be deemed an Event of Loss with respect to the Engine and Lessee shall comply with § 11 1,

(g) sublease the Engine to any Permitted Air Carrier, any airframe or engine manufacturer, or any affiliate of such a manufacturer, who in each case is domiciled in the United States of America or Canada (and any other Permitted Air Carrier, airframe or engine manufacturer, or affiliate of such a manufacturer, who in each case is domiciled in a country in the European Union listed on Exhibit A to the Participation Agreement, with Lessor's prior written consent, which shall not be unreasonably withheld), provided that in each case such Person is not the subject of bankruptcy or similar proceedings when the sublease begins, *provided,* that in the case of any sublease to a foreign Person in accordance with this § 6 1(g), (x) Lessee shall deliver to Lessor, before the Engine is delivered to the sublessee under such sublease, an opinion (from reputable counsel selected by Lessee and reasonably satisfactory to Lessor and licensed to practice law in the country of such foreign Person's domicile), in form and substance reasonably satisfactory to Lessor, and to the effect that (i) all necessary governmental approvals required for the Engine to be imported and, to the extent reasonably obtainable, exported from the applicable country of domicile upon repossession of the Engine by Lessor (and Lessee as sublessor) have been obtained and any exchange permits necessary to allow all payments of rent and other payments under any sublease assigned to Lessor hereunder are in full force and effect, (ii) Lessor's ownership of the Engine will be recognized and enforceable, and will not be impaired by the Sublease, (iii) the proposed sublease is valid, binding, and (except as limited by applicable bankruptcy, insolvency, or similar laws affecting creditors' or lessors' rights generally and by general equitable (or similar) principles) is enforceable against such foreign Person under the laws of such country, and (iv) the sublease will not require Lessor to register to do business in a new country, (y) such sublease shall not commence before January 1, 2007, and (z) such sublease provides that the Engine will not be operated into a country with which the United States is conducting ongoing hostilities, and

(h) sublease the Engine to any Person not described in § 6 1(g), if Lessee has obtained Lessor's prior written consent (which shall not be unreasonably withheld),

*provided, further,* with respect to this § 6 1, that

(1) the rights of any transferee who receives possession by reason of a transfer permitted by this § 6 1 shall be subject and subordinate to, and any sublease permitted by this § 6 1 shall be made expressly subject and subordinate to, all the terms of this Lease, and to Lessor's rights, powers, and remedies hereunder, including the rights to repossession pursuant to § 17 and to terminate and avoid such sublease upon such

repossession and to require such sublessee forthwith to deliver the Engine subject to such sublease upon such repossession,

(2) Lessee shall remain primarily liable hereunder for the performance of all the terms of this Lease to the same extent as if such sublease or transfer had not occurred, and

(3) Lessee shall assign to Lessor as security for performance of Lessee's obligations hereunder any sublease in excess of one year (payment of rent and any other amounts owing under any such sublease nevertheless to be made directly to Lessee unless and until the sublessee has been notified by Lessor that this Lease has been declared in default as the result of an Event of Default)

Lessee shall deliver to Lessor, promptly after execution thereof, a duly executed copy of any sublease permitted hereunder No interchange, pooling agreement, sublease, transfer, or other relinquishment of possession of the Engine shall in any way discharge or diminish any of Lessee's obligations to Lessor hereunder

6 2 Lawful Insured Operations Lessee will not, and will cause any Permitted Sublessee not to, maintain, use, or operate the Engine in violation of any law, treaty, statute, rule, regulation, or order of any government or governmental authority having jurisdiction, or in violation of any airworthiness certificate or registration relating thereto, except to the extent Lessee or a Permitted Sublessee is contesting in good faith the validity or application of such law, rule, regulation, or order in any reasonable manner which does not materially adversely affect Lessor's interest in the Engine Lessee agrees not to operate the Engine, or suffer the Engine to be operated, (a) unless the Engine is covered by insurance as required by the provisions of § 12, or (b) contrary to the terms of the insurance required by the provisions of § 12.

6 3 Maintenance Lessee shall cause the Engine to be serviced, repaired, overhauled, and maintained in accordance with an FAA-approved maintenance program (a) so as to keep the Engine in good operating condition in the same manner and with the same care as Lessee or such Permitted Sublessee uses with respect to similar engines that it operates, and to comply with all Airworthiness Directives of the FAA, and (b) so as to keep the Engine in such operating condition as may be necessary to enable the airworthiness certificate for the related aircraft to be maintained in good standing at all times under the applicable rules and regulations of the FAA, except to the extent Lessee or a Permitted Sublessee is contesting in good faith the validity or applicability of such rule or regulation in any reasonable manner which does not materially adversely affect Lessor's interest in the Engine Lessee agrees not to (and to cause any Permitted Sublessee not to) discriminate against the Engine (as compared to other engines of the same type operated by Lessee or such Permitted Lessee) with respect to maintenance other than in contemplation of return to Lessor upon expiration of the Term However, Lessee shall in any event

maintain the Engine with the same standard of care and workmanship as the same or comparable model of engines operated by Lessee, and will not discriminate with respect to the maintenance and return of the Engine in making choices for engine repairs in any shop visit (*viz*, engine maintenance involving breaking open an engine flange) that would have an adverse effect on the return conditions applicable to the Engine relative to choices that Lessee makes for other engines of the same or comparable model operated by Lessee Lessee shall also maintain, and cause any Permitted Sublessee to maintain, in English, all records, logs, and other materials required by the FAA to be maintained in respect of the Engine, and promptly furnish to Lessor upon Lessor's written request such information as is reasonably available to Lessee and as shall be required to enable Lessor to file any reports required to be filed with any governmental authority because of Lessor's interest in the Engine All service, inspections, overhauls, maintenance, directives, repairs, and improvements with respect to or affecting the Engine shall be made and performed only by appropriately licensed, certificated, and qualified personnel, in accordance with applicable requirements of the FAA or any other such governmental authority having jurisdiction with respect thereto

6 4 Insignia Lessee shall, within 30 days after receipt, affix on the Engine a metal nameplate or stencil provided by Lessor bearing the inscription "KeyCorp Leasing, a division of Key Corporate Capital Inc , Owner and Lessor", or such other inscription reflecting the interests of Lessor as Lessor reasonably requests

## 7 Inspection, Financial Information

7 1 Inspection During the Term, Lessee shall furnish to Lessor such information concerning the location, condition, use, and operation of the Engine as Lessor reasonably requests Lessee shall permit any person designated in writing by Lessor, at Lessor's expense, to visit and inspect (at any reasonable time upon reasonable notice, *provided* that such inspection shall not unreasonably interfere in any respect with Lessee's operation or maintenance of the Engine) the Engine and the records maintained in connection therewith and, at Lessor's expense, to make copies of such records as Lessor reasonably designates Lessor shall not have any duty to make any such inspection or incur any liability or obligation by reason of not making any such inspection Upon written request from Lessor, Lessee shall provide Lessor with the anticipated dates of any scheduled major maintenance check involving the Engine within the six-month period following such request

7 2 Financial Information Lessee also agrees to furnish to Lessor during the Term

(a) as soon as possible and in any event within ten days after the occurrence of any Event of Default, a certificate of Lessee, signed by a vice

president of Lessee, setting forth in detail the nature of such Event of Default and the action that Lessee proposes to take with respect thereto,

(b) as soon as available, and in any event within 45 days after the end of each of the first three fiscal quarters, an unaudited balance sheet of Lessee and its consolidated affiliates, as of the end of such quarter and related unaudited statements of income and retained earnings and change in financial position of Lessee and its consolidated affiliates, setting forth in each case in comparative form the corresponding figures for the corresponding period of the preceding fiscal year, in accordance with generally accepted accounting principles, and certified by a financial officer as fairly presenting the financial condition and results for Lessee and its consolidated affiliates for such date and period,

(c) as soon as available, and in any event within 90 days after the end of each fiscal year of Lessee, an audited financial report for Lessee and its consolidated affiliates for such year, including therein a balance sheet of Lessee and its consolidated affiliates as of the end of such fiscal year and related statements of income and retained earnings and changes in financial position of Lessee and its consolidated affiliates for such fiscal year, setting forth in each case in comparative form corresponding figures for the preceding fiscal year, in accordance with generally accepted accounting principles, all in reasonable detail and as certified by Lessee's independent public accountants, including their certificate and accompanying comments (which accountants shall be a "Big 5" (or successor) firm, or another firm of recognized standing and reasonably acceptable to Lessor), and

(d) from time to time such other information as Lessor reasonably requests with respect to Lessee's operations in order to determine whether the terms of this Lease have been complied with by Lessee

8 Lessee's Continuing Identity

Lessee covenants that, during the Term

8 1 Corporate Existence Except as permitted by § 8 2, Lessee shall at all times maintain its corporate existence

8 2 Merger Lessee shall not consolidate with or merge into any other corporation, or convey, transfer, or lease all or substantially all of its assets as an entirety to any person, unless

(a) the corporation formed by such consolidation or merger or the person which acquires by conveyance, transfer or lease all or substantially all of the assets of Lessee as an entirety (the *"Successor"*) (1) shall be a corporation organized and existing under the laws of the United States of America or any state or the District of Columbia, (2) shall be a "Section 1110 Person", (3) shall

assume the due and punctual performance and observance of Lessee's covenants in this Lease, (4) shall make such filings and recordings, including any filing or recording with the FAA, as shall be necessary to evidence such consolidation, merger, conveyance, transfer, or lease with or to the Successor, and (5) shall have a tangible net worth at least equal to Lessee's tangible net worth on June 30, 1998 or 90% of Lessee's tangible net worth immediately before such consolidation or merger, whichever is less, and

(b) immediately after giving effect to such transaction, no Event of Default exists

Upon any such consolidation, merger, conveyance, transfer, or lease, the Successor shall succeed to, shall be substituted for, and may exercise every right and power of Lessee under this Lease to which Lessee is a party with the same effect as if the Successor had been named as Lessee therein No such conveyance, transfer, or lease of substantially all the assets of Lessee as an entirety shall have the effect of releasing Lessee or any Successor which shall theretofore have become such in the manner prescribed in this § 8 2 from its liability hereunder Nothing contained herein shall permit any lease, sublease, or other arrangement for the use, operation, or possession of the Engine except in compliance with the applicable provisions of this Lease

8 3 Air Carrier Status Lessee will continue to be a Section 1110 Person authorized to engage in air transportation under 49 U S C subtitle VII

9 Replacement and Pooling of Parts, Alterations, Modifications, and Additions

9 1 Replacement of Parts Lessee, at Lessee's cost, shall promptly replace all Parts, other than Removable Improvements, which may from time to time become worn out, lost, stolen, destroyed, seized, confiscated, damaged beyond repair, or permanently rendered unfit for use for any reason whatsoever In addition, in the ordinary course of maintenance, service, repair, overhaul, or testing, Lessee may remove any Part, whether or not worn out, lost, stolen, destroyed, seized, confiscated, damaged beyond repair, or permanently rendered unfit for use, *provided* that Lessee shall promptly replace such Part All replacement Parts (other than Removable Improvements) shall be free and clear of all Liens, except Permitted Liens and pooling arrangements permitted under § 9 3, and shall have a value and utility at least equal to the original Parts replaced, assuming such original replaced Parts were in the condition and repair required to be maintained by the terms hereof

9 2 Title to Replaced and Replacement Parts All Parts (other than Removable Improvements) removed from the Engine shall remain the property of Lessor, and subject to this Lease, no matter where located, until such time as such Parts shall be replaced by Parts which have been incorporated in the Engine and which meet the requirements for replacement Parts specified above

Immediately upon any replacement Part's becoming incorporated in the Engine as above provided, without further act, (a) title to the replaced Part shall vest in Lessee, free and clear of all rights of Lessor, (b) such replaced Part shall no longer be deemed a Part hereunder, (c) title to the replacement Part shall thereupon vest in Lessor (subject to no Lien other than Permitted Liens and pooling arrangements permitted by § 9 3), and (d) such replacement Part shall become subject to this Lease and be deemed to be a Part hereunder to the same extent as the Parts originally incorporated in the Engine

9 3 Pooling Any Part removed from the Engine as provided in § 9 1 and § 9 2 may be subjected to a normal pooling arrangement customary in the airline industry entered into by Lessee or a Permitted Sublessee in the ordinary course of its business, *provided* that the Part replacing such removed Part shall be incorporated in the Engine in accordance with this section promptly after the removal of such removed Part Any replacement Part when incorporated in the Engine in accordance with such sections may be owned by a third party subject to such a normal pooling arrangement, *provided* that Lessee shall promptly either (i) cause title to such replacement Part to vest in Lessor in accordance with such sections by Lessee's acquiring title thereto for the benefit of, and transferring such title to, Lessor free and clear of all Liens (except Permitted Liens) or (ii) replace such replacement Part by causing to be incorporated in the Engine a further replacement Part owned by Lessee free and clear of all Liens (except Permitted Liens) and by causing title to such further replacement Part to vest in Lessor in accordance with such sections

9 4 Alterations, Modifications, and Additions Lessee, at Lessee's cost, will make such alterations and modifications in and additions to the Engine as may be required from time to time to meet the requirements of the FAA and any other governmental authority having jurisdiction and to maintain a Standard Airworthiness Certificate for the related aircraft In addition, Lessee, at Lessee's cost, may from time to time make such alterations to, modifications in, and additions to the Engine as Lessee may deem desirable in the proper conduct of its business, *provided* that no such alteration, modification, addition, or removal shall diminish the value, utility, or remaining useful life of the Engine below the value, utility, or remaining useful life thereof immediately before such alteration, modification, addition, or removal, assuming that the Engine was then in the condition in which it was required to be maintained by the terms of this Lease Title to all Parts incorporated in the Engine as the result of such alteration, modification, or addition shall, without further act, vest in Lessor, except that title to Removable Improvements shall remain in or may be transferred to Lessee or any third-party owner Lessee, at Lessee's cost, may, at any time during the Term, remove any "Removable Improvement", which for purposes hereof shall mean any Part that (i) is in addition to, and not in replacement of or substitution for (x) any Part originally incorporated in the Engine at the time of delivery thereof to Lessee, or (y) any Part in replacement of or substitution for any such Part, (ii) is not required to be incorporated in the Engine pursuant to the terms of this § 9 4, and (iii) can be removed from the Engine without causing damage to

the Engine (unless such damage is promptly repaired) and without diminishing the value or utility required to be maintained by the terms of this Lease which the Engine would have had at such time had such alteration, modification, or addition not been made Upon the removal by Lessee of any Part as provided in the immediately preceding two sentences, title thereto (if previously in Lessor) shall, without further act, vest in Lessee and such Part shall no longer be deemed part of the Engine from which it was removed Any Part not removed by Lessee prior to the return of the Engine to Lessor hereunder shall, subject to such rights as any third party may have, remain (or, in the case of a Removable Improvement, become) the property of Lessor

10 Quiet Enjoyment

Lessor covenants that it shall not, except as expressly permitted herein, disturb (or permit any Person acting by, through, or under Lessor to disturb) Lessee's or any Permitted Sublessee's possession and use of the Engine, or take (or permit any such Person to take) any action inconsistent with Lessee's right peacefully and quietly to hold, possess, and use the Engine hereunder

11 Loss, Destruction, Requisition, etc

11 1 Event of Loss Upon the occurrence of an Event of Loss to the Engine, Lessee shall (x) forthwith (and in any event within 15 days after such occurrence) give to Lessor written notice of such Event of Loss identifying Lessee's election to replace the Engine or to make the payment in accordance with § 11 1(b), and (y) comply with § 11 1(b), unless, within 30 days after such occurrence, no Event of Default shall exist and Lessee shall have given to Lessor written notice of Lessee's election to replace the Engine pursuant to § 11 1(a)

(a) Replacement of Engine If Lessee so elects to replace the Engine, then on or before the 60th day following the date of occurrence of such Event of Loss, Lessee shall convey or cause to be conveyed to Lessor, to be leased by Lessee hereunder, a Replacement Engine (which need not be new), which shall be free and clear of all Liens (except Permitted Liens) If Lessee does not perform its obligation to effect such replacement hereunder during the period of time provided herein, then Lessee shall pay to Lessor, on the 61st day following the date of occurrence of such Event of Loss in the manner and in funds of the type specified in § 4 4, the Stipulated Loss Value for the Engine in accordance with § 11 1(b)

(b) Payment of Stipulated Loss Value and Rent If Lessee does not so elect to replace the Engine, then on or before the Business Day before the earlier of (1) the 61st day after the date of the occurrence of such Event of Loss, or (2) no more than five days after the receipt of any and all insurance proceeds with respect to such occurrence (the *"Loss Payment Date"*), Lessee shall pay to Lessor, in the manner and in funds of the type specified in § 4 4, an amount equal to the sum of (aa) the Stipulated Loss Value for the Engine calculated as of the

Payment Date following the Event of Loss (the *"Loss Computation Date"*), (bb) any installment of Basic Rent due and unpaid on or prior to the Loss Computation Date, (cc) all Supplemental Rent then due and owing on the Loss Payment Date, and (dd) interest on the amounts described in clauses (aa) and (bb) of this § 11 1(b) from the Loss Computation Date to the Loss Payment Date at the Stipulated Interest Rate Lessee shall be entitled to a credit against the amount determined in accordance with the preceding sentence equal to the sum of (x) any amounts of Basic Rent paid by Lessee for the period, if any, on and after the Loss Computation Date plus (y) interest from the Loss Computation Date to the Loss Payment Date on each such amount of Basic Rent at the Stipulated Interest Rate

(c) Termination Upon Payment of SLV Upon payment in full of the amount required pursuant to § 11 1(b)(aa), (1) Lessee's obligation to pay Basic Rent hereunder with respect to the Engine for any period commencing on or after the Loss Computation Date shall terminate, (2) the Term shall end, and (3) Lessor will (subject to the rights of any insurer) transfer to Lessee all right, title, and interest in the Engine conveyed to Lessor, "as-is, where-is", free and clear of Lessor's Liens but otherwise without recourse or warranty, express or implied

(d) Payment of Basic Rent Pending Replacement In the event of the replacement of the Engine pursuant to § 11 1(a), during the period between the occurrence of the Event of Loss and date of such replacement, the obligation of Lessee to pay Basic Rent shall continue

(e) Conditions to Replacement of Engine Lessee's right to replace contemplated by § 11 1(a) shall be subject to the fulfillment, in addition to the requirements contained in § 11 1(a), of the conditions precedent set forth below·

(1) No Event of Default shall exist on the replacement date

(2) On or before the replacement date, Lessee will (all writing referred to below to be reasonably satisfactory in form and substance to Lessor)

(aa) furnish Lessor with a full warranty (as to title) bill or bills of sale duly conveying to Lessor the Replacement Engine, together with such evidence of title as Lessor reasonably requests,

(bb) deliver to Lessor for execution a Lease Supplement subjecting such Replacement Engine to this Lease, duly executed by Lessee, and, upon such execution, cause that Lease Supplement to be duly filed for recordation with the FAA to the extent permitted by law,

(cc) furnish Lessor with such evidence of compliance with the insurance provisions of § 12 with respect to the Replacement Engine as Lessor reasonably requests,

(dd) furnish Lessor with a certificate to the effect that the Replacement Engine has a value, utility, and remaining useful life at least equal to that of the Engine replaced (determined without regard to hours or cycles remaining until the next scheduled overhaul, but assuming the Engine replaced was in the condition and repair required by the terms hereof immediately before such Event of Loss occurred), and

(ee) take such other actions and furnish such other certificates and documents as Lessor reasonably requests in order that the Replacement Engine be duly and properly titled in Lessor and leased hereunder to the same extent as the Engine replaced thereby

(f) Recordation and Opinions Promptly after the recordation of the Lease Supplement covering the Replacement Engine at the FAA, Lessee will cause to be delivered to Lessor an opinion of counsel reasonably satisfactory to Lessor as to the due recordation of such Lease Supplement at the FAA

(g) Conveyance Upon compliance by Lessee with clauses (a), (d), (e), and (f) of this § 11 1, Lessor will (subject to the rights of any insurer) transfer to Lessee all right, title, and interest conveyed to Lessor in the replaced Engine, "as-is, where-is", free and clear of Lessor's Liens but otherwise without recourse or warranty, express or implied

11 2 Application of Payments for Requisition of Title Any payments (other than insurance proceeds, the application of which is provided for in § 12) received at any time by Lessor, Lessee, or any Permitted Sublessee from any governmental authority or other Person with respect to any Event of Loss will be applied as follows so much of such payments as do not exceed the amounts payable pursuant to § 11 1(a) and any other amounts due and owing to Lessor hereunder shall be applied to pay such amounts (or reimburse Lessee for its payment of such amounts), and the balance, if any, of such payment remaining thereafter shall be paid over to Lessee

11 3 Requisition of Use In the event of the requisition for use by the Government of the Engine during the Term, Lessee shall promptly notify Lessor of such requisition and all of Lessee's obligations under this Lease shall continue to the same extent as if such requisition had not occurred All payments received by Lessor or Lessee from the Government for the use of the Engine shall be paid over to, or retained by, Lessee

11 4 Application of Payments During Default Any amount for requisition of title or requisition of use of the Engine referred to in this § 11 which is payable to or retainable by Lessee (or any Permitted Sublessee) shall not be paid to or retained by Lessee (or any Permitted Sublessee) if at the time of such payment or

retention an Event of Default exists, but shall be held by or paid to Lessor and applied against the obligations of Lessee under this Lease, and at such time as no Event of Default exists, such amount shall be paid to Lessee (or such Permitted Sublessee) to the extent not previously applied in accordance with this sentence

## 12 Insurance

12 1 Liability Insurance Lessee shall maintain (or cause to be maintained) in effect, with insurers of recognized responsibility, aircraft public liability insurance and property damage liability insurance with respect to the Engine in an amount not less than that carried by Lessee or a Permitted Sublessee on similar equipment that it operates, and in no event less than $200,000,000 for any one occurrence, or series of occurrences arising out of any one event, with respect to the Engine Lessee may self-insure with respect to public liability coverage to the extent permitted by § 12 2 Any policies of insurance carried in accordance with this § 12 1 shall (1) name Lessor as an additional insured as its interests may appear, (2) provide that in respect of the interest of Lessor in such policies, the insurance shall not be invalidated by any action or inaction of Lessee (or, if any sublease is then in effect, any Permitted Sublessee) and shall insure Lessor regardless of any breach or violation of any warranty, declaration, or condition contained in such policies by Lessee (or, if any sublease is then in effect, any Permitted Sublessee), (3) provide that if the insurers cancel such insurance for any reason whatever, or if there is any materially adverse (to Lessor) change in policy terms and conditions or coverage, such cancellation, lapse, or change shall not be effective as to Lessor until 30 days (seven days, or such other period as may from time to time be customarily obtainable in the industry, in the case of war risk and allied perils coverage) after written notice from such insurers of such cancellation, lapse, or change, and (4) provide that Lessor shall not have any obligation or liability for premiums, commissions, assessments, or calls in connection with such insurance Each liability policy shall (i) be primary without right of contribution from any other insurance which is carried by Lessor, (ii) expressly provide that all of the provisions thereof, except the limits of liability, shall operate in the same manner as if there were a separate policy covering Lessor, and (iii) waive any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of Lessor to the extent of any money due to Lessor

12 2 Casualty Insurance Lessee shall maintain (or cause to be maintained) in effect with insurers of recognized responsibility (a) all-risk ground and flight aircraft hull insurance covering the Engine, and (b) fire and extended coverage with respect to the Engine while removed from an airframe, and (c) at all times that the Engine is not covered by the insurance described in § 12 3, coverage against the perils of (i) strikes, riots, civil commotions, or labor disturbances, (ii) vandalism, malicious acts, or acts of sabotage, and (iii) hijacking, or unlawful seizure or wrongful exercise of control of an aircraft or

crew in flight made by person or persons on board the aircraft without the consent of the insured, other than hijacking committed by persons engaged in a program of irregular warfare for terrorist purposes, in each case to the extent insured by the standard "buy-back" provisions to the Common North American Airline War Exclusion Clause as currently available in the United States aviation insurance market or its equivalent Such insurance shall be for an amount not less than the Stipulated Loss Value Lessee may self-insure, by way of deductible or premium adjustment provisions in insurance policies or otherwise, the risks required to be insured against pursuant to § 12 1 and this § 12 2 in such amounts as Lessee customarily maintains with respect to similar engines that it operates, but not in amounts greater than those in effect at that time in the aviation insurance industry generally with respect to other similar engines and then customarily maintained by major United States air carriers operating similar equipment to similar destinations, and in any event not more than $1 million per occurrence Any policies carried in accordance with this § 12 2 and any policies taken out in substitution or replacement for any such policies shall (1) name Lessor as an additional insured and as a loss payee as its interests may appear, (2) provide that, in the event of a loss involving proceeds in excess of $500,000, the proceeds in respect of such loss up to the amount of Stipulated Loss Value shall be payable to Lessor for application pursuant to the provisions of this Lease and the entire amount of any loss involving proceeds of $500,000 or less (unless an Event of Default exists and the insurers have been notified thereof by Lessor) shall be paid to Lessee or its order, (3) provide that if such insurance is cancelled for any reason whatsoever, or any materially adverse (to Lessor) change is made in policy terms, conditions, or coverage, or such insurance is allowed to lapse for non-payment of premium, such cancellation, change, or lapse shall not be effective as to Lessor for 30 days (seven days, or such other period as may from time to time be customarily obtainable in the industry, in the case of war risk and allied perils coverage), after written notice from such insurers of such cancellation, lapse, or change, (4) provide that losses shall be adjusted with Lessee, (5) provide that in respect of Lessor, such insurance shall not be invalidated by any action or inaction of Lessee (or if any sublease is then in effect, any Permitted Sublessee) and shall insure Lessor regardless of any breach contained in such policies by Lessee (or if any sublease is then in effect, any Permitted Sublessee), (6) be primary without right of contribution from any other insurance which is carried by Lessor with respect to its interest in the Engine, (7) waive any right of subrogation of the insurers against Lessor, (8) waive any right of the insurers to set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of a liability of Lessor or Lessee (or any Permitted Sublessee) to the extent of any money due to Lessor, and (9) provide that Lessor shall not have any obligation or liability for premiums, commissions, assessments, or calls in connection with such insurance

12 3 War-Risk Insurance If at any time

(a) the Engine is operated in a war zone or a recognized area of hostilities, or

(b) Lessee customarily maintains such insurance for similar engines operated by Lessee by reason of being operated to the same destination as the Engine is being operated, or

(c) it is an industry standard of scheduled United States air carriers to maintain such insurance on aircraft being operated to the same destination by reason of operation to such destination,

then Lessee shall maintain (or cause to be maintained) war-risk insurance (or Government indemnification in lieu thereof) in an amount not less than the Stipulated Loss Value of the Engine (but subject to deductibles or self-insurance specified in § 12 2)

12 4 Application of Proceeds Provided no Event of Default exists, all insurance payments received under policies required to be maintained pursuant to § 12 as the result of the occurrence of an Event of Loss shall be applied in accordance with § 11 2 Insurance payments relating to any property damage or loss to the Engine not constituting an Event of Loss thereto will be applied to pay for repairs or for replacement property in accordance with the terms of § 6 and § 9, if not already paid for by Lessee (or to reimburse Lessee for such repairs or replacements already paid for by Lessee), and any balance remaining after compliance with such sections with respect to such loss shall be paid to Lessee Any amount representing proceeds of insurance required to be maintained by Lessee hereunder which is payable to or retainable by Lessee (or any Permitted Sublessee) shall not be paid to or retained by Lessee (or any Permitted Sublessee) if at the time of such payment an Event of Default exists, but shall be held by or paid to Lessor as security for the obligations of Lessee under this Lease and such amount (to the extent not previously applied against such obligations) shall be paid to Lessee (or any Permitted Sublessee) at such time as no Event of Default exists

12 5 Reports, etc On or before the Delivery Date, and at least once a year thereafter, Lessee will furnish to Lessor a report signed by a firm of independent insurance brokers then retained by Lessee, attaching certificates evidencing the insurance and reinsurance then carried and maintained with respect to the Engine and stating that in the opinion of such firm the insurance then carried or maintained with respect to the Engine complies with the terms hereof. Lessee will cause such firm to notify Lessor in writing promptly of any default in the payment of any premium and of any other act or omission on the part of Lessee of which they have knowledge which might invalidate or render unenforceable, in whole or in part, any insurance on the Engine The endorsements required by this § 12 may be subject to any reasonable limitations on endorsements generally prevailing in the airline insurance marketplace (for example, on the date of this Lease, AVN 67B)

12 6 Governmental Indemnification in Lieu of Insurance In the event of the requisition for use by the Government of the Engine during the Term, Lessee shall maintain or cause to be maintained such insurance as would otherwise be required hereunder, *provided* that Lessor shall accept, in lieu of any such insurance coverage, indemnification or insurance from the Government which is in all material respects the same as that required hereunder so long as Lessee delivers to Lessor documentation substantiating such coverage reasonably acceptable to Lessor

12 7 Additional Insurance Lessee at its option may obtain insurance with respect to its interest in the Engine, provided that such insurance does not prevent Lessee from obtaining the insurance required by this § 12 No such insurance shall be subject to this § 12 Lessor may carry for its own account at its sole expense insurance with respect to its interest in the Engine, but in no event shall such insurance prevent Lessee from carrying insurance required by this § 12 Any insurance carried by Lessor shall require its insurers to waive all rights to salvage

## 13 Liens

Lessee shall not, directly or indirectly, create, incur, assume, or suffer to exist any Lien on or with respect to the Engine, title thereto, or any interest therein, or in this Lease, except (i) the rights of Lessor and Lessee as provided herein and in the other Operative Documents, and the rights of Lessee and others permitted by § 6 and § 9, (ii) Lessor's Liens, (iii) Liens for taxes, assessments, or other governmental charges owing by Lessee (or any Permitted Lessee) either not yet due or being contested in good faith (and for the payment of which adequate reserves have been provided) and by appropriate proceedings so long as such proceedings do not involve any unreasonable danger of the sale, forfeiture, or loss of the Engine or interest therein, (iv) materialmen's, mechanics', workmen's, repairmen's, employees', or other like liens arising in the ordinary course of Lessee's (or any Permitted Sublessee's) business, securing obligations that are not yet delinquent or are being contested in good faith (and for the payment of which adequate reserves have been provided) by appropriate proceedings so long as such proceedings do not involve any unreasonable danger of sale, forfeiture, or loss of the Engine or any interest therein, and (v) Liens arising out of any judgment or award against Lessee (or any Permitted Sublessee), unless the judgment or award secured shall not, within 30 days after entry thereof, (x) have been discharged, vacated, or reversed, or (y) have had the execution thereof stayed pending appeal and shall not have been discharged, vacated, or reversed within 30 days after the expiration of such stay Lessee shall promptly, at no expense to Lessor, take such action as may be necessary duly to discharge any such Lien not excepted above if one arises at any time with respect to the Engine

## 14 FAA Recordation and Further Assurances

14 1 FAA Recordation Lessee shall cause this Lease, every Lease Supplement, and any and all additional instruments which shall be executed pursuant to the terms hereof, so far as permitted by applicable law or regulations, to be duly filed and recorded, and maintained of record, in accordance with applicable U S law, which shall be in the office of the FAA The cost of all such action (including all fees and expenses of special FAA counsel related thereto) shall be paid by Lessee

14 2 Further Assurances At Lessee's expense, each party hereto shall promptly and duly execute and deliver to the other party such further documents and promptly take such further action not inconsistent with the terms hereof as the other party may from time to time reasonably request in order more effectively to carry out the intent and purpose of this Lease or to perfect and protect the rights and, with respect to Lessor, remedies created or intended to be created hereunder

## 15 Return

15 1 General Condition Upon Return Unless Lessee exercises its option to purchase pursuant to § 18 1, then upon the expiration of the Term or termination of this Lease, Lessee will return the Engine to Lessor by delivering it to Lessor at a location in the continental United States (excluding Alaska) designated by Lessee All costs associated with such delivery shall be borne by Lessee At the time of such return

(a) the Engine shall be airworthy and shall not be in a condition that would prevent any aircraft on which it would be installed from having a currently valid Standard Airworthiness Certificate issued by the FAA,

(b) the Engine shall be free of Liens (except Lessor's Liens),

(c) the Engine shall be in as good condition as when delivered to Lessee, ordinary wear and tear excepted,

(d) the Engine shall comply with all applicable Federal Aviation Regulations (*FARs*) and airworthiness directives (*ADs*) issued by the FAA affecting such model engine which by their terms require compliance on or before the return date, notwithstanding any waiver, deviation, or time extension obtained by Lessee or any sublessee from the FAA or otherwise (industry-wide waivers, deviations, and time extensions not being considered to be "obtained by Lessee or any sublessee" for this purpose),

(e) the Engine shall not have any open, deferred, or placarded maintenance items, or watch items, nor shall it have any hour, cycle, or calendar time extensions, waivers, or non-transferable alternate methods of compliance,

(f) all systems shall be operational for their intended functions, Lessee shall operationally check all systems (in the presence of Lessor or its representatives, if so requested) prior to the return of the Engine, and all defects found shall be permanently repaired by Lessee prior to return,

(g) Lessee shall deliver to Lessor, at no cost to Lessor, all service bulletin kits furnished without charge by a manufacturer for installation on the Engine which have not been so installed, together with appropriate instructions for installation provided with such kits,

(h) the Engine shall be made available before the anticipated date of return for an operational test flight, not to exceed two hours, on an aircraft supplied by Lessee, which test flight shall be conducted by Lessee using Lessee's standard flight test procedures Up to three persons designated by Lessor may participate in such flight as observers. Lessee shall correct any discrepancy from the condition required under this § 15 A test cell run may be substituted for the test flight at Lessee's option, and

(i) immediately prior to the return date, at Lessee's expense, Lessee shall cause to be performed in the presence of a representative or representatives of Lessor a full cold and hot section borescope inspection of the Engine and full on-wing maximum power assurance runs, all in accordance with Lessee's FAA-approved maintenance program

15 2 Overhaul Status At the time of return

(a) the Engine shall have at least 50% of the total flight hours, cycles, or days (whichever is the most limiting) remaining to its next scheduled shop visit pursuant to Lessee's FAA-approved maintenance program (or, if no scheduled shop visit interval is defined in Lessee's FAA-approved maintenance program, the Engine shall have at least 50% of the total flight hours, cycles, or days (whichever is the most limiting) remaining to the next scheduled shop visit based on Lessee's MTBR for engines),

(b) the Engine "life limited parts", if any, defined as such under the manufacturer's overhaul or maintenance manual, shall have remaining until the next overhaul, scheduled repair, or shop visit (whichever is applicable), on average, 50% of the allowable flight hours, cycles, or days (whichever is most limiting) between such overhaul, repair, or shop visit permitted by such manufacturers, and

(c) the Engine (and next "limiter" therein) shall have a minimum of 6,000 flight hours or 2,000 cycles (whichever is the more limiting) remaining to its next scheduled shop visit or off-wing maintenance requirement

For the purposes of determining the most limiting standards under clauses (a),

(b), and (c) and clauses (aa), (bb), and (cc) of this § 5 2, Lessee's Flight Hour to Cycle ratio shall be deemed to be 3 1

(aa) If on the return date the number of flight hours or cycles (whichever is more limiting) remaining until the next overhaul, scheduled repair, or shop visit (the *"Actual Engine Status"*) for the Engine is less than the corresponding half-time status for the Engine, Lessor shall be deemed to have a credit equal to (x) Lessee's actual cost for an overhaul of the Engine multiplied by (y) the difference (expressed as a decimal) between the half-time status for the Engine and the Actual Engine Status If on the return date the Actual Engine Status is more than the corresponding half-time status for the Engine, Lessee shall be deemed to have a credit equal to (xx) Lessee's actual cost for an overhaul of the Engine multiplied by (yy) the difference between the Actual Engine Status and the half-time status for the Engine

(bb) If on the return date the actual flight hours, cycles, or calendar time (whichever is more limiting) remaining until the scheduled removal at the expiration of the useable life (the *"Actual Life Limited Part Status"*) of any life limited part relating to the Engine is less than the corresponding half-time status for each such life limited part, Lessor shall be deemed to have a credit for each such life limited part equal to (x) Lessee's actual cost to repair or replace such life limited part multiplied by (y) the difference (expressed as a decimal) between the half-time status for such life limited part and the Actual Life Limited Part Status If on the return date the Actual Life Limited Part Status for any life limited part is more than the corresponding half-time status for such life limited part, Lessee shall be deemed to have a credit equal to (xx) Lessee's actual cost to repair or replace such life limited part multiplied by (yy) the difference between the Actual Life Limited Part Status and the half-time status for such life limited part

(cc) To the extent that the sum of all of the credits applicable to Lessor pursuant to clauses (aa) and (bb) (the *"Lessor Credits"*) exceeds the sum of all of the credits applicable to Lessee pursuant to clauses (i) and (ii) (the *"Lessee Credits"*), Lessee shall pay to Lessor on the return date an amount equal to the difference between the Lessor Credits and the Lessee Credits To the extent that the Lessee Credits exceed the Lessor Credits, Lessor shall not be required to make any payment to Lessee

15 3 Manuals, Storage When returning the Engine to Lessor, Lessee shall deliver or cause to be delivered to Lessor all logs, manuals, and inspection, modification, and overhaul records in respect of that Item that are required to be transferred (or which it is customary to transfer) with a transfer of ownership and possession of such an engine under applicable rules and regulations of the FAA Upon Lessor's request, Lessee will arrange storage of the Engine at Lessor's risk and expense

## 16 Events of Default

Each of the following shall constitute an *Event of Default*

(a) Lessee fails to make any payment of Basic Rent within two Business Days after Lessee's receipt of notice from Lesser that it is overdue, or fails to make any payment of Supplemental Rent within five Business Days after Lessee's receipt of notice from Lessor that the amount is overdue, or

(b) Lessee fails to maintain any insurance required by § 12, *provided*, that no such Event of Default shall exist so long as (i) the Engine is not flown without the insurance coverage required by § 12, (ii) the Engine is covered by casualty insurance while on the ground, and (iii) such failure does not exceed 10 consecutive days, or

(c) Lessee or Guarantor fails to perform or observe in any material respect any of the other agreements to be performed or observed by it under the Operative Documents and such failure continues for 30 days after Lessee's receipt of notice thereof from Lessor, unless (1) such failure is maintenance-related or is caused by a Permitted Sublessee and not by Lessee (*"sublessee-caused"*), (2) Lessee shall be proceeding diligently and in good faith to cure such failure and shall in fact correct such failure within 180 days (if maintenance-related) or 90 days (if not maintenance-related but sublessee-caused) after receiving such notice, and (3) such delay does not in any material respect adversely affect Lessor's interest in the Engine or create any material risk of civil fine or criminal liability for Lessor, or

(d) any representation statement, certification, or warranty made by Lessee herein or in the Participation Agreement proves to have been incorrect in any material respect when made and (if the effect of such incorrectness is curable) is not cured within 30 days after Lessee's receipt of written notice thereof from Lessor, or

(e) Lessee or Guarantor consents to the appointment of a custodian, receiver, trustee, or liquidator (or other similar official) of itself or of a substantial part of its property, or Lessee or Guarantor makes a general assignment for the benefit of creditors, or files a voluntary petition in bankruptcy or a voluntary petition or an answer seeking reorganization in a proceeding under any present or future bankruptcy law or an answer admitting the material allegations of a petition filed against Lessee or Guarantor in any such proceeding, or Lessee or Guarantor by voluntary petition, answer, or consent seeks relief as debtor under the provisions of any other present or future bankruptcy or other similar law providing for the reorganization or winding-up of corporations, or providing for an agreement, composition, extension, or adjustment with its creditors, or

(f) a petition is filed against Lessee or Guarantor in a proceeding under any present or future bankruptcy or other insolvency law, and any decree or order adjudging Lessee or Guarantor a bankrupt or insolvent in such proceeding

remains in force undismissed and unstayed for 60 days after such adjudication or, if the approval of such petition by a court of competent jurisdiction is required, such a court approves the petition as properly filed and such approval is not withdrawn and the proceeding is not dismissed within 60 days thereafter, or if, under any law providing for reorganization or winding-up of corporations, any court of competent jurisdiction enters an order or decree assuming custody or control of Lessee or Guarantor or of any substantial part of its property and such custody or control remains in force unrelinquished, unstayed, and unterminated for 60 days, or

(g) Guarantor repudiates the Guaranty, or fails to perform any obligation or covenant under the Guaranty, or breaches any warranty thereunder, or an Event of Default occurs under the Guaranty

## 17 Rights and Remedies

17 1 Remedies Upon the occurrence of any Event of Default and at any time thereafter so long as any Event of Default exists, Lessor may, at its option, declare this Lease to be in default and at any time thereafter, Lessor may do one or more of the following with respect to all or any part of any or all the Engines as Lessor, in its sole discretion, shall elect

(a) Lessor may cancel this Lease,

(b) Lessor may demand that Lessee, and Lessee shall upon written demand of Lessor and at Lessee's expense, forthwith return the Engine to Lessor or its order in the manner and condition required by, and otherwise in accordance with all of the provisions of, § 15 as if the Engine were being returned at the end of the Term, or Lessor may enter upon the premises where the Engine is located and take immediate possession of and remove it by summary proceeding or otherwise (or, at Lessor's option, store the same at Lessee's premises and at Lessee's expense until disposal thereof by Lessor), all without liability accruing to Lessor for or by reason of such entry or taking of possession whether for the restoration of damage to property caused by such action or otherwise,

(c) Lessor may proceed by appropriate court action or actions, either at law or in equity, to enforce performance by Lessee of the applicable covenants of this Lease and to recover damages for the breach thereof,

(d) Lessor may sell or cause to be sold the Engine at public or private sale, as Lessor may determine, in a commercially reasonable manner, or otherwise dispose of, hold, use, operate, lease to others, or keep idle the Engine as Lessor in its sole discretion may determine, all free of any rights of Lessee and without any duty to account to Lessee with respect to such action or inaction or for any proceeds with respect thereto,

(e) whether or not Lessor shall have exercised, or shall thereafter at any time exercise, any of its rights specified in clauses (a), (b), (c), or (d) of this § 17 1 with respect to the Engine, Lessor, by written notice to Lessee specifying a payment date not earlier than ten days from such written notice, may demand that Lessee pay to Lessor, and Lessee shall pay to Lessor, on the payment date specified in such notice, as liquidated damages for loss of a bargain and not as a penalty (in lieu of the Basic Rent for the Engine due for periods commencing on or after the date specified for payment in such notice), any unpaid Rent for the Engine due for periods beginning before the payment date specified in such notice plus an amount equal to the excess, if any, of the present worth of the aggregate unpaid Rent due under this Lease for the Engine, discounted monthly at the Discount Rate, over the fair market rental value therefor, discounted in like manner, or

(f) if, pursuant to clause (d) of this § 17 1, Lessor sells the Engine, then in lieu of exercising its rights under clause (e) above, Lessor may, if it so elects, demand that Lessee pay to Lessor, and Lessee shall pay to Lessor, on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty (in lieu of the installments of Basic Rent due after such date of sale) any unpaid Basic Rent due before that date plus the amount of any deficiency between the net proceeds of such sale (after deduction of all reasonable costs of sale) and the Stipulated Loss Value of the Engine, computed as of the first Payment Date on or after the date of such sale together with interest, if any, on the amount of such deficiency, at the Default Rate, from the date of such sale to the date of actual payment of such amount

17 2 Further Rights Lessee shall be liable for any and all unpaid Rent and for all legal fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of Lessor's remedies with respect thereto, including all costs or expenses incurred in connection with the return of the Engine in accordance with the terms of § 15 or in placing the Engine in the condition and with airworthiness certificates as required by that section

17 3 Remedies Cumulative No remedy referred to in this § 17 is intended to be exclusive, but each shall be cumulative and in addition to any other right or remedy referred to above or otherwise available to Lessor at law or in equity including the right to proceed by appropriate court action to enforce the terms hereof or to recover damages for the breach hereof, and the exercise by Lessor of any one or more of such remedies shall not preclude the simultaneous or later exercise by Lessor of any or all of such other remedies No express or implied waiver by Lessor of any Event of Default shall in any way be, or be construed to be, a waiver of any future or further Event of Default To the extent permitted by applicable law, Lessee hereby waives any and all rights to notice and to a judicial hearing with respect to the repossession of the Engine by Lessor upon the occurrence of an Event of Default and agrees that, except as may be required by law, Lessor shall not be required to sell or re-lease the Engine in order to reduce,

offset, or mitigate the damages for which Lessee is liable hereunder In addition, Lessee shall be liable, except as otherwise provided above, for any and all unpaid Rent and unpaid Supplemental Payments due hereunder before or during the exercise of any of the foregoing remedies and for all legal fees (including attorneys' fees incurred in any and all judicial and other governmental proceedings, including appellate proceedings, whether such proceedings arise before or after entry of final judgment) and other costs and expenses incurred by Lessor or any Assignee or Lender by reason of the occurrence of any Event of Default or the exercise of Lessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of the Engine in accordance with § 15 or in placing the Engine in the condition required by § 15 No express or implied waiver by Lessor of any Event of Default shall in any way be, or be construed to be, a waiver of any future or subsequent Event of Default To the extent permitted by applicable law, Lessee hereby waives any rights now or hereafter conferred by statute or otherwise which may require Lessor to sell, lease, or otherwise use the Engine in mitigation of Lessor's damages, or which may otherwise limit or modify any of Lessor's rights and remedies under this § 17

## 18 Lessee Options

18 1 Purchase At least three months before the Early Buyout Date, or at least six months before the end of the Term, Lessee shall notify Lessor in writing of its final determination, which shall be irrevocable, whether or not to purchase the Engine pursuant to this § 18 1 The purchase price for any such purchase shall be equal to (a) for a purchase on the Early Buyout Date, the purchase option price therefor specified in the Lease Supplement therefor, and (b) for a purchase on the last day of the Term, the Fair Market Value of the Engine

If Lessee elects to purchase the Engine as above provided, then on the Early Buyout Date or the last day of the Term (as applicable), Lessee shall pay the purchase price and all amounts then due and owing hereunder or under any other Operative Document to Lessor in immediately available funds, and Lessor shall transfer to Lessee, or to any Person designated by Lessee, all right, title, and interest in and to the Engine, free and clear of any Lessor's Lien and otherwise **as is**, and without recourse, representation, or warranty, express or implied

Upon payment of (a) such purchase price, (b) all Supplemental Rent then due and owing, and (c) all Basic Rent due to but excluding the purchase date, Lessor shall execute and deliver to Lessee, or to Lessee's assignee or nominee, a bill of sale, without representations or warranties, express or implied (except as to the absence of Lessor's Liens), for the Engine, together with such other documents as may be required to release the Engine from the terms and scope of this Lease and to transfer such title to the Engine to Lessee or such assignee or nominee

18 2 Renewal Not less than six months before the end of the Base Term or Renewal Term then in effect, Lessee may give to Lessor a written notice electing to extend the term of this Lease for a *"Renewal Term"* as provided in this paragraph Each of the two Renewal Terms following the Base Term shall be a one-year renewal period The Basic Rent during any Renewal Term shall be the amounts shown on the Lease Supplement, payable in arrears on the last day of each calendar month during any such Renewal Term, and shall be determined separately for each Renewal Term All of the terms of this Lease shall apply during the entire period of each Renewal Term except that (1) Basic Rent shall be as provided in the preceding sentence, and (2) Stipulated Loss Value shall be the same as that in effect on the last day of the Base Term

18 3 Early Termination Lessee shall have the right, on not less than 90 days' notice to Lessor, to terminate this Lease on the Payment Date specified in such notice (the *"Termination Date"*), but only if (1) Lessee shall have determined that the Engine has become economically obsolete or surplus to Lessee's requirements and (2) Lessee shall have delivered to Lessor a certificate of Lessee's chief financial officer, vice president of operations, or chief executive officer to such effect After giving that notice, Lessee shall, as agent for Lessor, use diligent efforts, on a commercially reasonable basis, to obtain cash bids for the purchase of the Engine Lessor may, at Lessor's expense, participate in the procuring of such bids Lessee shall certify to Lessor in writing the amount and terms of each bid received by Lessee and the name and address of the Person (which shall not be Lessee or any of its affiliates, but may be Lessor) submitting such bid On the Termination Date, Lessee shall deliver the Engine to the bidder, if any, that submitted the highest bid, in the same manner as if delivery were being made to Lessor pursuant to § 15, all in accordance with the terms of § 15, and Lessor shall (subject to receipt of the sale price and all additional payments specified in the next sentence) transfer all Lessor's right, title, and interest in the Engine for cash to the bidder that submitted the highest bid Lessor shall retain the sales price realized upon any such sale, and on the Termination Date Lessee shall pay to Lessor (a) the excess, if any, of (x) the Termination Value as of the Termination Date, over (y) the sales price realized on such sale, without deducting any sales commission or similar expense incurred by Lessor in connection with such sale, (b) any unpaid Basic Rent due on or before the Termination Date, and (c) all other amounts then due and owing hereunder or under any other Operative Document In the event of such transfer and upon compliance by Lessee with the provisions of this § 18 3, Lessee's obligation to pay Basic Rent for any Payment Date occurring after the Termination Date shall cease If no sale occurs on the Termination Date, this Lease (including this § 18 3) shall continue in full force and effect as if no notice of termination had been given, *provided*, that if the Engine is not sold on the Termination Date as a result of the failure of the successful bidder to purchase the Engine, then (x) this Lease (including this § 18 3) shall continue until the Engine is sold, but in no event for more than 60 days after the Termination Date, and (y) Lessee shall pay to Lessor rent for each day during such period at a per-diem rental equal to the amount obtained by dividing the portion of Basic Rent for the rental period

involved by the number of days in such rental period, *provided, further*, that if the Engine is not sold for any reason within such 60-day period, then this Lease (other than this § 18 3) shall continue in full force and effect Lessor shall not be under any duty to solicit bids, to inquire into the efforts of Lessee to obtain bids, or otherwise to take any action in connection with any such sale, other than the obligation of Lessor to transfer the Engine as provided above Notwithstanding the foregoing provisions of this § 18 3, Lessee may revoke (but not more than twice times) any notice of termination referred to above at any time by notice to that effect to Lessor, in which case Lessee shall reimburse Lessor for all reasonable out-of-pocket expenses incurred by it in connection with the revoked termination and this Lease shall continue in full force and effect

## 19 Miscellaneous

19 1 Construction, Governing Law Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction To the extent permitted by applicable law, the parties hereby waive any provision of law which renders any provisions hereof prohibited or unenforceable in any respect No term or provision of this Lease may be changed, waived, discharged, or terminated orally, but only by written instrument signed by the party against which the enforcement of the change, waiver, discharge, or termination is sought The captions in this Lease are for convenience of reference only and are not a substantive part of this Lease This Lease is being delivered in the state of New York and shall in all respects be governed by, and construed in accordance with, the laws of the state of New York

19 2 Notices All notices, offers, acceptances, approvals, waivers, requests, demands, and other communications hereunder or under any instrument, certificate, or other instrument delivered in connection with the transactions described herein shall be in writing, shall be addressed as provided below, and shall be considered as properly given if given in any manner described in § 9 5 of the Participation Agreement Notice so given shall be effective as provided in § 9 5 of the Participation Agreement Notice given in any other manner shall be effective upon receipt by the addressee

19 3 Lessor's Right to Perform If Lessee fails to perform any of its obligations hereunder, Lessor may (but shall not be obligated to) discharge such obligation, and the amount of the expenses of Lessor incurred in connection with such discharge shall be deemed Supplemental Rent, payable by Lessee upon demand, together with interest thereon at the Default Rate to but excluding the date of payment Lessor shall use diligent efforts to give Lessee prior notice of Lessor's intention to discharge any such obligation Performance by Lessor shall not extend the period of time for Lessee to ensure that both (a) the original

obligation has been performed and (b) Lessor has been reimbursed as required by this § 19 3, and an Event of Default shall exist if Lessee fails to accomplish both by the time when failure to perform the original obligation would become an Event of Default

19 4 Counterparts This Lease and each Lease Supplement may be executed in several counterparts, each fully-executed counterpart of which shall be deemed an original, and all such counterparts shall constitute one and the same instrument To the extent that this Lease constitutes chattel paper, as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction, no security interest in this Lease may be perfected through the possession of any counterpart other than the counterpart marked as the "Original" on the signature pages thereof

19 5 Survival The representations, warranties, covenants, agreements, and indemnities set forth in this Lease, and the obligations hereunder, shall survive the expiration, cancellation, or other termination of this Lease to the extent required for full performance and satisfaction thereof

19 6 Successors and Assigns This Lease shall bind Lessee, Lessor, and their successors and assigns, and benefit Lessee, Lessor, and their permitted successors and assigns Lessor's assignment rights are subject to § 8 of the Participation Agreement Lessee shall not be entitled to assign any of its rights under this Lease without obtaining Lessor's prior written consent

19 7 Lease for U S Federal Income Tax Law Purposes Lessee and Lessor agree that this Lease is, and shall be treated as, a lease for U S federal income tax purposes of the Engine

IN WITNESS WHEREOF, Lessor and Lessee have executed and delivered this Lease Agreement 14854

KEYCORP LEASING, A DIVISION OF KEY CORPORATE CAPITAL INC

By _____
Title

Kelly M. Reale
Regional Business Unit Manager

AMERICAN TRANS AIR, INC

By _____
Title

[This is a **duplicate** executed counterpart, and is **not** the original counterpart for chattel paper purposes ]

IN WITNESS WHEREOF, Lessor and Lessee have executed and delivered this Lease Agreement 14854

KEYCORP LEASING, A DIVISION OF KEY CORPORATE CAPITAL INC

By _____
Title

AMERICAN TRANS AIR, INC

By _____
Title Kenneth K Wolff
Executive Vice P[illegible] & CFO

[This is a **duplicate** executed counterpart, and is **not** the original counterpart for chattel paper purposes ]

Exhibit A

Lease Supplement No 1

This Lease Supplement (this "*Supplement*"), dated December 20, 1999, is between Key Corporate Capital Inc ("*Lessor*"), and American Trans Air, Inc ("*Lessee*")

Lessor and Lessee have entered into a December 20, 1999 Lease Agreement 14854 (the "*Lease*"), which provides for the execution and delivery of a Lease Supplement in substantially the form hereof for the purpose of leasing the Engine in accordance with the terms hereof This Supplement is being filed together with the Lease as one document at the Federal Aviation Administration

Pursuant to § 2 of the Lease, Lessor and Lessee hereby agree as follows

1 Terms that are defined in the Lease and not in this Supplement shall have the same meanings as in the Lease

2 Lessor hereby delivers and leases to Lessee, and Lessee hereby accepts and leases from Lessor, under the Lease as hereby supplemented, the following Engine

one Rolls-Royce model RB211-524B4 engine (which has 750 or more rated takeoff horsepower or the equivalent thereof), bearing manufacturer's serial no 14854

3 The Delivery Date is the date of this Supplement, as set forth in the opening paragraph hereof, and the Engine is hereby delivered and accepted on such date

4 Lessor's Cost for the Engine, Basic Rent therefor, and the purchase option price therefor, are as shown on the attached Financial Terms Exhibit

5 Lessee hereby confirms to Lessor that (a) Lessee has accepted the Engine for all purposes hereof and of the Lease, (b) the Engine has been inspected to Lessee's satisfaction, and is of a size, design, capacity, and manufacture selected by Lessee, and (c) Lessee is satisfied that the Engine is suitable for its purpose Lessee acknowledges Lessor's disclaimer of warranties in § 5 of the Lease, and that it applies to the Engine as if set forth in this Supplement Lessee acknowledges, agrees, and certifies that the Engine is currently certified and airworthy in accordance with the requirements of the FAA

6 Basic Rent, Stipulated Loss Values, and Termination Values for the Engine are as attached to the attached Financial Terms Exhibit

7 This Supplement may be executed in counterparts, each fully-executed set of which shall be an original

8 This Supplement is being delivered in the state of New York and shall be governed by the laws of the state of New York (without regard to any choice-of-law principles that would apply the laws of any other state)

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease Supplement No 1

KEYCORP LEASING, A DIVISION OF KEY CORPORATE CAPITAL INC , Lessor

By _____

Title _____

AMERICAN TRANS AIR, INC , Lessee

By _____

Title _____

[This is the **Original** counterpart for chattel paper purposes ]

[or]

[This is a **duplicate** executed counterpart, and is **not** the original counterpart for chattel paper purposes ]

Financial Terms Exhibit

[intentionally omitted for FAA filing purposes]

## Financial Terms Exhibit

Basic Rent

(a) for the Interim Term $14,350 14(assumes December 20, 1999, closing and $1,025 01 per diem) payable on January 3, 2000

(b) for the Base Term 1 537503% ($30,750 06) of Lessor's Cost for the Engine, payable on each Payment Date from January 31, 2000 through December 31, 2006

(c) during any Renewal Term, $30,750 06 (or, if less, the Fair Market Rental Value of the Engine) per month, payable in arrears

Lessor's Cost $2,000,000

Stipulated Loss Values attached

Termination Values attached

Purchase Price on the Early Buyout Date 35 44% of Lessor's Cost ($708,800)

## Stipulated Loss Value Schedule

| Date | Stipulated Loss Value | Percentage |
|---|---|---|
| Jan-03-00 | 2,107,693 42 | 105 38467125 |
| Feb-01-00 | 2,104,598 10 | 105 22990507 |
| Mar-01-00 | 2,088,012 90 | 104 40064477 |
| Apr-01-00 | 2,071,262 04 | 103 56310220 |
| May-01-00 | 2,054,309 82 | 102 71549089 |
| Jun-01-00 | 2,037,140 41 | 101 85702068 |
| Jul-01-00 | 2,019,767 15 | 100 98835739 |
| Aug-01-00 | 2,002,175 17 | 100 10875860 |
| Sep-01-00 | 1,984,412 73 | 99 22063657 |
| Oct-01-00 | 1,966,442 91 | 98 32214532 |
| Nov-01-00 | 1,948,252 20 | 97 41261001 |
| Dec-01-00 | 1,929,888 16 | 96 49440818 |
| Jan-01-01 | 1,911,313 17 | 95 56565843 |
| Feb-01-01 | 1,892,515 09 | 94 62575449 |
| Mar-01-01 | 1,873,540 77 | 93 67703868 |
| Apr-01-01 | 1,854,389 38 | 92 71946880 |
| May-01-01 | 1,835,081 23 | 91 75406130 |
| Jun-01-01 | 1,815,586 65 | 90 77933239 |
| Jul-01-01 | 1,795,933 28 | 89 79666392 |
| Aug-01-01 | 1,776,092 22 | 88 80461122 |
| Sep-01-01 | 1,756,069 94 | 87 80349702 |
| Oct-01-01 | 1,735,885 73 | 86 79428651 |
| Nov-01-01 | 1,715,511 90 | 85 77559518 |
| Dec-01-01 | 1,694,954 30 | 84 74771485 |
| Jan-01-02 | 1,674,231 58 | 83 71157918 |
| Feb-01-02 | 1,653,317 29 | 82 66586472 |
| Mar-01-02 | 1,632,216 64 | 81 61083190 |
| Apr-01-02 | 1,610,928 72 | 80 54643613 |
| May-01-02 | 1,589,513 42 | 79 47567107 |
| Jun-01-02 | 1,567,932 11 | 78 39660561 |
| Jul-01-02 | 1,546,221 67 | 77 31108372 |
| Aug-01-02 | 1,524,344 15 | 76 21720771 |
| Sep-01-02 | 1,502,275 66 | 75 11378282 |
| Oct-01-02 | 1,480,075 14 | 74 00375678 |
| Nov-01-02 | 1,457,705 75 | 72 88528745 |
| Dec-01-02 | 1,435,143 03 | 71 75715153 |
| Jan-01-03 | 1,412,445 35 | 70 62226765 |
| Feb-01-03 | 1,389,577 00 | 69 47885002 |
| Mar-01-03 | 1,366,512 93 | 68 32564637 |
| Apr-01-03 | 1,343,252 20 | 67 16260986 |

| | | |
|---|---|---|
| May-01-03 | 1,319,882 40 | 65 99412019 |
| Jun-01-03 | 1,296,359 55 | 64 81797763 |
| Jul-01-03 | 1,272,726 08 | 63 63630405 |
| Aug-01-03 | 1,248,938 59 | 62 44692959 |
| Sep-01-03 | 1,224,950 98 | 61 24754913 |
| Oct-01-03 | 1,200,849 99 | 60 04249961 |
| Nov-01-03 | 1,176,593 28 | 58 82966413 |
| Dec-01-03 | 1,152,134 21 | 57 60671037 |
| Jan-01-04 | 1,127,558 95 | 56 37794748 |
| Feb-01-04 | 1,102,826 25 | 55 14131235 |
| Mar-01-04 | 1,077,888 90 | 53 89444501 |
| Apr-01-04 | 1,052,745 93 | 52 63729648 |
| May-01-04 | 1,027,482 71 | 51 37413568 |
| Jun-01-04 | 1,002,059 55 | 50 10297746 |
| Jul-01-04 | 976,514 48 | 48 82572375 |
| Aug-01-04 | 950,808 43 | 47 54042133 |
| Sep-01-04 | 924,893 07 | 46 24465375 |
| Oct-01-04 | 898,852 89 | 44 94264447 |
| Nov-01-04 | 872,649 93 | 43 63249639 |
| Dec-01-04 | 846,235 28 | 42 31176422 |
| Jan-01-05 | 819,692 84 | 40 98464205 |
| Feb-01-05 | 792,985 79 | 39 64928969 |
| Mar-01-05 | 766,064 65 | 38 30323259 |
| Apr-01-05 | 738,928 39 | 36 94641952 |
| May-01-05 | 711,660 04 | 35 58300209 |
| Jun-01-05 | 684,224 45 | 34 21122239 |
| Jul-01-05 | 656,654 99 | 32 83274942 |
| Aug-01-05 | 628,917 19 | 31 44585939 |
| Sep-01-05 | 600,960 36 | 30 04801793 |
| Oct-01-05 | 572,866 57 | 28 64332837 |
| Nov-01-05 | 544,602 53 | 27 23012635 |
| Dec-01-05 | 516,116 94 | 25 80584696 |
| Jan-01-06 | 487,491 25 | 24 37456239 |
| Feb-01-06 | 458,693 37 | 22 93466858 |
| Mar-01-06 | 429,671 39 | 21 48356964 |
| Apr-01-06 | 400,424 24 | 20 02121193 |
| May-01-06 | 371,070 01 | 18 55350050 |
| Jun-01-06 | 341,566 02 | 17 07830119 |
| Jul-01-06 | 311,953 44 | 15 59767188 |
| Aug-01-06 | 282,190 15 | 14 10950768 |
| Sep-01-06 | 252,198 15 | 12 60990730 |
| Oct-01-06 | 222,094 64 | 11 10473194 |
| Nov-01-06 | 191,838 65 | 9 59193237 |
| Dec-01-06 | 161,351 57 | 8 06757870 |
| Jan-01-07 | 130,750 06 | 6 53750300 |

## Termination Value Schedule

| Date | Percentage | Termination Value |
|---|---|---|
| 01/03/2000 | 110 0000000 | 2,200,000 00 |
| 02/01/2000 | 110 7049772 | 2,214,099 54 |
| 03/01/2000 | 109 8643392 | 2,197,286 78 |
| 04/01/2000 | 109 0155511 | 2,180,311 02 |
| 05/01/2000 | 108 1584967 | 2,163,169 93 |
| 06/01/2000 | 107 2891524 | 2,145,783 05 |
| 07/01/2000 | 106 4114397 | 2,128,228 79 |
| 08/01/2000 | 105 5213465 | 2,110,426 93 |
| 09/01/2000 | 104 6228716 | 2,092,457 43 |
| 10/01/2000 | 103 7158835 | 2,074,317 67 |
| 11/01/2000 | 102 7963863 | 2,055,927 73 |
| 12/01/2000 | 101 86837 | 2,037,367 40 |
| 01/01/2001 | 100 9316935 | 2,018,633 87 |
| 02/01/2001 | 99 98237768 | 1,999,647 55 |
| 03/01/2001 | 99 02440315 | 1,980,488 06 |
| 04/01/2001 | 98 05772938 | 1,961,154 59 |
| 05/01/2001 | 97 08252307 | 1,941,650 46 |
| 06/01/2001 | 96 0989858 | 1,921,979 72 |
| 07/01/2001 | 95 10683215 | 1,902,136 64 |
| 08/01/2001 | 94 10627318 | 1,882,125 46 |
| 09/01/2001 | 93 09681568 | 1,861,936 31 |
| 10/01/2001 | 92 07861293 | 1,841,572 26 |
| 11/01/2001 | 91 05189054 | 1,821,037 81 |
| 12/01/2001 | 90 01614719 | 1,800,322 94 |
| 01/01/2002 | 88 9715279 | 1,779,430 56 |
| 02/01/2002 | 87 91827304 | 1,758,365 46 |
| 03/01/2002 | 86 85587307 | 1,737,117 46 |
| 04/01/2002 | 85 7842852 | 1,715,685 70 |
| 05/01/2002 | 84 70387159 | 1,694,077 43 |
| 06/01/2002 | 83 61786352 | 1,672,357 27 |
| 07/01/2002 | 82 52295801 | 1,650,459 16 |
| 08/01/2002 | 81 42239443 | 1,628,447 89 |
| 09/01/2002 | 80 31246436 | 1,606,249 29 |
| 10/01/2002 | 79 19351793 | 1,583,870 36 |
| 11/01/2002 | 78 06880792 | 1,561,376 16 |
| 12/01/2002 | 76 93461843 | 1,538,692 37 |
| 01/01/2003 | 75 79129195 | 1,515,825 84 |
| 02/01/2003 | 74 64209491 | 1,492,841 90 |
| 03/01/2003 | 73 4833038 | 1,469,666 08 |
| 04/01/2003 | 72 31487373 | 1,446,297 47 |
| 05/01/2003 | 71 1372996 | 1,422,745 99 |

| | | |
|---|---|---|
| 06/01/2003 | 69 95598903 | 1,399,119 78 |
| 07/01/2003 | 68 76547035 | 1,375,309 41 |
| 08/01/2003 | 67 57115841 | 1,351,423 17 |
| 09/01/2003 | 66 3670413 | 1,327,340 83 |
| 10/01/2003 | 65 15360269 | 1,303,072 05 |
| 11/01/2003 | 63 93627024 | 1,278,725 40 |
| 12/01/2003 | 62 70902489 | 1,254,180 50 |
| 01/01/2004 | 61 47234305 | 1,229,446 86 |
| 02/01/2004 | 60 23166537 | 1,204,633 31 |
| 03/01/2004 | 58 98096555 | 1,179,619 31 |
| 04/01/2004 | 57 72019668 | 1,154,403 93 |
| 05/01/2004 | 56 44982463 | 1,128,996 49 |
| 06/01/2004 | 55 17530891 | 1,103,506 18 |
| 07/01/2004 | 53 89112166 | 1,077,822 43 |
| 08/01/2004 | 52 6027301 | 1,052,054 60 |
| 09/01/2004 | 51 30409313 | 1,026,081 86 |
| 10/01/2004 | 49 99566469 | 999,913 29 |
| 11/01/2004 | 48 68292558 | 973,658 51 |
| 12/01/2004 | 47 3598271 | 947,196 54 |
| 01/01/2005 | 46 02681554 | 920,536 31 |
| 02/01/2005 | 44 68938542 | 893,787 71 |
| 03/01/2005 | 43 3414804 | 866,829 61 |
| 04/01/2005 | 41 98305146 | 839,661 03 |
| 05/01/2005 | 40 61453378 | 812,290 68 |
| 06/01/2005 | 39 24144172 | 784,828 83 |
| 07/01/2005 | 37 85818802 | 757,163 76 |
| 08/01/2005 | 36 47029526 | 729,405 91 |
| 09/01/2005 | 35 07169147 | 701,433 83 |
| 10/01/2005 | 33 66279918 | 673,255 98 |
| 11/01/2005 | 32 24915533 | 644,983 11 |
| 12/01/2005 | 30 82467994 | 616,493 60 |
| 01/01/2006 | 29 38978743 | 587,795 75 |
| 02/01/2006 | 27 95002925 | 559,000 59 |
| 03/01/2006 | 26 49931734 | 529,986 35 |
| 04/01/2006 | 25 03760042 | 500,752 01 |
| 05/01/2006 | 23 56545238 | 471,309 05 |
| 06/01/2006 | 22 09067157 | 441,813 43 |
| 07/01/2006 | 20 60539468 | 412,107 89 |
| 08/01/2006 | 19 1174274 | 382,348 55 |
| 09/01/2006 | 17 6182808 | 352,365 62 |
| 10/01/2006 | 16 10851696 | 322,170 34 |
| 11/01/2006 | 14 59595528 | 291,919 11 |
| 12/01/2006 | 13 07209918 | 261,441 98 |
| 01/01/2007 | 11 537503 | 230,750 06 |

# Lease Supplement No 1

This Lease Supplement (this *"Supplement"*), dated December 20, 1999, is between Key Corporate Capital Inc (*"Lessor"*), and American Trans Air, Inc (*"Lessee"*)

Lessor and Lessee have entered into a December 20, 1999 Lease Agreement 14854 (the *"Lease"*), which provides for the execution and delivery of a Lease Supplement in substantially the form hereof for the purpose of leasing the Engine in accordance with the terms hereof This Supplement is being filed together with the Lease as one document at the Federal Aviation Administration

Pursuant to § 2 of the Lease, Lessor and Lessee hereby agree as follows

1 Terms that are defined in the Lease and not in this Supplement shall have the same meanings as in the Lease

2 Lessor hereby delivers and leases to Lessee, and Lessee hereby accepts and leases from Lessor, under the Lease as hereby supplemented, the following Engine

one Rolls-Royce model RB211-524B4 engine (which has 750 or more rated takeoff horsepower or the equivalent thereof), bearing manufacturer's serial no 14854

3 The Delivery Date is the date of this Supplement, as set forth in the opening paragraph hereof, and the Engine is hereby delivered and accepted on such date

4 Lessor's Cost for the Engine, Basic Rent therefor, and the purchase option price therefor, are as shown on the attached Financial Terms Exhibit

5 Lessee hereby confirms to Lessor that (a) Lessee has accepted the Engine for all purposes hereof and of the Lease, (b) the Engine has been inspected to Lessee's satisfaction, and is of a size, design, capacity, and manufacture selected by Lessee, and (c) Lessee is satisfied that the Engine is suitable for its purpose Lessee acknowledges Lessor's disclaimer of warranties in § 5 of the Lease, and that it applies to the Engine as if set forth in this Supplement Lessee acknowledges, agrees, and certifies that the Engine is currently certified and airworthy in accordance with the requirements of the FAA

6 Basic Rent, Stipulated Loss Values, and Termination Values for the Engine are as attached to the attached Financial Terms Exhibit

7 This Supplement may be executed in counterparts, each fully-executed set of which shall be an original

8 This Supplement is being delivered in the state of New York and shall be governed by the laws of the state of New York (without regard to any choice-of-law principles that would apply the laws of any other state)

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease Supplement No 1

KEYCORP LEASING, A DIVISION OF KEY CORPORATE CAPITAL INC , Lessor

By Kelly M Reale

Title Kelly M Reale
Regional Business
Unit Manager

AMERICAN TRANS AIR, INC , Lessee

By _____

Title _____

[This is a **duplicate** executed counterpart, and is **not** the original counterpart for chattel paper purposes ]

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease Supplement No 1

KEYCORP LEASING, A DIVISION OF KEY CORPORATE CAPITAL INC , Lessor

By _____

Title _____

AMERICAN TRANS AIR, INC , Lessee

By _____

Title Kenneth K Wolff
Executive Vice President & CFO

[This is a **duplicate** executed counterpart, and is **not** the original counterpart for chattel paper purposes ]

| *Remarks* |
|---|

| **Claim No 13**<br>**Exhibit (Part 1 of 2)**<br>**Exhibit (Part 2 of 2)** | *Creditor Name* Key Equipment Finance<br>127 Public Square<br>Fifth Floor<br>Cleveland, Ohio 44114-1306 | *Last Date to File Claims*<br>*Last Date to File (Govt)*<br>04/24/2005<br>*Filing Status*<br>*Docket Status*<br>*Late* N |
|---|---|---|
| *Claim Date*<br>01/21/2005 | *Amends Claim No*<br>*Amended By Claim No* | *Duplicates Claim No*<br>*Duplicated By Claim No* |
| **Class** | **Amount Claimed** | **Amount Allowed** |
| Unknown | $834864 12 | |
| **Total** | **$834864 12** | |
| *Description* Lease 8800018766 (Engine 14854) | | |
| *Remarks* | | |