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CASE COMP/M.9287 – CONNECT AIRWAYS/ FLYBE

COMMITMENTS TO THE EUROPEAN COMMISSION

Pursuant to Article 6(2) of Council Regulation (EC) No. 139/2004 as amended (the “**Merger Regulation**”), the shareholders of Connect Airways Ltd (“**Connect Airways**”) hereby provide the following commitments (the “**Commitments**”) in order to enable the European Commission (the “**Commission**”) to declare the proposed acquisition by Connect Airways of Flybe Group plc and its subsidiaries (“**Flybe**”) (the “**Notified Concentration**”) compatible with the internal market and the EEA Agreement by its decision pursuant to Article 6(1)(b) of the Merger Regulation (the “**Decision**”).

The Commitments shall take effect upon the date of adoption of the Decision.

This text shall be interpreted in the light of the Decision to the extent that the Commitments are attached as conditions and obligations, in the general framework of EU law, in particular in the light of the Merger Regulation, and by reference to the Commission Notice on remedies acceptable under Council Regulation (EC) No. 139/2004 and under Commission Regulation (EC) No. 802/2004.

DEFINITIONS

For the purpose of the Commitments, the following terms shall have the following meanings:

Affiliated Undertakings	Undertakings controlled by Connect Airways or by the ultimate parents of Connect Airways, whereby the notion of control shall be interpreted pursuant to Article 3 of the Merger Regulation and in the light of the Commission’s Consolidated Jurisdictional Notice under Council Regulation (EC) No. 802/2004.
Airport Catchment Area	In respect of AMS, this area includes Lelystad Airport. In respect of CDG, this area includes ORY and BVA. In respect of BHX, this area includes EMA.
AMS	Amsterdam Schiphol Airport.
AMS Remedy Frequencies	This term has the meaning given in Clause 1.1.1(a).
Applicant	Any airline interested in obtaining Slots from Connect Airways in accordance with these Commitments.
BHX	Birmingham Airport.
BHX-AMS City Pair	Flights between BHX and either AMS or Lelystad.
BHX-PAR City Pair	Flights between BHX and either CDG, ORY or BVA.
BVA	Paris Beauvais Tillé Airport.
CDG	Paris Charles de Gaulle Airport.

Commitment(s)	The Slot commitment for each Relevant City Pair and/or, as relevant, the commitment relating to Frequent Flyer Programmes and/or, as relevant, the commitment relating to fare combinability.
Competitive Air Service	A non-stop scheduled passenger air transport service operated on the BHX-AMS City Pair and/or the BHX-PAR City Pair.
Connect Airways	Connect Airways Ltd.
Controlling Entity(ies)	The entities which, together, own the entire share capital of Connect Airways which are DLP, Stobart, and Virgin Atlantic (through its wholly owned subsidiary Virgin Travel Group Limited).
Cyrus	Cyrus Capital Partners L.P.
DLP	DLP Holdings S.à.r.l. a company wholly owned and managed by Cyrus Capital Partners L.P.
Effective Date	The date of adoption of the Decision.
Eligible Air Services Provider	An airline that is not an associated carrier belonging to the same corporate group as Connect Airways or affiliated with Connect Airways and which operates a new or increased Competitive Air Service on a Relevant City Pair.
European Short-haul City Pair(s)	Any route connecting a Relevant Airport with any other part of Europe, which, for the avoidance of doubt, shall include the UK and thus the Relevant City Pairs.
EU Slot Regulation	Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at EU airports (OJ L 14 of 22.01.1993), as amended.
Fast-Track Dispute Resolution Procedure	This term has the meaning given in Clause 5.
Frequency(ies)	A round-trip on a Relevant City Pair.
Frequent Flyer Programme (or FFP)	A programme offered by an airline to reward customer loyalty under which members of the programme accrue points for travel on that airline which can be redeemed for free air travel and other products or services, as well as allowing other benefits such as airport lounge access or priority bookings.
General Slot Allocation Procedure	The Slot allocation procedure as set out in the EU Slot Regulation and IATA Worldwide Scheduling Guidelines (including participation at the IATA Scheduling Conference to try to improve slots and allocation by the slot coordinator from the waitlist following the Slot Handback Deadline).
Grandfathering	This term has the meaning given in Clause 1.3.2.
IATA	The International Air Transport Association.
IATA Scheduling Conference	The industry conference of airlines and airport coordinators worldwide to solve scheduling issues where there are discrepancies between the slots requested by the airlines and allocated by the airport coordinators. The IATA scheduling conference for the Winter Season takes place in June, and the one for the Summer Season in November.
IATA Season	The IATA Summer Season begins on the last Sunday of March and ends on the Saturday before the last Sunday of October. The IATA Winter Season begins on the last Sunday of October and ends on the

	Saturday before the last Sunday of March.
ICC	International Chamber of Commerce.
Identified Time Period	The period prior to 12:00 (local time) and the period after 16:00 (local time).
Key Terms	The following terms that shall be included in the Applicant's formal bid for Slots: timing of the requested Slot(s), number of frequencies and IATA Seasons to be operated (year-round service or seasonal).
Material Increase in Capacity	Permitted capacity (including permitted movements) increase of 5% or more per year.
Misuse	This term has the meaning given in Clause 1.4.2.
MITA	Multilateral Interline Traffic Agreements Manual published by IATA.
Monitoring Trustee	An individual or institution, independent of Connect Airways, who is approved by the Commission and appointed by Connect Airways and who has the duty to monitor Connect Airways' compliance with the conditions and obligations attached to the Commitment Decision.
New Air Services Provider	An airline that is not an associated carrier belonging to the same corporate group as Connect Airways or affiliated with any member of Connect Airways and which commences a new non-stop service on a Relevant City Pair or which increases the number of non-stop Frequencies it operates on a Relevant City Pair in accordance with these Commitments.
ORY	Paris Orly Airport.
PAR Remedy Frequencies	This term has the meaning given in Clause 1.1.1(b).
Published Fares	Fares published by Connect in ATPCo in reservation booking designator (or selling classes): <ul style="list-style-type: none"> • Y and J for European Short-haul City Pairs
Prospective Entrant	Any air carrier interested in obtaining Slots from Connect Airways in accordance with these Commitments and which complies with the following requirements: <ul style="list-style-type: none"> • it must be independent of and unconnected with Connect Airways. For the purpose of these Commitments, an airline shall not be deemed to be independent of and unconnected to Connect Airways when, in particular: <ul style="list-style-type: none"> ○ it is an associated carrier belonging to the same corporate group as Connect Airways; or ○ it co-operates with Connect Airways on the Relevant City Pair concerned in the provision of passenger air transport services, except if this co-operation is limited to agreements concerning servicing, deliveries, lounge usage or other secondary activities entered into on an arm's length basis; • it must have the intention and be able to start or increase a Competitive Air Service on one or more of the Relevant City Pairs individually or collectively by codeshare; • to that effect, it needs a Slot or several Slots for the operation of a Competitive Air Service.

Q/YQ/YR Surchage	Charges paid in addition to the base fare amount of a ticket which are allocated to the Q, YQ or YR IATA ticket coding and which are used in particular to recover fuel, insurance and/or security charges.
Relevant Airport(s)	AMS and/or CDG.
Relevant City Pair(s)	This term has the meaning given in Clause 1.2.2.
Requesting Party	This term has the meaning given in Clause 5.1.2.
SAL	Slot Allocation List.
Slot Handback Deadline	15 January for the IATA Summer Season and 15 August for the IATA Winter Season.
Slot Release Agreement	An agreement between Connect Airways and a Prospective Entrant that provides for the exchange of Slot(s) with the Prospective Entrant according to the principles laid down in Clause 1 of these Commitments. For the avoidance of doubt, (i) the Slot Release Agreement shall abide by the EU Slot Regulation and any exchange pursuant to this agreement shall be confirmed by the slot coordinator and (ii) the duration of the Slot Release Agreement shall be unlimited in time, subject to its termination provisions.
Slot Release Procedure	This term has the meaning given in Clause 1.2.1.
Slot Request Submission Deadline	The final date for the request for Slots to the slot coordinator as set out in the IATA Worldwide Scheduling Guidelines.
Slot(s)	The permission to land and take-off in order to operate an air service at the airport on a specific date and time given in accordance with the EU Slot Regulation.
Stobart	Stobart Aviation Limited, being a wholly owned subsidiary of Stobart Group Limited.
Sunset Date	The last day of IATA Winter Season 2029/2030.
TFEU	The Treaty on the Functioning of the European Union.
Time Window	The period of time either side of the Slot time requested by the Prospective Entrant and shall be +/- twenty (20) minutes for Relevant City Pairs.
Utilisation Period	This term has the meaning given in Clause 1.3.1 and shall be six (6) consecutive IATA Seasons (e.g. Summer/Winter/Summer/Winter/Summer/Winter for routes operated on a year-round basis or a continuous series of six (6) Summer or Winter Seasons for the routes which are operated on a seasonal basis).
Virgin Atlantic	Virgin Atlantic Limited.

1. SLOTS

1.1 Slots at Relevant Airports

- 1.1.1 Subject to Clause 7, Connect Airways undertakes to procure that Slots are made available at Relevant Airports to allow one or more Prospective Entrant(s) to operate or increase the following number of new or additional Frequencies on the following city pairs:
- (a) up to (5) five Frequencies per day in total on the BHX-AMS City Pair (the "**AMS Remedy Frequencies**"); and
 - (b) up to (3) three Frequencies per day in total on the BHX-PAR City Pair (the "**PAR Remedy Frequencies**").

1.2 Conditions pertaining to Slots

- 1.2.1 Each Prospective Entrant shall comply with the following procedure to obtain Slots from Connect Airways ("**Slot Release Procedure**").
- 1.2.2 The Prospective Entrant wishing to commence/increase a Competitive Air Service on one or more of the city pairs covered by Clause 1.1.1 ("**Relevant City Pair(s)**") shall:
- (a) apply to the slot coordinator for the necessary Slots through the General Slot Allocation Procedure; and
 - (b) notify its request for Slots to the Monitoring Trustee, within the period foreseen in Clause 1.5.1.
- 1.2.3 The Prospective Entrant shall be eligible to obtain Slots from Connect Airways pursuant to these Commitments only if it can demonstrate that it has exhausted all reasonable efforts to obtain the necessary Slots to operate on the Relevant City Pairs through the normal workings of the General Slot Allocation Procedure.
- 1.2.4 For the avoidance of doubt, the Prospective entrant remains solely responsible to negotiate and enter into any agreement with the Relevant Airports for the provision of airport and terminal related services.
- 1.2.5 For the purposes of this Clause 1.2, the Prospective Entrant shall be deemed not to have exhausted all reasonable efforts to obtain necessary Slots if:
- (a) Slots at the Relevant Airport were available through the General Slot Allocation Procedure within the Time Window but such Slots have not been accepted by the Prospective Entrant; or
 - (b) Slots at the Relevant Airport (for use to operate a Competitive Air Service on the Relevant City Pair) were obtained through the General Slot Allocation Procedure outside the Time Window and the Prospective Entrant did not give Connect Airways the opportunity to exchange those Slots for Slots within the Time Window; or
 - (c) it has not exhausted its own Slot portfolio at the Relevant Airport. For these purposes, the Prospective Entrant will be deemed not to have exhausted its own Slot portfolio:
 - (i) if the Prospective Entrant has Slots at the Relevant Airport within the Time Window which are being leased-out to or exchanged with other carriers (unless that lease or exchange was concluded before the Effective Date or the carrier can provide reasonable evidence satisfying the Commission (following consultation with the Monitoring Trustee) that there are bona fide reasons for this being done rather than it being a pretext to enable the Prospective Entrant to present itself as needing Slots to operate a Competitive Air Service on a Relevant City Pair); or
 - (ii) if the Prospective Entrant has Slots at the Relevant Airport which are outside the Time Window and which are leased-out to other carriers, in which case the Prospective Entrant shall be entitled to apply for Slots from Connect Airways, but only if:

- that lease was concluded before the Effective Date; or
- it can provide reasonable evidence satisfying the Commission (following consultation with the Monitoring Trustee) that there are bona fide reasons for leasing the Slot out in this way rather than using it itself; or
- it gives Connect Airways an option to become the lessee of the leased-out Slot at the earliest possible time allowed under the applicable lease (on terms substantially the same as that lease and for a duration that runs in parallel with the Slot Release Agreement). If the Slot Release Agreement with the Prospective Entrant does not provide for monetary compensation, then the lease to Connect Airways will likewise not provide for monetary compensation.

For the purposes of Clause 1.2.5(c) (i) and (ii), the bona fide reasons for leasing out (or, as relevant, exchanging) Slots by the Prospective Entrant shall include, but shall not be limited to, a situation where the Prospective Entrant can provide clear evidence of an intention to operate those Slots on a specific route and clear and substantiated evidence of the reasons that currently prevent it from doing so.

126 If the Prospective Entrant obtains Slots through the General Slot Allocation Procedure but after the IATA Scheduling Conference:

- (a) which are within the Time Window; or
- (b) which (in the case of Slots obtained at both ends of the route) are not compatible with the planned flight duration of the Prospective Entrant's operation on the route,

the Prospective Entrant shall remain eligible to obtain Slots from Connect Airways through the Slot Release Procedure provided that it gives an option to Connect Airways to use the Slots obtained through the General Slot Allocation Procedure on terms substantially the same as the terms of the Slot Release Agreement, and for a duration that runs in parallel with the Slot Release Agreement (provided that such use by Connect Airways is compatible with Article 8a(3) of the EU Slot Regulation).

127 Without prejudice to these Commitments (and, particularly, of this Clause 1), Connect Airways shall not be obliged to honour any agreement to make available the Slots to the Prospective Entrant if:

- (a) the Prospective Entrant has not exhausted all reasonable efforts in the General Slot Allocation Procedure to obtain the necessary Slots to operate a new or increased service on the Relevant City Pair; or
- (b) the Prospective Entrant has been found to be in a situation of Misuse (as described in Clause 1.4.2 below).

128 Subject to Clause 1.5.11, Connect Airways undertakes to make available Slots within the Time Window (if it has such Slots). In the event that Connect Airways does not have Slots within the Time Window, Connect Airways shall offer to release the Slots closest in time to the Prospective Entrant's request. Connect Airways does not have to offer Slots if the Slots which the Prospective Entrant could have obtained through the General Slot Allocation Procedure are closer in time to the Prospective Entrant's request than the Slots that Connect Airways has. The arrival and departure Slot times shall be such as to allow for reasonable aircraft rotation to the extent possible, taking into account the Prospective Entrant's business model and aircraft utilisation constraints.

1.3 Grandfathering of Slots

1.31 As a general rule, the Slots obtained by the Prospective Entrant from Connect Airways as a result of the Slot Release Procedure shall be used only to provide a Competitive Air Service on the Relevant City Pair for which the Slots were requested. These Slots cannot be used on another city pair unless the Prospective Entrant has operated a Competitive Air Service on the Relevant City Pair for which these Slots have been made available for a number of full

consecutive IATA Seasons ("**Utilisation Period**"). For the avoidance of doubt, a Utilisation Period may extend beyond the Sunset Date.

1.32 The Prospective Entrant will be deemed to have grandfathering rights for the Slots once appropriate use of the Slots has been made on the Relevant City Pair for the Utilisation Period. In this regard, once the Utilisation Period has elapsed, the Prospective Entrant will be entitled to use the Slots obtained on the basis of these Commitments on any city pair to/from the Relevant Airport ("**Grandfathering**").

1.33 Grandfathering is subject to approval of the Commission, advised by the Monitoring Trustee, in accordance with Clause 1.5.

1.4 Limitations on use of Slots

1.41 During the Utilisation Period, the Prospective Entrant shall not be entitled to transfer, assign, sell, swap or charge in breach of these Commitments any Slots obtained from Connect Airways under the Slot Release Procedure, except for (i) changes to any such Slots which are within the Time Window and which have been agreed with the slot coordinator, and (ii) any Slots which are outside the Identified Time Period which can be swapped provided this has been agreed with the slot coordinator.

1.42 During the Utilisation Period, Misuse shall be deemed to arise where a Prospective Entrant which has obtained Slots released by Connect Airways decides:

- (a) not to commence services on the Relevant City Pair(s);
- (b) to cease operating on a Relevant City Pair(s) or to operate the Frequencies on a Relevant City Pair(s) at a utilisation rate lower than proposed in the bid, submitted in accordance with Clause 1.5.7, unless such a decision is consistent with the "use it or lose it" principle in Article 10(2) of the EU Slot Regulation (or any suspension thereof);
- (c) to transfer, assign, sell, swap, sublease or charge any Slot released by Connect Airways on the basis of the Slot Release Procedure, except for (i) changes to the Slot which are within the Time Window and which have been agreed with the slot coordinator, and (ii) any Slots which are outside the Identified Time Period which can be swapped provided this has been agreed with the slot coordinator;
- (d) not to use the Slots on a Relevant City Pair(s), as proposed in the bid, submitted in accordance with Clause 1.5.7;
- (e) not to use the Slots properly: this situation shall be deemed to exist where the Prospective Entrant (i) loses the series of Slots at a Relevant Airport as a consequence of the principle of "use it or lose it" in Article 10(2) of the EU Slot Regulation or (ii) misuses the Slots at a Relevant Airport as described and interpreted in Article 14(4) of the EU Slot Regulation.

1.43 If Connect Airways or the Prospective Entrant which has obtained Slots under the Slot Release Procedure becomes aware of or reasonably foresees any Misuse by the Prospective Entrant during the Utilisation Period, it shall immediately inform the other and the Monitoring Trustee. The Prospective Entrant shall have (15) fifteen calendar days after such notice to cure the actual or potential Misuse.

- (a) If the Misuse is not cured, Connect Airways shall have the right to terminate the Slot Release Agreement and the Slots shall be returned to Connect Airways. In cases (a) and (b) of Clause 1.4.2, Connect Airways shall then use its reasonable best efforts to redeploy the Slots in order to safeguard the historic precedence. If despite its reasonable best efforts, Connect Airways is not able to retain the historic precedence for these Slots, or in case of a Misuse as defined in cases (c), (d) or (e) of Clause 1.4.2, the Prospective Entrant shall provide reasonable compensation to Connect Airways as provided for in the Slot Release Agreement.
- (b) If the Misuse is cured within the (15) fifteen calendar day period, Connect Airways shall not have the right to terminate the Slot Release Agreement and the Prospective Entrant can continue to use the Remedy Slots.
- (c) For the avoidance of doubt, the occurrence of Misuse during the Utilisation Period resets the count of the Utilisation Period to zero in cases (a) and (b) of Clause 1.4.2.

- 1.44 For the avoidance of doubt, the Slot Release Agreement may:
- (a) contain prohibitions on the Prospective Entrant transferring its rights to the Slots (except for swaps pursuant to Clause 1.4.2(c)(ii)) to a third party, making the Slots available in any way to a third party for the use of that third party, or releasing, surrendering, giving up or otherwise disposing of any rights to the Slots; and/or
 - (b) provide for reasonable compensation to Connect Airways in case of Misuse during the Utilisation Period; and/or
If for any reason (including, but without limitation, the insolvency of the Prospective Entrant) Connect Airways is unable to receive reasonable compensation for the Slots being either lost or not returned within sufficient time for Connect Airways to preserve its grandfathering rights, such Slots shall be counted against the maximum number of Slots to be released in accordance with the Commitments.
 - (c) may contain a re-application procedure in case a change of control of the Prospective Entrant occurs.
- 1.45 In view of the Commission's Communication of 30 April 2008 on the EU Slot Regulation, which stated that: "The text of the current [EU Slot] Regulation is silent on the question of exchanges with monetary and other consideration" and that the Commission would therefore "not intend to pursue infringement proceedings against Member States where such exchanges take place in a transparent manner, respecting all the other administrative requirements for the allocation of slots set out in the applicable legislation", and to the extent that the Slots released under the Slot Release Procedure are at an airport where secondary trading takes place, the Slot Release Agreement with the Prospective Entrant may provide for monetary and/or other consideration, so long as such Slot Release Agreement provisions are clearly disclosed to the Monitoring Trustee and comply with these Commitments and all other administrative requirements set out in the applicable legislation.
- 1.46 The Slot Release Agreement shall provide that the Prospective Entrant will be able to terminate the agreement at the end of each IATA Season without penalty, provided the Prospective Entrant notifies the termination of the agreement to Connect Airways in writing no later than two (2) weeks after the IATA Scheduling Conference.
- 1.5 Selection procedure, role of Monitoring Trustee and approval by Commission**
- 1.51 At least seven (7) weeks before the Slot Request Submission Deadline, any airline wishing to obtain Slots from Connect Airways pursuant to the Slot Release Procedure shall:
- (a) inform the Monitoring Trustee of its proposed Slot request (indicating the arrival and departure times);
 - (b) submit to the Monitoring Trustee the list of its leased out or exchanged Slots at the Relevant Airport for which it is applying for Slots, along with the date at which the leases or exchanges were concluded. The Monitoring Trustee or the Commission may also request additional information from the Applicant to enable assessment of its eligibility pursuant to Clause 1.2.5 and Clause 1.5.4; and
 - (c) indicate to the Monitoring Trustee if it has any confidentiality concerns which would justify keeping its identity anonymous vis-à-vis Connect Airways, in which case it must provide a reasoned explanation of those concerns together with its request for anonymity. In the event that such a request is made, the Monitoring Trustee shall:
 - (i) immediately inform the Commission of that request,
 - (ii) within one (1) week of that request advise the Commission whether or not that request should be granted, and
 - (iii) within three (3) weeks of the request, in consultation with the Commission, determine whether or not the Applicant's Slot request may be treated anonymously (and, if so, to what extent, subject to what conditions and for what period).
- 1.52 At least six (6) weeks before the Slot Request Submission Deadline, the Monitoring Trustee shall forward the Slot request to Connect Airways and the Commission. Until the beginning of the IATA Scheduling Conference, the Monitoring Trustee shall not disclose to Connect

Airways the Relevant City Pair for which the Slot is requested. Once informed of the Slot request, Connect Airways may discuss with the Applicant the timing of the Slots to be released and the types of compensation which could be offered. Connect Airways shall copy the Monitoring Trustee on all correspondence between it and the Applicant which relates to the Slot Release Procedure. Connect Airways shall not share any information about such discussions with other Applicants and may require the Applicant not to share any such information with other Applicants. At least six (6) weeks before the Slot Request Submission Deadline, the Monitoring Trustee shall also inform the manager of the Relevant Airport for which the slot request is made and the slot coordinator of the Slot request and, subject to the Applicant's consent, disclose to them any relevant information regarding the Slot request. The Monitoring Trustee shall ask the manager of the Relevant Airport for which the slot request is made and the slot coordinator to inform it of any likely impediments to the satisfaction of the request, in particular due to the availability of terminal facilities and infrastructure.

- 1.53 If the Applicant has made a request for anonymity in accordance with Clause 1.5.1(c), the Monitoring Trustee shall not disclose to Connect Airways the identity of the Applicant for so long as that request is pending or has been granted. In such a case, the procedure set down in this Clause 1.5.3 shall apply, save that, until the beginning of the IATA Scheduling Conference, any communication or correspondence between Connect Airways and the Applicant shall go through the Monitoring Trustee, who shall ensure the protection of the anonymity of the Applicant.
- 1.54 After being informed of the Slot request in accordance with Clause 1.5.2, the Commission (advised by the Monitoring Trustee) shall assess whether the Applicant meets the following criteria:
- (a) the Applicant is independent of and unconnected to Connect Airways and its Controlling Entity(ies); and
 - (b) the Applicant has exhausted its own Slot portfolio at the Relevant Airport for which the slot request is made.

If the Commission decides that the Applicant does not fulfil the above criteria, the Commission shall inform the Applicant and Connect Airways of that decision at least two (2) weeks before the Slot Request Submission Deadline.

- 1.55 At least one (1) week before the Slot Request Submission Deadline, Connect Airways shall indicate to the Monitoring Trustee and each Applicant which Slots at each Relevant Airport they would release, if necessary, during the Time Window.
- 1.56 By the Slot Request Submission Deadline, each Applicant shall send its request for Slots (at the same time(s) as those requested through the Slot Release Procedure) to the slot coordinator in accordance with the General Slot Allocation Procedure.
- 1.57 By the Slot Request Submission Deadline, each Applicant shall also submit its formal bid for the Slots to the Monitoring Trustee. The formal bid shall include at least:
- (a) the Key Terms (i.e. timing of the Slots, number of frequencies to be operated on a year-round service or on a seasonal basis, number of IATA Seasons to be operated); and
 - (b) a detailed business plan. This plan shall contain a general presentation of the company including its history, its legal status, the list and a description of its shareholders and the two most recent yearly audited financial reports. The detailed business plan shall provide information on the plans that the company has in terms of access to capital, development of its network, fleet etc. and detailed information on its plans for the Relevant City Pair(s) on which it wants to operate. The latter should specify in detail planned operations on the Relevant City Pair(s) over a period of at least two (2) consecutive IATA Seasons (size of aircrafts, seat configuration, total capacity and capacity by each class, number of frequencies operated, pricing structure, service offerings, planned time-schedule of the flights) and expected financial results (expected traffic, revenues, profits, average fare by cabin class). The Monitoring Trustee and/or the Commission may also request any additional information and documents from the Applicant required for their assessment, including a copy of all cooperation agreements the Applicant may have with other airlines. Business secrets and confidential information will be kept confidential by the

- Commission and the Monitoring Trustee and will not become accessible Connect Airways, other undertakings or the public; and
- (c) a corporate statement (e.g. a Board approval) confirming that the Prospective Entrant has the intention and is able to start or offer a Competitive Air Service on one or more of the Relevant City Pairs.
- 1.58 In parallel, if an Applicant is offering compensation for the Slot(s) it has requested pursuant to these Commitments, it will send Connect Airways, copying the Monitoring Trustee, a detailed description of the compensation which it is willing to offer in exchange for the release of the Slots for which it has submitted bids. Within three (3) weeks, Connect Airways shall provide the Monitoring Trustee with a ranking of these offers.
- 1.59 Having received the formal bid(s), the Commission (advised by the Monitoring Trustee) shall:
- (a) assess whether each Applicant, is a viable existing or potential competitor, with the ability, resources and commitment to operate services on the Relevant City Pair(s) in the long term as a viable and active competitive force;
- (b) evaluate the formal bids of each Applicant, that meets (a) above, and rank these Applicants in order of preference.
- 1.510 In conducting its evaluation in accordance with Clause 1.5.9, the Commission shall give preference to the Applicant (or combination of Applicants) which will provide the most effective overall competitive constraint on each of the Relevant City Pairs, without regard to the country in which the Applicant(s) is licensed or has its principal place of business. For these purposes, the Commission shall take into account the strength of the Applicant's business plan and in particular give preference to Applicants meeting one or more of the following criteria:
- (a) the largest capacity (as measured in seats offered on services for two (2) relevant consecutive IATA Seasons (e.g. Summer/Winter or a continuous series of two (2) Summer or Winter IATA Seasons for a seasonal Competitive Air Service)) from/to the Relevant Airport on Relevant City Pairs;
- (b) a pricing structure and service offerings that would provide the most effective competitive constraint on the Relevant City Pair(s); and
- (c) plans to offer feed to third party carriers operating services from the Relevant Airport.
- 1.511 The Commission (advised by the Monitoring Trustee) shall also ensure that the up to (5) five arrival and departure Slots at AMS and the up to (3) three arrival and departure Slots at CDG to be made available under Clause 1.1.1 are spread evenly throughout the day i.e. with respect to AMS no more than two (2) arrival/departure Slots in the morning (the period up until 12:00 local time), no more than two (2) arrival/departure Slots in the afternoon (the period after 12:00 and up until 16:00 local time), and no more than two (2) arrival/departure Slots in the evening (the period after 16:00 local time), and with respect to CDG no more than one (1) arrival/departure Slot in the morning (the period up until 12:00 local time), no more than one (1) arrival/departure Slot in the afternoon (the period after 12:00 and up until 16:00 local time), and no more than one (1) arrival/departure Slot in the evening (the period after 16:00 local time).
- 1.512 In advance of the beginning of the IATA Scheduling Conference, the Monitoring Trustee shall inform each Applicant (if the latter did not receive slots within the Time Window as indicated through the SAL) and the slot coordinator:
- (a) whether the Applicant qualifies for the Slots Commitment; and
- (b) the Applicant's ranking.
- 1.513 In any case, the Applicant shall attend the IATA Scheduling Conference and try to improve its Slots. Following confirmation of the Commission's approval pursuant to Clause 1.5.9, the Applicants and Connect Airways shall be deemed to have agreed the Key Terms of the Slot Release Agreement, as well as any compensation which was offered by the Applicant to Connect Airways under Clause 1.5.8. The Key Terms may only be changed after such date by mutual agreement between the Applicant and Connect Airways if the Monitoring Trustee

confirms that the changes are not material or if the Commission (advised by the Monitoring Trustee) approves the changes.

- 15.14 Within two (2) weeks of the end of the IATA Scheduling Conference, each Applicant shall inform the Monitoring Trustee and Connect Airways whether it will commit to operate the Slots offered eventually by Connect Airways in case it has not obtained them through the General Slot Allocation Procedure.
- 15.15 Within three (3) weeks of the end of the IATA Scheduling Conference, the Monitoring Trustee shall confirm to the highest ranked Applicant(s) that has provided the confirmation in accordance with Clause 1.5.12 that it is entitled to receive Slots from Connect Airways. Connect Airways shall offer the dedicated Slots for release to such Applicant. The Slot Release Agreement shall be subject to review by the Monitoring Trustee and approval of the Commission. Unless both Connect Airways and the relevant Applicant agree to an extension and subject to Clause 1.2.6, the Slot Release Agreement shall be signed and the Slot release completed within six (6) weeks after the IATA Scheduling Conference, and the slot coordinator shall be informed of the Slot exchange in order to obtain the required confirmation.

2. FARE COMBINABILITY

- 2.1 At the request of an Eligible Air Services Provider which, after the Effective Date and before the Sunset Date, has started to operate new or increased Competitive Air Service on a Relevant City Pair (whether or not such service uses Slots released to that carrier pursuant to these Commitments), Connect Airways shall enter into an agreement that arranges for fare combinability on that Relevant City Pair. This agreement will provide for the possibility for the Eligible Air Services Provider, or travel agents, to offer a return trip on the Relevant City Pair comprising a non-stop service provided one way by Connect Airways and a non-stop service provided the other way by the Eligible Air Services Provider. At the request of the Eligible Air Services Provider, the agreement shall apply in relation to all of the Eligible Air Services Provider's services on the Relevant City Pair. For the avoidance of doubt, Connect Airways shall not be obliged to enter into an agreement with an Eligible Air Services Provider that arranges for fare combinability on that Relevant City Pair, if Connect Airways/Flybe has ceased operating services on that Relevant City Pair and any such agreement shall automatically lapse in the event that Connect Airways/Flybe ceases to operate all services on that Relevant City Pair.
- 2.2 Any such agreement shall be subject to the following restrictions:
- (a) it shall provide for fare combinability on the basis of Connect Airways/Flybe's Published Fares. Where this provides for a published round-trip fare, the fare can be comprised of half the round-trip fare of Connect Airways/Flybe and half the round-trip fare of the Eligible Air Services Provider;
 - (b) it shall provide for the appropriate division or recovery of any applicable Q/YQ/YR Surcharges;
 - (c) it shall be limited to true origin and destination traffic on the Relevant City Pair operated by the Eligible Air Services Provider; and
 - (d) it shall be subject to the MITA rules.
- 2.3 Subject to Clause 2.7, any term included in the agreement (for example, interline service charge, number of booking classes included) can never be less favourable than the corresponding term in any fare combinability agreement which Connect Airways/Flybe and the Eligible Air Services Provider have in place as at the Effective Date.
- 2.4 Subject to seat availability in the relevant fare category, Connect Airways shall carry a passenger holding a coupon issued by an Eligible Air Services Provider for travel on a Relevant City Pair. Connect Airways may require that the Eligible Air Services Provider or the passenger, where appropriate, pay the (positive) difference between the fare charged by Connect Airways and the fare charged by the Eligible Air Services Provider if Connect

Airways was not the original ticketed carrier on the Relevant City Pair. In cases where the Eligible Air Services Provider's fare is lower than the value of the coupon issued by it, Connect Airways may endorse its coupon only up to the value of the fare charged by the Eligible Air Services Provider. An Eligible Air Services Provider shall enjoy the same protection in cases where Connect Airways's fare is lower than the value of the coupon issued by it.

- 2.5 A fare combinability agreement entered into pursuant to this Clause 2 for a particular Relevant City Pair shall have an effective duration of up to five (5) years at the choice of the Eligible Air Services Provider, or if it elects to have a shorter initial duration than that to which it is entitled pursuant to this Clause 2.5, the Eligible Air Services Provider shall have a right to renew the agreement on an evergreen basis for further periods of one (1) year (i.e. rolled over on the same terms) as long as these Commitments are in force, provided it exercises its right of extension by informing Connect Airways/Flybe in writing no later than thirty (30) days before the expiry of the agreement. The Eligible Air Services Provider also has a right to terminate the agreement, at any time during the initial term or the extensions, upon thirty (30) days' written notice.
- 2.6 All agreements entered into pursuant to this Clause 2 for a particular Relevant City Pair shall lapse automatically in the event that the Eligible Air Services Provider ceases to operate the new or increased service on that Relevant City Pair.
- 2.7 The conclusion of the fare combinability agreement shall be subject to the approval of the Commission, as advised by the Monitoring Trustee, in particular as to whether its terms are reasonable.

3. FREQUENT FLYER PROGRAMMES

- 3.1 Subject to Clause 7, should Connect Airways become part of a FFP, at the request of a New Air Services Provider that does not have a comparable FFP of its own, Connect Airways shall request for the New Air Services Provider to be hosted in the same FFP as Connect Airways for the Relevant City Pair(s) on which the New Air Services Provider has commenced or increased service.
- 3.2 Where the FFP provider agrees to host the New Air Services Provider, Connect Airways shall use its reasonable endeavors for the FFP agreement with the New Air Services Provider to be on terms such that the New Air Services Provider shall have equal treatment vis-à-vis the accrual and redemption of Miles on the particular Relevant City Pair as compared with Connect Airways for as long as the New Air Services Provider operates a non-stop service on that Relevant City Pair.
- 3.3 The conclusion of the FFP agreement with the New Air Services Provider shall be subject to the approval of the Commission, as advised by the Monitoring Trustee, in particular as to whether its terms are reasonable.

4. MONITORING TRUSTEE

4.1 Appointment of Monitoring Trustee

- 4.1.1 A Monitoring Trustee shall be appointed by Connect Airways on the terms and in accordance with the procedure described below and, once approved by the Commission, shall perform the functions of monitoring Connect Airways' fulfilment of the Commitments and further obligations that may be contained in the Commitment Decision.
- 4.1.2 The Monitoring Trustee shall be independent of Connect Airways, its Controlling Entities, and its Affiliated Undertakings and must be familiar with the airline industry and the slot allocation and exchange procedures, and have the experience and competence necessary for this appointment (e.g. investment bank, consultant specialised in the air transport sector, or

auditor). In addition, it shall not be exposed to any conflict of interest and shall not have had any direct or indirect work, consulting or other relationship with the shareholders of Connect Airways in the last three (3) years and shall not have a similar relationship with Connect Airways for three (3) years after completing its mandate. For the avoidance of doubt, the performance of the role of monitoring trustee in other Commission proceedings, including the performance of the role of monitoring trustee for Connect Airways, shall not be an obstacle to the appointment as Monitoring Trustee.

- 4.13 Connect Airways shall ensure that the Monitoring Trustee's remuneration shall be sufficient to guarantee the effective and independent compliance of its mandate. Connect Airways will only be required to remunerate the Monitoring Trustee for costs and expenses reasonably incurred in the performance of its mandate.
- 4.14 Connect Airways shall use reasonable endeavours to, within two (2) weeks of the Effective Date, submit to the Commission for approval a list of one or more persons whom Connect Airways considers adequate to fulfil the duties of the Monitoring Trustee. The proposal shall contain sufficient information for the Commission to verify that the proposed Monitoring Trustee fulfils the requirements set out above and shall include:
- (a) the full terms of the proposed mandate, which shall include all provisions necessary to enable the Monitoring Trustee to fulfil its duties under these Commitments; and
 - (b) the outline of a work plan which describes how the Monitoring Trustee intends to carry out the tasks assigned to it.
- 4.15 The Commission shall have the discretion to approve or reject the proposed Monitoring Trustee and to approve the proposed mandate subject to any modifications it deems necessary for the Monitoring Trustee to fulfil its obligations. If only one name is approved, Connect Airways shall appoint the individual or institution concerned as Monitoring Trustee. If more than one name is approved by the Commission, Connect Airways shall be free to choose the Trustee to be appointed from among the names approved. The Monitoring Trustee should be appointed within one (1) week of the Commission's approval, in accordance with the mandate approved by the Commission.
- 4.16 If all the proposed Monitoring Trustees are rejected by the Commission, Connect Airways shall submit the names of at least two more individuals or institutions within one (1) week of being formally informed of the rejection by the Commission.
- 4.17 If all further proposed Monitoring Trustees are rejected by the Commission, the Commission shall nominate at least two candidates for the position of Monitoring Trustee and Connect Airways shall appoint one of these candidates in accordance with the mandate approved by the Commission.

4.2 Monitoring Trustee's Mandate

- 4.21 The Monitoring Trustee's mandate shall include, in particular, the following obligations and responsibilities:
- (a) to monitor the satisfactory discharge by Connect Airways of the obligations entered into in these Commitments in so far as they fall within the scope of these Commitments;
 - (b) to propose to Connect Airways such measures as the Monitoring Trustee considers necessary to ensure Connect Airways' compliance with the conditions and obligations attached to the Decision;
 - (c) to advise and make a written recommendation to the Commission as to the suitability of any Slot Release Agreement or Prospective Entrant submitted for approval to the Commission under Clause 1;
 - (d) to provide written reports to the Commission on Connect Airways' compliance with these Commitments and the progress of the discharge of its mandate, identifying any respects in which Connect Airways has failed to comply with these Commitments or the Monitoring Trustee has been unable to discharge its mandate;
 - (e) to mediate in any disagreements relating to any Slot Release Agreement, if mediation is agreed to by the other party or parties to the agreement in question, and submit a report upon the outcome of the mediation to the Commission; and

- (f) at any time, to provide to the Commission, at its request, a written or oral report on matters falling within the scope of these Commitments.
- 422 For the avoidance of doubt, subject to Clause 4.2.1, there is no requirement for the Monitoring Trustee to be involved in the commercial negotiations between Connect Airways and a third party carrier entering into any of the agreements under the Commitments. Any such agreements however remain subject to the Commission's approval.
- 423 Any request made by a third party carrier for the Monitoring Trustee to verify Connect Airways' compliance with these Commitments must be reasonable. In particular, the Monitoring Trustee must refuse to conduct such a verification where the third party carrier fails to produce any evidence of a suspected breach of the Commitments and/or appears to be making a vexatious request.
- 424 Connect Airways shall receive simultaneously a non-confidential version of any recommendation made by the Monitoring Trustee to the Commission (as provided for in Clause 4.2.1(c)).
- 425 The reports provided for in Clauses 4.2.1(c) to 4.2.1(f) shall be prepared in English. The reports provided for in Clause 4.2.1(d) shall be sent by the Monitoring Trustee to the Commission within ten (10) working days from the end of every IATA Season following the Monitoring Trustee's appointment or at such other time(s) as the Commission may specify and shall cover developments in the immediately preceding IATA Season. Connect Airways shall receive simultaneously a non-confidential copy of each Monitoring Trustee report.
- 426 Connect Airways shall provide the Monitoring Trustee with such assistance and information, including copies of all relevant documents, as the Monitoring Trustee may reasonably require in carrying out its mandate. Connect Airways shall pay reasonable remuneration for the services of the Monitoring Trustee as agreed in the mandate.
- 427 The Monitoring Trustee shall have access to Connect Airways' books, records, documents, management or other personnel facilities, sites and technical information necessary to fulfil its duties under these Commitments.
- 428 At Connect Airways' expense, the Monitoring Trustee may appoint advisors, subject to the Commission's prior approval, if the Monitoring Trustee reasonably considers the appointment of such advisors necessary for the performance of its duties under the mandate, provided that any fees incurred are reasonable and Connect Airways has been consulted on the appointment and has approved the amount of the fees.

4.3 Termination of Mandate

- 431 If the Monitoring Trustee ceases to perform its functions under the Commitments or for any other good cause, including but not limited to the exposure of the Monitoring Trustee to a conflict of interest:
- (a) the Commission may, after hearing the Monitoring Trustee, require Connect Airways to replace the Monitoring Trustee; or
 - (b) Connect Airways may replace the Monitoring Trustee.
- 432 If the Monitoring Trustee is removed, it may be required to continue its functions until a new Monitoring Trustee is in place to whom the Monitoring Trustee has effected a full hand-over of all relevant information. The new Monitoring Trustee shall be appointed in accordance with the procedure referred to in Clause 4.1.1.
- 433 Aside from being removed in accordance with Clause 4.3.1 the Monitoring Trustee shall cease to act as Monitoring Trustee only after the Commission has discharged it from its duties. However, the Commission may at any time require the reappointment of the Monitoring Trustee if it subsequently appears that the Commitments have not been fully and properly implemented.
- 434 The Monitoring Trustee will be discharged from its duties if the entire Commitments expire in accordance with Clause 7.1.4.

5. FAST-TRACK DISPUTE RESOLUTION PROCEDURE

- 5.11 The agreements concluded to implement the Commitments in accordance with Clause 1 shall provide for the Fast-Track Dispute Resolution procedure (the “**Fast-Track Dispute Resolution Procedure**”) described in this Clause 5 in the event that a Prospective Entrant has reason to believe that Connect Airways is failing to comply with the requirements of the Commitments vis-à-vis that party, this Fast-Track Dispute Resolution Procedure will apply.
- 5.12 Any Prospective Entrant which wishes to avail itself of the Fast-Track Dispute Resolution Procedure (the “**Requesting Party**”) shall send a written request to Connect Airways (with a copy to the Monitoring Trustee) setting out in detail the reasons leading that party to believe that Connect Airways is failing to comply with the requirements of the Commitments (the “**Request**”). The Requesting Party and Connect Airways will use their best efforts to resolve all differences of opinion and settle all disputes that may arise through cooperation and consultation within a reasonable period of time not to exceed fifteen (15) working days after receipt of the Request.
- 5.13 The Monitoring Trustee shall present its own proposal (the “**Trustee Proposal**”) for resolving the dispute within eight (8) working days, specifying in writing the action, if any, to be taken by Connect Airways in order to ensure compliance with the Commitments vis-à-vis the Requesting Party, and be prepared, if requested, to facilitate the settlement of the dispute.
- 5.14 Should the Requesting Party and Connect Airways fail to resolve their differences of opinion through cooperation and consultation as provided for in Clause 5.1.2 the Requesting Party may serve a notice (the “**Notice**”), in the sense of a request for arbitration, to the International Chamber of Commerce (the “**ICC**”) (the “**Arbitral Institution**”), with a copy of such Notice and request for arbitration to Connect Airways.
- 5.15 The Notice shall set out in detail the dispute, difference or claim (the “**Dispute**”) and shall contain, inter alia, all issues of both fact and law, including any suggestions as to the procedure, and all documents relied upon shall be attached, e.g. documents, agreements, expert reports, and witness statements. The Notice shall also contain a detailed description of the action to be undertaken by Connect Airways (including, if appropriate, a draft contract comprising all relevant terms and conditions) and the Trustee Proposal, including a comment as to its appropriateness.
- 5.16 Connect Airways shall, within ten (10) working days from receipt of the Notice, use best endeavours to submit its answer (the “**Answer**”), which shall provide detailed reasons for its conduct and set out, inter alia, all issues of both fact and law, including any suggestions as to the procedure, and all documents relied upon, e.g. documents, agreements, expert reports, and witness statements. The Answer shall, if appropriate, contain a detailed description of the action which Connect Airways proposes to undertake vis-à-vis the Requesting Party (including, if appropriate, a draft contract comprising all relevant terms and conditions) and the Trustee Proposal (if not already submitted), including a comment as to its appropriateness.

5.2 Appointment of the Arbitrators

- 5.21 The Arbitral Tribunal shall consist of three persons. The Requesting Party shall nominate its arbitrator in the Notice; Connect Airways shall nominate its arbitrator in the Answer.
- 5.22 The arbitrators nominated by the Requesting Party and Connect Airways shall, within five (5) working days of the nomination of the latter, nominate the chairman, making such nomination known to the parties and the Arbitral Institution which shall forthwith confirm the appointment of all three arbitrators. Should the Requesting Party wish to have the Dispute decided by a sole arbitrator it shall indicate this in the Notice. In this case, the Requesting Party and Connect Airways shall agree on the nomination of a sole arbitrator within five (5) working days from the communication of the Answer, communicating this to the Arbitral Institution. Should Connect Airways fail to nominate an arbitrator, or if the two arbitrators fail to agree on the chairman, or should the parties to the Arbitration fail to agree on a sole arbitrator, the default appointment(s) shall be made by the Arbitral Institution. The three-person arbitral tribunal or, as the case may be, the sole arbitrator, are herein referred to as the “**Arbitral Tribunal**”.

5.3 Arbitration Procedure

- 5.31 The Dispute shall be finally resolved by arbitration under the ICC rules, with such modifications or adaptations as foreseen herein or necessary under the circumstances (the

“Rules”). Subject to Clause 5.3.2, the seat, or legal place, of the arbitration shall be London, England in the English language.

- 5.32 In the event that European Union law ceases to apply to the United Kingdom pursuant to Article 50(3) of the Treaty on European Union, the seat, or legal place, of the arbitration shall be Paris, France in the English language.
- 5.33 The procedure shall be a fast-track procedure. For this purpose, the Arbitral Tribunal shall shorten all applicable procedural time-limits under the Rules as far as admissible and appropriate in the circumstances. The parties to the Arbitration shall consent to the use of e-mail for the exchange of documents.
- 5.34 The Arbitral Tribunal shall, as soon as practical after the confirmation of the Arbitral Tribunal, hold an organisational conference to discuss any procedural issues with the parties to the Arbitration. Terms of reference shall be drawn up and signed by the parties to the Arbitration and the Arbitration Tribunal at the organisational meeting or thereafter and a procedural time-table shall be established by the Arbitral Tribunal. An oral hearing shall, as a rule, be established within two (2) months of the confirmation of the Arbitral Tribunal.
- 5.35 In order to enable the Arbitral Tribunal to reach a decision, it shall be entitled to request any relevant information from the parties to the Arbitration, to appoint experts and to examine them at the hearing, and to establish the facts by all appropriate means. The Arbitral Tribunal is also entitled to ask for assistance by the Monitoring Trustee in all stages of the procedure if the parties to the Arbitration agree.
- 5.36 The Arbitral Tribunal shall not disclose confidential information and apply the standards attributable to confidential information under the Merger Regulation. The Arbitral Tribunal may take the measures necessary for protecting confidential information in particular by restricting access to confidential information to the Arbitral Tribunal, the Monitoring Trustee, the Commission and outside counsel and experts of the opposing party.
- 5.37 The burden of proof in any dispute under these Rules shall be borne as follows: (i) the Requesting Party must produce evidence of a prima facie case and (ii) if the Requesting Party produces evidence of a prima facie case, the Arbitral Tribunal must find in favour of the Requesting Party unless Connect Airways can produce evidence to the contrary.

5.4 Involvement of the Commission

- 5.41 The Commission shall be allowed and enabled to participate in all stages of the procedure by:
- (a) receiving all written submissions (including documents and reports, etc.) made by the parties to the Arbitration;
 - (b) receiving all orders, interim and final awards and other documents exchanged by the Arbitral Tribunal with the parties to the Arbitration (including Terms of reference and procedural time-table);
 - (c) giving the Commission the opportunity to file amicus curiae briefs; and
 - (d) being present at the hearing(s) and being allowed to ask questions to parties, witnesses and experts.
- 5.42 The Arbitral Tribunal shall forward, or shall order the parties to the Arbitration to forward, the documents mentioned to the Commission without delay via the use of e-mail. In the event of disagreement between the parties to the Arbitration regarding the interpretation of the Commitments, the Arbitral Tribunal may seek the Commission’s interpretation of the Commitments before finding in favour of any party to the Arbitration and shall be bound by the interpretation.

5.5 Decisions of the Arbitral Tribunal

- 5.51 The Arbitral Tribunal shall decide the dispute on the basis of the Commitments and the Decision. Issues not covered by the Commitments and the Decision shall be decided (in the order as stated) by reference to the Merger Regulation, EU law and general principles of law common to the legal orders of the Member States without a requirement to apply a particular national system. The Arbitral Tribunal shall take all decisions by majority vote.

- 552 Upon request of the Requesting Party, the Arbitral Tribunal may make a preliminary ruling on the Dispute. The preliminary ruling shall be rendered within one (1) month of the confirmation of the Arbitral Tribunal. The preliminary ruling shall be applicable immediately and, as a rule, remain in force until the final decision is issued.
- 553 The final award shall, as a rule, be rendered by the arbitrators within six (6) months after the confirmation of the Arbitral Tribunal. The time-frame shall, in any case, be extended by the time the Commission takes to submit an interpretation of the Commitment if asked by the Arbitral Tribunal.
- 554 The Arbitral Tribunal shall, in their preliminary ruling as well as the final award, specify the action, if any, to be taken by Connect Airways in order to comply with the Commitments vis-à-vis the Requesting Party (e.g. specify a contract including all relevant terms and conditions). The final award shall be final and binding on the parties to the Arbitration and shall resolve the Dispute and determine any and all claims, motions or requests submitted to the Arbitral Tribunal.
- 555 The arbitral award shall also determine the reimbursement of the costs of the successful party and the allocation of the arbitration costs. In case of granting a preliminary ruling or if otherwise appropriate, the Arbitral Tribunal shall specify that terms and conditions determined in the final award apply retroactively.
- 556 The parties to the Arbitration shall prepare a non-confidential version of the final award, without business secrets. The Commission may publish the non-confidential version of the award.
- 557 Nothing in the arbitration procedure shall affect the powers of the Commission to take decisions in relation to the Commitments in accordance with its powers under the Merger Regulation and the TFEU.

6. REVIEW CLAUSE

- 6.11 The Commission may, in response to a request by Connect Airways:
- (a) grant Connect Airways an extension of the deadlines foreseen in the Commitments; or
 - (b) waive, modify or substitute any one or more undertakings in these Commitments, justified by exceptional circumstances.
- 6.12 At the request of Connect Airways, any or all of the Commitments submitted herein may be reviewed, waived or modified by the Commission based on long-term market evolution. In particular:
- (a) the Commission will consider waiving any or all of the obligations in the Commitments to the extent that it finds that Commitments are no longer required to maintain effective competition in any relevant market because, for instance:
 - (i) there has been a material change to the ownership structure of Connect Airways; or
 - (ii) general market conditions have changed to a material extent in the context of the Commission's assessment. Such changed market conditions may include the situation where the total number of daily Competitive Air Services or the capacity operated by third party airlines, without Slots from the Commitments, on the Relevant City Pairs significantly increases.
 - (b) the Commission may consider waiving any or all of the obligations in the Commitments to the extent that it finds that Commitments are no longer required to maintain effective competition in any relevant market because, for instance there has been a Material Increase in Capacity at either of the Relevant Airports or any airport in their Airport Catchment Area.

7. SUNSET CLAUSE

- 7.11 The obligation on Connect Airways to procure that Slots are made available at Relevant Airports pursuant to Clause 1.1.1 shall apply in respect of 20 full consecutive IATA Seasons starting from and including Summer Season 2020. A Prospective Entrant can thus apply for Slots through the Slot Release Procedure to commence a Competitive Air Service in IATA Summer Season 2020 as the earliest season and IATA Winter Season 2029/2030 as the last season.
- 7.12 After the Sunset Date:
- (a) a Prospective Entrant will no longer be able to commence a Competitive Air Service pursuant to Clause 1;
 - (b) the obligation for Connect Airways to enter into a fare combinability agreement with an Eligible Air Services Provider pursuant to Clause 2.1 shall cease to have effect; and
 - (c) Clause 3 shall cease to have effect.
- 7.13 For the avoidance of doubt Clauses 7.1.1 and 7.1.2 shall not affect the validity of the Slot Release Agreements, fare combinability agreements and FFP agreements already entered into operation prior to the Sunset Date. As long as such agreements continue to apply, the provisions in these Commitments that concern these agreements also continue to apply.
- 7.14 If there are no Slot Release Agreements in operation on the Sunset Date, then the entire Commitments will expire on the Sunset Date.

Date: 3 July 2019

Signed by

on behalf of Cyrus Capital Partners, L.P.

on behalf of Stobart Aviation Limited

on behalf of Virgin Atlantic Limited