

ATTACHMENT 17

LSW 147-REPOSSESSION OF LEASED EQUIPMENT INSURING CONDITIONS

INSURING CLAUSE

Whereas the Assured has entered into a Lease Agreement dated ____, 20__ to supply the Lessee with the Insurance Equipment

Now this Policy is to pay the Assured the Agreed Value in the event of the Insured Equipment being lost as a consequence of the occurrence during the period of this Policy of an Insured Peril, subject to the Definitions, Exclusions, Conditions and Warranties below.

DEFINITIONS

1. INSURED PERIL

Means an action taken by, or refusal or failure by, the Foreign Government, being:

- a) Confiscation, seizure, appropriation, expropriation, nationalisation, restraint, detention or requisition for title or use of the Insured Equipment by the Foreign Government.
- or b) Refusal or failure of the Foreign Government to allow the Assured to exercise its rights to repossess the Insured Equipment in accordance with the terms and conditions of the Lease Agreement.
- or c) Refusal or failure of the Foreign Government to allow the Assured to remove the Insured Equipment from the Foreign Country following the Assured's exercise of its rights to repossess the Insured Equipment in accordance with the terms and conditions of the Lease Agreement (or its mortgage over the Insured Equipment).
- or d) Refusal or failure of the Foreign Government to allow the Insured Equipment to be deregistered from the aviation register of the Foreign Country following the Assured's exercise of its rights to repossess the Insured Equipment in accordance with the terms and conditions of the Lease Agreement.

- or e) Refusal or failure of the Foreign Government, following a compulsory sale or other compulsory disposal or divestiture of the Equipment in the Foreign Country, to allow the Assured to obtain the proceeds of sale, disposal or divestiture in United States dollars or another currency which is freely convertible into US dollars in the international exchange markets, following Perils as per 1. a), b), and c) above.

provided always that Underwriters, hereon not be liable for any loss or damage to the Insured Equipment unless the action by the Foreign Government is effective for a period not shorter than the applicable Waiting Period specified in the Schedule hereto.

2. INSURED EQUIPMENT

Means the Aircraft specified in the Schedule hereto.

This policy also covers loss of all or any of the Engines specified in the Schedule hereto from any of the Insured Perils (notwithstanding that the airframe does not suffer any such loss).

This policy also covers loss of the technical records for the aircraft or engines from any of the Insured Perils (notwithstanding that the airframe and engines do not suffer any such loss). In the event of such loss, Underwriters will pay the Assured an amount equal to the costs incurred by the Assured in reconstituting such technical records and carrying out any maintenance, checks or repairs necessary to effect the same, but only following a loss as per 1. a), b), c) and d) above, subject to separate schedule limits endorsed hereto.

3. FOREIGN COUNTRY

Means...

4. LESSEE

Means the entity to which the Insured Equipment has been leased in the Foreign County.

5. FOREIGN GOVERNMENT

Means the present or any succeeding government or governmental authority (whether civil, military or de facto) of the Foreign Country, or any definable region thereof, provided that such governing authority exercises effective executive control therein, and without having regard to the manner of its accession.

6. AGREED VALUE

Means the amount specified in the Schedule hereto.

Underwriters' s maximum total liability shall not in any event exceed the Agreed Value specified for the Aircraft in the Schedule.

7. LEASE AGREEMENT

Means the contract specified in the Schedule hereto and all supporting documentation, under which the Assured agrees to lease the Insured Equipment to the Lessee on terms and conditions seen by Underwriters hereon and under which the Assured retains title to the Insured Equipment.

8. WAITING PERIOD

Means the period specified in the Schedule hereto, and prior to the expiry of which Underwriters hereon shall not be liable for any loss or damage to the Insured Equipment; provided that if the Assured satisfies Underwriters that there is no reasonable prospect of the action by the Foreign Government being reversed or cancelled during the Waiting Period, Underwriters will pay the Agreed Value to the Assured upon being so satisfied, notwithstanding that the Waiting Period has not expired.

The Waiting Period shall commence from the date of advice to Underwriters of an event likely to give rise to a claim under this Policy.

EXCLUSIONS

1. MATERIAL DEFAULT BY THE ASSURED

Excluding any loss arising from material default by the Assured (or any agent, sub- or co-contractor of the Assured) in the

performance of their obligations under the Lease Agreement.

2. LOSS OR DAMAGE DURING WAITING PERIOD

Excluding loss or damage to the Insured Equipment arising from any cause whatsoever prior to the expiry of the Waiting Period.

3. WAR

Excluding any loss arising from destruction or physical damage directly or indirectly occasioned by, happening through or in consequence of war; invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power.

4. NON-COMPLIANCE WITH LAWS

Excluding any loss arising from any failure of the Assured to comply with the laws of the Foreign Country in force at inception of this policy (other than any laws whose purpose is to empower the Foreign Government to confiscate, seize, appropriate, expropriate, nationalise, restrain, detain or requisition assets), or of the Assured's own country.

5. NECESSARY PERMITS

Excluding any loss arising from any failure of the Assured to obtain all permits and authorisations necessary at inception of this policy and/or make every endeavor reasonably practicable to keep such permits and authorisations in force during currency and/or make every endeavor reasonably practicable to obtain such new permits and authorisations as may be stipulated by the Foreign Government during currency.

CONDITIONS

1. NON-ASSIGNMENT

The Assured shall not (without Underwriters' prior written consent) assign or transfer this Policy or the benefits or obligations thereof to any other person, provided always that the Assured can, with the Underwriters' prior agreement, require any claims payments hereunder to be made to a named loss payee, all the Assured's obligations under this Policy remaining unaffected.

2. DUE DILIGENCE

The Assured shall use due diligence and do and concur in doing all things reasonably practicable to avoid or diminish any loss herein insured. The Assured shall be deemed to have complied with this condition including but not limited to if the Assured shall have acted in accordance with the express written directions of the Underwriters during the Waiting Period.

3. NOTICE OF LOSS

Upon the discovery of any event likely to give rise to a claim under this Policy, the Assured shall within a reasonable period thereafter give notice thereof to the Underwriters hereon.

4. ONUS OF PROOF

In any claim, and/or any action, suit or proceeding to enforce a claim for loss hereunder, the burden of proving that the loss is recoverable under this Policy, that no Warranty has been breached and that no Exclusion applies shall fall upon the Assured.

5. COINSURANCE

The Assured shall bear any coinsurance requirement of all losses hereunder at their own risk and uninsured.

6. EXAMINATION OF THE ASSURED

The Assured shall submit to examination under oath, and shall produce for examination, at such reasonable place as is designated by the Underwriters or their representative, all documents in their possession or control which relate to the specific matters in question, and shall permit extracts and copies thereof to be made.

The foregoing requirement shall not oblige the Assured to produce or copy any document, if to do so would constitute a breach by the Assured of any obligation of confidentiality or a breach of copyright or similar right, until the Assured has obtained requisite consents from third parties to avoid such a breach being committed.

7. OTHER INSURANCES

This insurance does not cover any loss or damage which at the time of the happening of such loss or damage is insured by or would, but for the existence of this policy, be insured by any other existing policy or policies except in respect of any excess beyond the amount which would have been payable under such other policy or policies had this insurance not been effected. The insurance of other exposures under the Lease Agreement in excess of or in addition to the coverage provided hereunder shall not be affected by the Assured without the prior approval of Underwriters hereon.

8. SUBROGATION

The Assured under this Policy shall at the request and at the expense of the Underwriters do and concur in doing and permit to be done all such acts and things as may be necessary or reasonably required by the Underwriters at any time after the Waiting Period has commenced for the purpose of enforcing and rights and remedies, or of obtaining relief or indemnity from other parties to which the Underwriters shall or would become entitled or subrogated upon their paying for any loss under this Policy.

9. RECOVERIES

After payment of a claim hereunder, all subsequent salvage and recoveries made by the Assured shall inure to the benefit of Underwriters. The Assured hereby acknowledges that it will receive such sums recovered in trust for Underwriters and that it will Pay all sums upon receipt by it and/or by any person on its behalf to Underwriters.

10. NO CANCELLATION AND PREMIUM RETURN

No cancellation and no return of premium for short interest, unless specifically agreed at inception.

11. HEADINGS

Headings in this Policy are included herein for convenience of reference only and shall not affect the interpretation of this Policy.

12. GOVERNING LAW AND ARBITRATION

The construction, validity and performance of this Policy and all matters arising therefrom shall be governed by English law and all disputes which may arise under, out of, in connection with or in relation to this Policy or to the determination of the amount of loss hereunder shall be submitted to arbitration at the London Court of International Arbitration in accordance with its rules at the date of such submission. The award rendered by the arbitrator(s) shall be final and binding upon all parties and judgment thereon may be entered in any court having jurisdiction.

WARRANTIES

1. LEASE AGREEMENT

Warranted that the Lease Agreement is signed by or on behalf of all necessary parties and is in full force and effect at inception hereof. This warranty shall be deemed satisfied (as to the validity and enforceability of the Lease Agreement against the Lessee) by the terms of the independent legal opinion referred to under warranty 4. below. In addition, it shall not constitute a breach of this warranty if the Assured agrees to waive or defer fulfilment of any conditions precedent or subsequent described in the Lease, but this qualification shall not apply to those conditions enumerated under the Material Change warranty of this Policy.

2. DISCLOSURE

Warranted that at inception hereof the Assured have no knowledge or information of any matter, fact or circumstance which is likely to give rise to a loss hereunder.

3. HULL AND LIABILITIES INSURANCE

Warranted that the Lease Agreement requires hull and war and allied perils insurances and liabilities insurances to be maintained by the lessee throughout the term of the leasing thereunder, on the terms specified therein.

4. LEGAL OPINION

Warranted that a written independent legal opinion of a qualified lawyer in the Foreign Country shall be supplied by the Assured to

Underwriters confirming that the laws of the Foreign Country in effect at the date it is submitted do not prevent or hinder the Assured's exercise of its rights under the Lease Agreement. Underwriters confirm that the opinion of _____ dated _____, 20__ satisfies the warranty set forth herein and the Underwriters agree to endorse a copy of such opinion and attach it to the Policy upon receipt thereof by Underwriters from the Assured.

5. MATERIAL CHANGE

Warranted that immediate notice of any material change in the Lease Agreement shall be given to Underwriters. No claim arising subsequent to such change shall be recoverable hereunder unless such change has been accepted by Underwriters.

- 1) Terms of payments
- 2) Events of default
- 3) Legal status of lease contract in host country
- 4) Uses of insured aircraft/routes
- 5) Maintenance provisions
- 6) Period of Agreement
- 7) Cross-collateralisation provisions, if any
- 8) Identity of Lessee/sub-Lessee
- 9) Interest change in nature of Lease
- 10) Arbitration/Law
- 11) Change in insurance requirement
- 12) Any change which could reasonably be foreseen by lessor to ultimately affect collateral value of the aircraft