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COMPANIES FORM No. 395

Particulars of a mortgage or charge

395

Please do not write in this margin

Pursuant to section 395 of the Companies Act 1985

M65

Please complete legibly, preferably in black type, or bold black lettering

To the Registrar of Companies
(Address overleaf—Note 5)

For official use

Company number

NI7IU

FC005668

Name of company

***VARIG, S.A. (VIACÃO AÉREA RIO-GRANDENSE)**
(*"Varig"*)

* insert full name of company

Date of creation of the charge

7 December 1993

Description of the instrument (if any) creating or evidencing the charge (note 2)

An assignment dated 7 December 1993 by Varig in favour of NI Aircraft Leasing Corporation, ORIX Corporation and Banco do Brasil (the "Original Purchasers")

Amount secured by the charge

All sums from time to time due and payable by Varig under a sale and purchase agreement dated 6 December 1993 between (1) Varig and (2) NI Aircraft Leasing Corporation, ORIX Corporation and Banco do Brasil (as amended, supplemented or novated from time to time the "Sale and Purchase Agreement")

Names and addresses of the chargees or persons entitled to the charge

SEE ATTACHED CONTINUATION SHEET

Postcode

24 DEC 1993

Presenter's name address and reference (if any):

*Clifford Chance
200 Aldersgate Street
London EC1A 4JJ*

ICJ/C1942/00876

Time critical reference

For Official Use
Mortgage Section

REGISTERED

24 DEC 1993

Post Room



Short particulars of all the property charged

SEE CONTINUATION SHEET 1

Please do not
write in
this margin

Please complete
legibly, preferably
in black type, or
bold block lettering

Particulars as to commission allowance or discount (note 3)

N/A

Signed

Clifford Chance

Date

23 DECEMBER 1993

On behalf of ~~company~~ [chargee]†

† delete as
appropriate

Notes

- 1 The original instrument (if any) creating or evidencing the charge, together with these prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of creation of the charge (section 395). If the property is situated and the charge was created outside the United Kingdom delivery to the Registrar must be effected within 21 days after the date on which the instrument could in due course of post, and if dispatched with due diligence, have been received in the United Kingdom (section 398). A copy of the instrument creating the charge will be accepted where the property charged is situated and the charge was created outside the United Kingdom (section 398) and in such cases the copy must be verified to be a correct copy either by the company or by the person who has delivered or sent the copy to the registrar. The verification must be signed by or on behalf of the person giving the verification and where this is given by a body corporate it must be signed by an officer of that body. A verified copy will also be accepted where section 398(4) applies (property situate in Scotland or Northern Ireland) and Form No. 398 is submitted.
- 2 A description of the instrument, eg "Trust Deed", "Debenture", "Mortgage" or "Legal charge", etc, as the case may be, should be given.
- 3 In this section there should be inserted the amount or rate per cent. of the commission, allowance or discount (if any) paid or made either directly or indirectly by the company to any person in consideration of his:
 - (a) subscribing or agreeing to subscribe, whether absolutely or conditionally, or
 - (b) procuring or agreeing to procure subscriptions, whether absolute or conditional,for any of the debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered.
- 4 If any of the spaces in this form provide insufficient space the particulars must be entered on the prescribed continuation sheet.
- 5 The address of the Registrar of Companies is:-
Companies House, Crown Way, Cardiff CF4 3UZ

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binding margin

**Particulars of a mortgage or charge
(continued)**

Continuation sheet No 1
to Form No 395 and 410 (Scot)

Please complete
legibly, preferably
in black type, or
bold block lettering

Company number

FC005668

Name of company

VARIG, S.A. (VIAÇÃO AÉREA RIO-GRANDENSE)

"Varig"

Limited*

*delete if
inappropriate

Description of the instrument creating or evidencing the mortgage or charge (continued) (note 2)

[Empty box for description of the instrument]

Please complete
legibly, preferably
in black type, or
bold block lettering

NI Aircraft Leasing Corporation
4-5, Akasaka 2-chome
Minato-ku, Tokyo 107

ORIX Corporation
World Trade Center Bldg., 35F
2-4-1, Kamamatsu-cho
Minato-ku, Tokyo 105

Banco do Brasil
New Kokusai Building
3-4-1, Marunouchi, Chiyoda-ku
Tokyo

- (a) Every Receivable accruing due prior to Acceleration in any Collection Period commencing on or after the Closing Date (net of Permitted Set-Offs) until the sum of the Collections in such Collection Period equals the sum of the Total Base Amount for such Collection Period and the Total Additional Amount for such Collection Period;
- (b) every Receivable accruing due after Acceleration (net of Permitted Set-Offs) until such date (the "relevant date") as the sum of all Collections since the end of the last Collection Period before such Acceleration equals the sum of (i) the Uncollected Total Base Amounts on the first day of the Collection Period in which such Acceleration occurs, (ii) the Total Additional Amount in respect of such Collection Period (unless such Collection Period is current on the relevant date), (iii) the Total Additional Amount in respect of each succeeding Collection Period which begins before the relevant date (other than the Collection Period which is current on the relevant date), (iv) that fraction of the Total Additional Amount for the Collection Period which is current on the relevant date of which the numerator is twice the number of days in the period commencing on the first day of such Collection Period and ending on the day immediately preceding the relevant date and the denominator is 360 and (v) all other sums then due and payable by Varig to the Purchasers under the Sale and Purchase Agreement but unpaid; and
- (c) every Receivable accruing due which Varig has not from time to time sold to the Purchasers pursuant to the Sale and Purchase Agreements.

Note

Varig has undertaken in the Sale and Purchase Agreement that it will not, save as contemplated thereby, assign or agree to assign any of its rights and benefits under the BSP Arrangements or otherwise sell or dispose of, or create or permit to subsist any Encumbrance over, any of its rights and benefits under the BSP Arrangements.

Definitions

In this Form 395 the following expressions have the following meanings:

"Acceleration" means the giving of a notice or the deemed giving of a notice by the Majority Purchasers or (as the case may be) Varig in accordance with the Sale and Purchase Agreement declaring that a Specified Event has occurred;

"Assignment" means an assignment substantially in the form set out in the Sale and Purchase Agreement;

"BSP" means the bank settlement plan of IATA which is documented by inter alia the Clearing Contract;

"BSP Arrangements" means Varig's IATA membership, the IATA membership of each of the Travel Agents, IATA resolutions 810j and 850, the Clearing Contract and all other regulations, procedures and agreements governing the rights and obligations of the BSP and its members, in each case as the same apply from time to time to Varig and the Travel Agents;

"Business Day" means a day (other than a Saturday or a Sunday) on which banks are open for business and on which dealings in foreign currencies may be carried on in Tokyo and New York;

"Carrier Identification Plate" has the same meaning as in IATA resolutions 810j and 850;

"Clearing Contract" means an agreement dated 21 January 1971 between (1) the several airlines referred to therein, (2) The Dai-Ichi Kangyo Bank, Limited (in its former name of The Nippon Kangyo Bank Limited) and (3) DKB Information Systems Inc. (in its former name of The Kangin Management Center, Limited), and includes any contract substituted from time to time for the Clearing Contract;

"Closing Date" means 7 December 1993;

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Particulars of a mortgage or charge (continued)

Continuation sheet No 2
to Form No 395 and 410 (Scot)

Please complete
legibly, preferably
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Company number

FC005668

Name of company

VARIG, S.A. (VIAÇÃO AÉREA RIO-GRANDENSE)

("Varig")

Limited*

*delete if
inappropriate

Description of the instrument creating or evidencing the mortgage or charge (continued) (note 2)

[Empty box for description of the instrument]

"Collection Agency Agreement" means the agreement dated 6 December 1993 appointing the Collection Agent and setting out its duties, as the same may be amended, supplemented or novated from time to time;

"Collection Agent" means Citibank, N.A. acting through its office at 120 Wall Street, New York and shall be construed to include any successor collection agent appointed by the Majority Purchasers from time to time and, if such appointment occurs before Acceleration, approved by Varig (such approval not to be unreasonably withheld or delayed);

"Collection Period" means the period of six months commencing on the Closing Date and each successive period of six months thereafter;

"Collections" means amounts received by the Collection Agent (net of any amounts deducted or withheld in respect of taxes and of any amounts which any Purchaser or the Collection Agent is liable to pay in respect of taxes on or in relation thereto) in Yen under the BSP Arrangements;

"Encumbrance" means any mortgage, charge, pledge, lien or other security interest of any kind (including any agreement to give any of the foregoing);

"End Date" means the day falling three years after the Closing Date;

"Further Purchaser" means any person to whom Varig agrees to sell on a pari passu basis any part of the benefit of the BSP Arrangements which is not then comprised in the Purchased Property;

"IATA" means the International Air Transport Association;

"IATA Passenger Sales Agency Agreement" has the same meaning as in IATA resolutions 810j and 850;

"Japanese Long-term Prime Lending Rate" means, on any day, the rate determined by the Collection Agent as being the arithmetic mean (expressed as a percentage rate per annum and rounded up, if necessary, to the nearest one hundredth of one per cent.) of the rate generally applied by The Industrial Bank of Japan ("IBJ") and the rate generally applied by The Long-term Credit Bank of Japan, Limited ("LTCB"), in each case as its long-term prime rate of interest in respect of loans in Yen to its prime customers in Japan with a term exceeding one year, or, in the event that either IBJ or LTCB ceases to utilise generally in its lending business in Yen a rate described as its long-term prime rate, such other percentage rate per annum generally applied at the relevant time by IBJ or LTCB (as the case may be) in substitution or closest substitution for the rate which was previously so described;

"Majority Purchasers" means any one or more Purchasers whose interest in the Uncollected Base Amounts exceeds 50 per cent. thereof;

"Margin" means, in respect of each Original Purchaser, the margin expressed as a percentage per annum which is identified in a letter dated 6 December 1993 between Varig and such Original Purchaser and copied to the Collection Agent;

"month" means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month (and references to "months" shall be construed accordingly);

"Notice" means a notice substantially in the form set out in the Sale and Purchase Agreement;

"Original Additional Amount" means, in respect of any Collection Period:

- (a) (where the letter referred to in the definition of Margin indicates that the rate applicable to the relevant Original Purchaser is on a floating rate basis) an amount calculated on the Uncollected Base Amounts on the first day of such Collection Period by applying the applicable rate in respect of each Original Purchaser (such applicable rate to be the applicable Margin in respect of such Original Purchaser plus the Japanese Long-term Prime Lending Rate determined by the Collection Agent to be prevailing at 11.00 a.m. (New York time) on the second Business Day prior to the beginning (or in relation to the first Collection Period on the Closing Date) of such Collection Period and expressed as a percentage per annum) to such Purchaser's proportionate part of the

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Particulars of a mortgage or charge (continued)

Continuation sheet No 3
to Form No 395 and 410 (Scot)

Please complete
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Company number

FC005668

Name of company

VARIG, S.A. (VIAÇÃO AÉREA RIO-GRANDENSE)

"Varig"

Limited*

*delete if
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Description of the instrument creating or evidencing the mortgage or charge (continued) (note 2)

[Empty box for description of the instrument]

Uncollected Base Amounts based on such Original Purchaser's Commitment and computed on the basis of the actual number of days comprised in such Collection Period (on the basis of a year of 360 days); and

- (b) where the letter referred to in the definition of Margin indicates that the rate applicable to the relevant Purchaser is on a fixed rate basis) an amount calculated in the same manner as that outlined in (a) above save that the Japanese Long-term Prime Lending Rate for all Collection Periods shall be that determined by the Collection Agent as at 11.00 a.m. (New York time) on the Closing Date:

"Original Base Amount" means, in respect of each Collection Period ending before the End Date, ¥1,000,000,000;

"Pari Passu Additional Amount" means, in respect of any Collection Period, the amount corresponding to the Original Additional Amount for such Collection Period under each Pari Passu Sale and Purchase Agreement (though, for the avoidance of doubt, a Pari Passu Additional Amount need not be calculated on the same basis as the Original Additional Amount);

"Pari Passu Base Amount" means, in respect of any Collection Period, the amount corresponding to the Original Base Amount for such Collection Period under each Pari Passu Sale and Purchase Agreement;

"Pari Passu Purchase Price Down-Payment" means the purchase price down-payment under each Pari Passu Sale and Purchase Agreement;

"Pari Passu Sale and Purchase Agreement" means each agreement made between Varig and one or more Further Purchasers in accordance with the Sale and Purchase Agreement for the sale on a pari passu basis any part of the benefit of the BSP Arrangements which is not then comprised in the Purchased Property, as the same may be amended, supplemented or novated from time to time;

"Permitted Set-Off" means each amount from time to time falling due from Varig to any other person pursuant to the BSP Arrangements including, without limitation, any fee, refund, commission, reversal, tax or adjustment and any sum which such person is from time to time entitled to net under the BSP Arrangements;

"Purchased Property" means the property for the time being purchased or to be purchased by the Purchasers under the Sale and Purchase Documents;

"Purchasers" means the Original Purchasers and each Further Purchaser in respect of a pari passu further sale which has closed in accordance with the Sale and Purchase Agreement;

"Receivable" means every account receivable accruing due to Varig from time to time in Yen under the BSP Arrangements or in respect of sales of Varig air tickets in Japan by IATA authorised travel agents on Standard Traffic Documents issued by the BSP using Varig's Carrier Identification Plate pursuant to the IATA Passenger Sales Agency Agreement;

"Sale and Purchase Agreements" means this Agreement and the Pari Passu Sale and Purchase Agreements;

"Sale and Purchase Documents" means the Sale and Purchase Agreements, the Assignments and the Notices;

"Specified Event" means any of the events specified as such in the Sale and Purchase Agreement;

"Standard Traffic Documents" has the same meaning as in IATA resolutions 810j and 850;

"Total Additional Amount" means, in respect of any Collection Period, the sum of the Original Additional Amount for such Collection Period and the aggregate of the Pari Passu Additional Amounts for such Collection Period;

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Particulars of a mortgage or charge (continued)

Continuation sheet No 4
to Form No 395 and 410 (Scot)

Please complete
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Company number

FCC05668

Name of company

VARIG, S.A. (VIAÇÃO AÉREA RIO-GRANDENSE)

"Varig"

-Limited*

*delete if
inappropriate

Description of the instrument creating or evidencing the mortgage or charge (continued) (note 2)

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"Total Base Amount" means, in respect of any Collection Period, the sum of the Original Base Amount for such Collection Period and the aggregate of the Pari Passu Base Amounts for such Collection Period;

"Travel Agents" means the travel agents which are from time to time members of the BSP and who have sold one or more tickets on a cash basis on behalf of Varig, details of which are set out in the Sale and Purchase Agreement;

"Uncollected Base Amounts" means, on any day (the "relevant day"), the sum of the Purchase Price Down-Payment less the aggregate amount of Collections applied by the Collection Agent in accordance with the Collection Agency Agreement to the Original Base Amount for each of the Collection Periods ending prior to the relevant day;

"Uncollected Total Base Amounts" means, on any day (the "relevant day"), the sum of:

- (a) the Uncollected Base Amounts; and
- (b) each Pari Passu Purchase Price Down-Payment under a Pari Passu Sale and Purchase Agreement less the aggregate amount of Collections applied by the Collection Agent in accordance with the Collection Agency Agreement to each Pari Passu Base Amount for each of the Collection Periods ending prior to the relevant day; and

"Yen" and "¥" mean lawful currency for the time being of Japan.

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Please complete legibly, preferably in black type, and in bold block letters

FILE COPY



**CERTIFICATE OF THE REGISTRATION
OF A MORTGAGE OR CHARGE**

Pursuant to section 401(2) of the Companies Act 1985

COMPANY No. FC005668

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT AN ASSIGNMENT EXECUTED OUTSIDE THE UNITED KINGDOM AND COMPRISING PROPERTY SITUATED OUTSIDE THE UNITED KINGDOM DATED THE 7th DECEMBER 1993 AND CREATED BY "VARIG" S.A. (VIAGAO AEREA RIO GRANDENSE) FOR SECURING ALL SUMS FROM TIME TO TIME DUE AND PAYABLE BY THE COMPANY TO NI AIRCRAFT LEASING CORPORATION, ORIX CORPORATION AND BANCO DO BRASIL UNDER A SALE AND PURCHASE AGREEMENT DATED 6 DECEMBER 1993 (AS AMENDED OR NOVATED FROM TIME TO TIME) WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 24th DECEMBER 1993.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 5th JANUARY 1994.

A handwritten signature in black ink, appearing to read 'J. M. Evans'.

J. M. EVANS

for the Registrar of Companies

