

4 November 1970

Mr. Wayne W. Owen
Union Life Building
Little Rock, Arkansas 72201

Dear Mr. Owen:

Your letter of October 9, 1970 has been referred to this office for reply.

In your letter you inquire as to whether a debenture, dated 1 August 1969 and issued by Purdue Airlines, Incorporated, in favor of Union Life Insurance Company, would be eligible for recordation under the provisions of Title V of the Federal Aviation Act of 1958, as amended. You point out that the debenture "is not as such a lien upon the airplane described therein but it affects the saleability of such and affects the power of the owner thereof to encumber the same."

Section 503(a) of the Federal Aviation Act of 1958, as amended, sets forth those items which are eligible for recording at the FAA Aircraft Registry. Subparagraph (a)(1) of that section provides for the recordation by the Administrator of "any conveyance which affects the title to, or any interest in, any civil aircraft of the United States." The term "conveyance" is defined in Section 101(17) of the Act as meaning:

"A bill of sale, contract of conditional sale, mortgage, assignment of mortgage, or other instrument affecting title to, or interest in, property."

The question of the recordability of debentures has not been formally ruled on by this Agency. However, based upon a review of the language of the Act, we conclude that the debenture referenced in your letter is a conveyance within the meaning of the Act. In this connection, we note that Purdue Airlines agrees in the debenture not to permit the placing of any mortgage, security instrument, or other charge or impairment of title on the aircraft. Furthermore, it provides that any violation of any of these agreements permits the holders of the debenture to declare the entire amount immediately due and payable. Finally, the holders are given the power to have a deed of trust for the aircraft executed by Purdue Airways to a trustee appointed by the holders. These provisions, together with the general definition of a debenture as a charge in writing on certain property coupled with the repayment of money lent by a person named therein, leads us to conclude that the debenture forwarded by you is an instrument which affects an interest in the aircraft referenced therein. Accordingly, we consider that the debenture is recordable under the provisions of Section 503 of the Act.

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A copy of our opinion has been forwarded to the FAA Aircraft Registry for their guidance in the event you decide to submit the debenture for recordation. Of course, such recording is subject to all of the other requirements of Part 49 of the Federal Aviation Regulations.

We trust that this will be of assistance to you. If you have any further questions, please feel free to contact us.

Sincerely,

ORIGINAL SIGNED BY
FREDERICK C. WOODRUFF

FREDERICK C. WOODRUFF
Asst. Aeronautical Center Counsel, AC-7

cc:

AC-250 ✓

GC-10

C. HAMILTON MOSES (1966)
JAMES H. McCLELLAN (1955)
ERWIN M. ARNOLD
WAYNE W. OWEN
HARRY E. McDERMOTT, JR.
CHARLES W. BAKER
WILLIAM L. OWEN
BENJAMIN F. ARNOLD

LAW OFFICES
MOSES, McCLELLAN, ARNOLD, OWEN & McDERMOTT
UNION LIFE BUILDING
LITTLE ROCK, ARKANSAS 72201
TELEPHONE 374-3774

October 9, 1970

AIR MAIL

Federal Aviation Administration
Washington, D. C.

Attention: Lien Registration Department

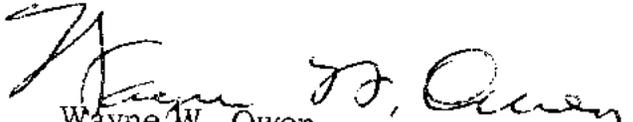
Gentlemen:

We attach hereto a copy of a debenture issued by Purdue Airlines, Inc. of Lafayette, Indiana, running in favor of the Union Life Insurance Company of this city. This debenture is not as such a lien upon the airplane described therein but it affects the saleability of such and affects the power of the owner thereof to encumber the same.

We know that the Federal Aviation Administration is the proper tribunal in which to file liens on airplanes such as mortgages, title retaining notes, et al, but we do not know whether or not you have facilities for the recordation of instruments such as the attached which would serve to put the public on notice that there is an impairment of the right of the owner to sell or encumber such.

We would appreciate your looking at this debenture and telling us whether or not a copy or certified copy may be filed with you for the purpose of giving notice of restrictions on the alienation of this equipment.

Yours very truly,


Wayne W. Owen

WWO/jt

Enc.

REGISTERED

REGISTERED

\$2,000,000

\$2,000,000

NO.
1

PURDUE AIRLINES, INC.

NO.
1

8% CONVERTIBLE DEBENTURE, DATED AUGUST 1, 1969
AND DUE AUGUST 1, 1989

PURDUE AIRLINES, INC. a corporation duly organized and existing under the laws of the State of Delaware, (herein referred to as the "COMPANY"), FOR VALUE RECEIVED, hereby PROMISES TO PAY TO

UNION LIFE INSURANCE COMPANY

or registered assigns, the principal sum of TWO MILLION DOLLARS at the principal office of the Company in LaFayette, Indiana, on August 1, 1989, in such coin or currency of the United States of America at the time of payment shall be legal tender for the payment of public or private debts, and to pay interest semi-annually on February 1st and August 1st of each year on said principal sum at said office in like coin or currency at the rate of 8% per annum from August 1, 1969, until payment of said principal sum has been fully made or duly provided for.

This Debenture is one of a duly authorized issue of debentures of the Company designated as its 8% Convertible Debentures due August 1, 1989, (hereinafter referred to as the "DEBENTURES"), limited to the aggregate principal amount of \$2,500,000, except for debentures issued in substitution for mutilated, destroyed, lost or stolen debentures.

In case an Event of Default shall have occurred and be continuing, the principal hereof may be declared, and upon such declaration, shall become, due and payable in full.

No additional debentures shall be issued by the Company

except with the consent of the registered holders of not less than 66 2/3% in the aggregate principal amount of the Debentures of this corporation issued at this time outstanding. No provisions of this Debenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and any premium and interest on this Debenture at the time and place and at the rate and in the currency herein prescribed.

The respective holders of the Debentures are entitled at their option at any time after three (3) years from the date hereof and before the close of business on August 1, 1989, or in case of Debentures called for redemption in whole or in part prior to such date, then in respect to the Debentures or portions so called for redemption, until and including but not after the close of business on the date fixed for redemption, to convert the Debentures (or any portion thereof which is \$1,000 or a multiple of \$1,000) at the principal office of the Company, wherever then located, into shares of common stock of the Company at the conversion price of \$2,000 for each fully paid and non-assessable share of common stock, but in any and all events the rate of conversion shall be adjusted for any dilution, stock splits, stock dividends, or on account of any recapitalization or reclassification or other change in the capital stock of the Company including the sale of any shares after this date at the price per share less than the price at which the Company's shares have been sold during a period of twelve months prior to this date. No payment or adjustment is to be made on conversions for interest accrued hereon.

The Debentures may be redeemed, at the option of the Company, as a whole or from time to time in part, upon thirty (30) day's notice in writing from the Company to the registered holder at the following redemption prices (expressed in percentages in the principal amount of the Debentures to be redeemed).

If redeemed prior to August 1, 1973, the redemption price shall be 103.0%; and the redemption price shall be reduced by 1/2 of 1% during each year thereafter to par in the year beginning August 1, 1988.

The Debentures are issuable as registered Debentures without coupons and interest payments due hereunder shall be made by the Company to the registered holder hereof at the last known address of such registered holder by United States mail, postage prepaid.

IT IS SPECIFICALLY UNDERSTOOD AND AGREED that the Company is the absolute owner and in possession of a certain DC-9-30 aircraft which is being used by it in the normal course of its principal business for the production of revenue; that said aircraft, bearing Factory Serial No. 47376, is fully paid for and free of liens and encumbrances of every kind and nature; that the same was purchased by the Company from the manufacturer on or about December 2, 1968, and delivered on July 22, 1969, for a cash consideration of \$4,319,116.00. The Company hereby irrevocably agrees that during all the time any portion of the Debentures of this series remain outstanding, except in the event of a substitution by the Company of an aircraft of equal cost, value, and suitability for the Company's purposes, it will maintain said aircraft in good condition and continue it in the service and use for which it was purchased; that no lien, encumbrance,

mortgage, security instrument, or any other charge or impairment of title will be placed on said aircraft, and that the Company will permit none of such to continue thereon if such should attach involuntarily; that the Company will at all times during which any of these Debentures shall remain outstanding carry, at its own expense, physical damage insurance insuring said aircraft from damage or destruction on the ground or in the air in an aggregate amount equal to the outstanding balance of the Debentures, or the full insurable value, whichever is less, on said aircraft, or any replacement thereof, in a company or companies satisfactory to the holders of the Debentures, and that said policy or policies will contain a standard loss-payable clause to a Trustee to be selected by a majority vote of the holders of the outstanding Debentures. Said policy or policies when issued or renewed shall be promptly delivered to the Trustee selected. No substitution of the aircraft or sale of the original aircraft, or the substitute, may be made by the Company without the consent of the Debenture holders. Any violation of any of the agreements made by the Company in this Paragraph, or the obligations imposed on it in this Paragraph, shall immediately and ipso facto give the holders of the Debentures by majority vote in value of those then outstanding, the right to declare the entire balance of principal and unpaid interest of all Debentures in this series immediately due and payable.

The Company further agrees that it will at any time upon vote of the majority in amount of the holders of Debentures of this series, execute to a Trustee named by such Debenture holders a mortgage, deed of trust, or other appropriate security instrument in recordable form conveying title of said aircraft to such

Trustee as security for the repayment by Company of such Debentures, and deliver such instrument to the Trustee.

The Company covenants and agrees that it will on August 1, 1974, create and maintain, so long as any of the Debentures of the series due in 1989 are outstanding, a Sinking Fund for the Debentures due in 1989; and that it will pay to the Trustee selected by the Debenture holders in the manner hereinafter set forth on or before each Sinking Fund payment date, so long as any Debentures due in 1989 are outstanding, for the account of such Sinking Fund, cash sufficient in an amount to redeem at par, notwithstanding any redemption provisions hereinabove provided for, as many of the Debentures as the Sinking Fund payment made on each respective date are sufficient to redeem. At least thirty (30) days prior to the date on which the Sinking Fund is required to be created, the Debenture holders by a majority vote in amount of the Debentures outstanding, shall select a Trustee for this purpose and promptly certify his or its name and address to the Company. The Trustee selected shall immediately upon receipt by him or it of the Sinking Fund payment pay over to the Debenture holders such proportion of the Sinking Fund payment received by him as the total Debentures held by each holder bears to the aggregate face amount of the Debentures then outstanding. The following sums shall be paid by the Company to the Trustee on or before August 1st of each year as follows:

SINKING FUND SCHEDULE

AUGUST 1,			
1974	\$ 50,000	1982	\$ 100,000
1975	50,000	1983	100,000
1976	50,000	1984	150,000
1977	50,000	1985	150,000
1978	50,000	1986	150,000
1979	100,000	1987	150,000
1980	100,000	1988	150,000
1981	100,000	1989	The balance due

liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released.

IN WITNESS WHEREOF, PURDUE AIRLINES, INC. has caused this Debenture to be executed in its corporate name by the signature of its President and impressed with its corporate seal, attested by the manual signature of its Secretary.

PURDUE AIRLINES, INC.

BY

(S E A L)

PRESIDENT

ATTEST:

SECRETARY

DATED: August 1, 1969