

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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In re :
:
AEROCENTURY CORP., *et al.*, : Chapter 11
:
Debtors.¹ : Case No. 21-10636 ()
:
: (Joint Administration Requested)
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**DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL
ORDERS (I) APPROVING NOTIFICATION AND HEARING PROCEDURES
FOR CERTAIN TRANSFERS OF AND DECLARATIONS OF WORTHLESSNESS
WITH RESPECT TO COMMON STOCK, AND (II) GRANTING RELATED RELIEF**

The debtors and debtors in possession in the above-captioned cases (collectively, the “Debtors”) hereby submit this motion (the “Motion”), pursuant to sections 105(a), 362, and 541 of chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), for entry of an interim order (the “Interim Order”) and a final order (the “Final Order”), substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, respectively, (a) approving certain notification and hearing procedures, substantially in the form of Exhibit 1 attached to **Exhibit A** hereto (the “Procedures”), related to certain transfers of, or declarations of worthlessness with respect to, the common stock of AeroCentury Corp. or any of the Debtors or any Beneficial Ownership²

¹ The Debtors in these chapter 11 cases, along with the last four digits of their federal employer identification number, are: AeroCentury Corp. (3974); JetFleet Holding Corp. (5342); and JetFleet Management Corp. (0929). The Debtors’ mailing address is 1440 Chapin Avenue, Suite 310, Burlingame, CA 94010.

² “Beneficial Ownership” will be determined in accordance with the applicable rules of sections 382 and 383 of the Internal Revenue Code of 1986, 26 U.S.C. §§ 1–9834 as amended, and the Treasury Regulations thereunder (other than Treasury Regulations section 1.382-2T(h)(2)(i)(A)) and includes direct, indirect, and constructive ownership (e.g., (1) a holding company would be considered to beneficially own all equity securities owned by its subsidiaries, (2) a partner in a partnership would be considered to beneficially own its proportionate share of any equity securities owned by such partnership, (3) an individual and such individual’s family members may be treated as one individual, (4) persons and entities acting in concert to make a coordinated acquisition of equity securities may be treated as a single entity, and (5) a holder would be considered to beneficially own equity securities that such holder has an option to acquire). An “option” to acquire stock includes all interests described in Treasury Regulations section 1.382-4(d)(9), including any contingent purchase right, warrant, convertible debt,



therein (any such record or Beneficial Ownership of common stock, the “Common Stock”), (b) directing that any purchase, sale, other transfer of, or declaration of worthlessness with respect to Common Stock in violation of the Procedures shall be null and void *ab initio*. These procedures will generally apply to any person or shareholder who owns, directly or indirectly, more than a certain percentage of Common Stock. In support of this Motion, the Debtors rely on the *Declaration of Harold M. Lyons in Support of Chapter 11 Applications and First-Day Relief* (the “First Day Declaration”),³ which was filed contemporaneously with this Motion and is incorporated herein by reference. In further support of this Motion, the Debtors respectfully represent as follows.

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and the Debtors consent pursuant to rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”) to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

put, call, stock subject to risk of forfeiture, contract to acquire stock, or similar interest, regardless of whether it is contingent or otherwise not currently exercisable.

³ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the First Day Declaration.

3. The bases for the relief requested herein are sections 105(a), 362, and 541 of the Bankruptcy Code.

BACKGROUND

4. On the date hereof (the “Petition Date”), the Debtors each commenced a bankruptcy case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the “Chapter 11 Cases”). The Debtors are authorized to continue to operate their business and manage their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No official committees have been appointed in the Chapter 11 Case, and no request has been made for the appointment of a trustee or examiner.

5. Additional factual background relating to the Debtors’ business, capital structure, and the commencement of the Chapter 11 Cases is set forth in further detail in the First Day Declaration.

THE TAX ATTRIBUTES

6. The relief sought by this Motion will allow the Debtors to monitor certain transfers of, and certain worthlessness deductions with respect to, Common Stock so that the Debtors can act expeditiously to prevent such transfers or deductions, if necessary, and preserve the potential value of potential net operating losses (“NOLs”), disallowed business interest expense (“Excess Interest Expense”) under Section 163(j) of the Internal Revenue Code of 1986, as amended (the “Tax Code”), potential built-in losses with respect to the Debtors’ assets and certain other built-in items (“Built-in Losses”), and certain other tax attributes (collectively with the potential NOLs, Excess Interest Expense, and Built-in Losses, the “Tax Attributes”). This will allow the Debtors the flexibility to develop a chapter 11 plan of reorganization that will maximize the use and value of their Tax Attributes. Immediate entry of the Proposed Interim Order is necessary to preserve the status quo in this regard.

7. The Debtors' Tax Attributes are valuable assets of the Debtors' estates because the Tax Code generally permits a corporation to carry forward its NOLs, Excess Interest Expense and certain other Tax Attributes to offset future taxable income or directly offset federal income tax liability in future periods. Depending upon future operating results of the Debtors, and absent any intervening limitations prior to the effective date of the Debtors' chapter 11 plan of reorganization, the Debtors' Tax Attributes could allow the Debtors to significantly reduce their future U.S. federal income tax liability, including by offsetting any taxable income that may result from transactions completed in connection with the Debtors' chapter 11 plan of reorganization. These savings could substantially enhance the Debtors' value and contribute to the Debtors' efforts toward a successful reorganization.

8. The ability of a corporation to use its Tax Attributes to reduce future U.S. federal income tax liability is subject to certain limitations under Section 382 of the Tax Code ("Section 382"). In general, if a corporation undergoes an "ownership change," Section 382 imposes an annual limitation on the corporation's ability to use its Tax Attributes to offset future taxable income. Under Section 382, an ownership change occurs when the percentage (by value) of a corporation's equity held by one or more "5-percent shareholders" (as such term is defined in Section 382) increases by more than fifty (50) percentage points over the lowest percentage of stock owned by such shareholders at any time during the preceding three-year rolling testing period or since the last ownership change, as applicable (the "Testing Period").⁴

⁴ For example, assume (i) an individual ("A") owns 50.1% of the stock of corporation XYZ ("XYZ") and (ii) A sells her 50.1% interest in XYZ to another individual ("B"), who currently owns 5% of XYZ's stock. Under Section 382, an ownership change has occurred upon B's acquisition of A's 50.1% interest in XYZ because the percentage of XYZ stock held by B has increased more than fifty (50) percentage points (from 5% to 55.1%) during the Testing Period. The same result would follow even if B owned no XYZ stock prior to the transaction with A because B both becomes a "5-percent shareholder" and increases the percentage of XYZ stock B holds by more than fifty (50) percentage points during the Testing Period. To be clear, a "5-percent shareholder" increasing its holding by 50 *percent* (*i.e.*, from 5% to 7.5%) as opposed to 50 *percentage points* would not, in and of itself, result in an "ownership change" under Section 382. Any subsequent ownership change with respect to XYZ

9. Section 382 imposes an annual limitation on the amount of taxable income that can be offset by pre-change-of-ownership Tax Attributes to an amount equal to the long-term tax exempt bond rate (as published monthly by the United States Treasury), as of the ownership change date, multiplied by the value of the stock of the corporation immediately before the ownership change (a “Section 382 Limitation”).⁵ Under certain circumstances, built-in losses recognized during the five-year period after the ownership change date are subject to similar annual limitations. Accordingly, an ownership change under Section 382 prior to the effective date of a chapter 11 plan of reorganization may hinder or significantly reduce the ability of the Debtors to use their Tax Attributes on a reorganized basis, thereby resulting in a loss of potential value to the Debtors and the Debtors’ estates.

10. Similarly, an ownership change may result if a shareholder who beneficially owns 50 percent or more of Common Stock were, for income tax purposes, to treat the Common Stock held by such shareholder as becoming worthless (i.e., taking a worthless stock deduction with respect to such stock) for any tax year ending prior to the Debtors’ emerging from chapter 11 protection. Under Section 382(g)(4)(D) of the Tax Code, such shareholder would be treated as having transferred such stock, which could trigger an ownership change and thus could adversely affect the Debtors’ ability to fully utilize their Tax Attributes.

would be determined based only on equity transfers that occur subsequent to the ownership change resulting from the transaction between A and B described immediately above.

⁵ For ownership changes occurring in April 2021, the applicable long-term tax-exempt rate will be 1.51 percent. If a corporation has a “net unrealized built-in gain” (“NUBIG”) in its assets as of the time of the ownership change, the Section 382 Limitation may be increased in certain circumstances. If a corporation has a “unrealized built-in loss” (“NUBIL”) in assets as of the time of the ownership change, any recognized built-in losses during the five-year period beginning on the date of the ownership change will be subject to the Section 382 Limitation. The Debtors are in the process of analyzing whether they currently have a NUBIL or a NUBIG in their assets and cannot predict whether they will have a NUBIL or a NUBIG as of the effective date of their chapter 11 plan of reorganization.

RELIEF REQUESTED

11. The Debtors seek authorization to protect and preserve their Tax Attributes by (a) establishing certain notification and hearing procedures regarding the transfer of Common Stock that must be complied with before transfers of such stock become effective and (b) establishing similar notice and hearing procedures regarding the taking of any worthlessness deduction, for income tax purposes, with respect to Common Stock.

A. Equity Transfers

12. By establishing procedures for continuously monitoring the transfers of Common Stock, the Debtors can preserve their ability to seek substantive relief at the appropriate time, particularly if it appears that additional transfers may jeopardize the Debtors' ability to fully utilize their Tax Attributes. Accordingly, the Debtors request that the Court enter an order establishing the following procedures for the transfer of Common Stock (the "Equity Transfer Procedures"):

- (a) Any person or entity (as defined in Treasury Regulations section 1.382-3(a)) who currently is or hereafter becomes a Substantial Shareholder (as such term is defined in paragraph (e) below) must file with the Court, and serve upon (i) the Debtors, 1440 Chapin Avenue, Suite 310, Burlingame, CA 94010, Attn: Christopher B. Tigno, Esq.; (ii) proposed co-counsel to the Debtors, (a) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801, Attn: Joseph M. Barry, Esq., and Ryan M. Bartley, Esq., and (b) Morrison & Foerster LLP, 250 West 55th Street, New York, NY 10019-9601, Attn: Lorenzo Marinuzzi, Esq., and Erica J. Richards, Esq.; (iii) the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Linda Casey, Esq.; and (iv) Vedder Price, P.C. counsel to the prepetition lender Vedder Price, L.P., 222 North LaSalle Street, Chicago, Illinois 60601 (Attn: Neil Poland and David L. Kane); (v) counsel to any committee appointed under section 1102 of the Bankruptcy Code in the Chapter 11 Cases; and (vi) to the extent not listed herein, those parties requesting notice pursuant to Rule 2002 of the Federal Rule of Bankruptcy Procedure (collectively, the "Notice Parties") , a notice of such status, in substantially the form attached hereto as **Exhibit C**, on or before the later of (i) twenty (20) calendar days after entry of the Proposed Interim Order or (ii) ten (10) days after becoming a Substantial Shareholder.

- (b) At least twenty (20) calendar days prior to effectuating any transfer of Common Stock (including options to acquire Common Stock, as defined in paragraph (e) below) that would result in an increase in the amount of Common Stock beneficially owned by a Substantial Shareholder, or would result in a person or entity becoming a Substantial Shareholder, such Substantial Shareholder, person or entity must file with the Court, and serve upon the Notice Parties, an advance written notice of the intended transfer of Common Stock, in substantially the form attached hereto as **Exhibit D** (each a “Notice of Intent to Purchase, Acquire, or Otherwise Accumulate”).
- (c) At least twenty (20) calendar days prior to effectuating any transfer of Common Stock (including options to acquire Common Stock) that would result in a decrease in the amount of Common Stock beneficially owned by a Substantial Shareholder, or would result in a person or entity ceasing to be a Substantial Shareholder, such Substantial Shareholder, person or entity must file with the Court, and serve upon the Notice Parties, an advance written notice of the intended transfer of Common Stock, in substantially the form attached hereto as **Exhibit E** (each a “Notice of Intent to Sell, Trade, or Otherwise Transfer” and, collectively with each Notice of Intent to Purchase, Acquire, or Otherwise Accumulate, a “Notice of Proposed Transfer”).
- (d) The Debtors (and any other parties in interest) shall have twenty (20) calendar days after receipt of a Notice of Proposed Transfer to file with the Court and serve upon such Substantial Shareholder, person or entity an objection to any proposed transfer of Common Stock described in the Notice of Proposed Transfer on the grounds that such transfer might adversely affect the Debtors’ ability to utilize their Tax Attributes. If the Debtors (or any other parties in interest) file an objection, such transfer would not be effective unless approved by a final and non-appealable order of the Court. If no objection is filed within such 20-day period, such transfer shall be permitted to proceed solely as set forth in the Notice of Proposed Transfer. Further transfers within the scope of this paragraph (d) shall be the subject of additional notices as set forth herein, with additional 20-day waiting periods.
- (e) For purposes of these procedures: (i) a “Substantial Shareholder” is any person or entity that beneficially owns in excess of: (A) 73,429 shares of Common Stock (representing approximately 4.75%⁶ of all issued and

⁶ In general, under Section 382(g)(4)(A) of the Tax Code, all shareholders who, individually, beneficially own less than 5% of the stock of a corporation are deemed to be a single 5-percent shareholder throughout the Testing Period, and transfers between such shareholders are disregarded for purposes of determining whether an ownership change has occurred (the “Public Group Rule”). Thus, so long as 50% or more of the stock of such corporation is beneficially owned by less than 5-percent shareholders throughout the Testing Period, there generally will be no change of ownership due to the Public Group Rule. Accordingly, the Debtors do not seek to impose the notice and hearing procedures on transfers by shareholders beneficially owning less than 4.75% of Common Stock; *provided, however*, that such shareholders do not intend to accumulate a 4.75% or greater block

outstanding shares of Common Stock);⁷ (ii) “beneficial ownership” of equity interests means beneficial ownership for U.S. federal income tax purposes as determined in accordance with applicable rules under Section 382, Treasury Regulations promulgated thereunder and rulings issued by the Internal Revenue Service, and thus, to the extent provided therein, from time to time shall include, without limitation, (A) direct and indirect, actual and constructive, beneficial ownership (for example, a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries), (B) ownership by such holder’s family members and other related persons and persons acting in concert with such holder to make a coordinated acquisition of stock, and (C) ownership of shares which such holder has an option to acquire; and (iii) an “option” to acquire stock includes any option, contingent purchase, warrant, put, stock subject to risk of forfeiture, contract to acquire stock, or similar interest, regardless of whether it is contingent or otherwise not currently exercisable.

- (f) Effective as of the Petition Date and until further order of the Court to the contrary, any purchase, sale, or other transfer of beneficial ownership of Common Stock, including options to acquire Common Stock in violation of the procedures set forth herein shall be null and void *ab initio* as an act in violation of the automatic stay under Bankruptcy Code Section 362.

B. Worthless Stock Deduction

13. The Debtors also request that the Court enter an order establishing similar notice and hearing procedures restricting the ability of shareholders that beneficially own or have beneficially owned 50% or more, by value, of Common Stock to take worthless stock deductions on their income tax returns for a tax year ending before the Debtors’ emergence from chapter 11 protection. Under Section 382(g)(4)(D) of the Tax Code, any stock held by such a shareholder would be treated as being transferred if such shareholder takes a worthlessness deduction with respect to such stock. It is therefore essential that shareholders that beneficially own or have beneficially owned 50% or more of Common Stock defer taking such worthlessness deductions until a tax year ending after the Debtors have emerged from bankruptcy.

of such stock or add or sell shares to or from such a block. Using 4.75% instead of 5% to calculate the threshold amount allows for a prudent margin of error.

⁷ Based on approximately 1,545,884 shares of Common Stock outstanding as of the Petition Date.

14. By restricting 50-percent Shareholders from taking worthless stock deductions for any tax year ending prior to the Debtors' emergence from chapter 11 protection, the Debtors can preserve their ability to seek substantive relief at the appropriate time. Accordingly, the Debtors request that the Court enter an order establishing the following procedures (the "Worthless Stock Deduction Procedures"):

- (a) Any person or entity that currently is or becomes a 50-percent Shareholder (as such term is defined in paragraph (d) below) must file with the Court, and serve upon the Notice Parties, a notice of such status, in substantially the form attached hereto as **Exhibit F**, on or before the later of (i) twenty (20) calendar days after entry of the Proposed Interim Order or (ii) ten (10) days after becoming a 50-percent Shareholder.
- (b) At least twenty-eight (28) calendar days prior to filing any income tax return, or any amendment to such a return, taking any worthlessness deduction with respect to Common Stock for a tax year ending before the Debtors' emergence from chapter 11 protection, such 50-percent Shareholder must file with the Court, and serve upon the Notice Parties, an advance written notice of the intended worthlessness deduction, in substantially the form attached hereto as **Exhibit G** (each a "Notice of Intent to Take a Worthless Stock Deduction").
- (c) The Debtors (and any other parties in interest) shall have twenty (20) calendar days after receipt of a Notice of Intent to Take a Worthless Stock Deduction to file with the Court and serve upon such 50-percent Shareholder an objection to any proposed worthlessness deduction described in the Notice of Intent to Take a Worthless Stock Deduction on the grounds that such deduction might adversely affect the Debtors' ability to utilize their Tax Attributes. If the Debtors (or any other parties in interest) file an objection, the filing of the income tax return with such deduction would not be permitted or effective unless approved by a final and non-appealable order of the Court. If no objection is filed within such 20-day period, the filing of the income tax return with such deduction shall be permitted as set forth in the Notice of Intent to Take a Worthless Stock Deduction. Additional income tax returns within the scope of this paragraph (c) shall be the subject of additional notices as set forth herein, with additional 20-day waiting periods.
- (d) For purposes of these procedures: (i) a "50-percent Shareholder" is any person or entity that, at any time during the three-year period ending on the Petition Date, has had beneficial ownership of 50% or more of Common

Stock or is otherwise considered a 50-percent shareholder of AeroCentury within the meaning of Section 382(g)(4)(D) of the Tax Code;⁸ (ii) “beneficial ownership” of equity interests means beneficial ownership for U.S. federal income tax purposes as determined in accordance with applicable rules under Section 382, Treasury Regulations promulgated thereunder and rulings issued by the Internal Revenue Service, and thus, to the extent provided therein, from time to time shall include, without limitation, (A) direct and indirect, actual and constructive, beneficial ownership (for example, a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries), (B) ownership by such holder’s family members and other related persons and persons acting in concert with such holder to make a coordinated acquisition of stock, and (C) ownership of shares which such holder has an option to acquire; and (iii) an “option” to acquire stock includes any option, contingent purchase, warrant, put, stock subject to risk of forfeiture, contract to acquire stock, or similar interest, regardless of whether it is contingent or otherwise not currently exercisable.

- (e) In the event that a 50-percent Shareholder takes a worthlessness deduction with respect to Common Stock in violation of the procedures set forth herein, such worthlessness deduction shall be null and void *ab initio* as an act in violation of the automatic stay under Bankruptcy Code Section 362, and such 50-percent Shareholder shall be required to file an amended income tax return, as applicable, revoking such worthlessness deduction.

15. The Debtors request that the Court order that any purchase, sale, or other transfer of, or the taking of any worthlessness deduction with respect to, Common Stock in violation of these procedures be null and void *ab initio* as an act in violation of the automatic stay under Bankruptcy Code Section 362.

16. The Debtors also request that the Court enter the Proposed Interim Order and the Proposed Final Order permitting the Debtors to waive, in writing, any and all restrictions, stays, and notification procedures contained in this Motion or in any order entered with respect hereto.

17. To ensure parties in interest receive appropriate notice of the Equity Transfer Procedures and the Worthless Stock Deduction Procedures, the Debtors request that the Court

⁸ Beneficial ownership of 50% or more of Common Stock currently is equivalent to owning approximately 772,942 or more shares based on 1,545,884 shares of Common Stock outstanding as of the Petition Date.

approve of their proposal to send a notice, in substantially the form attached hereto as **Exhibit H** (the “Notice of Order”), to (i) the United States Trustee for the District of Delaware; (ii) the holders of the twenty (20) largest unsecured claims against the Debtors; (iii) the United States Attorney’s Office for the District of Delaware; (iv) the Internal Revenue Service; (v) the Securities and Exchange Commission; (vi) any directly registered and record holders of outstanding Common Stock (with instructions to serve down to beneficial holders, as applicable); (vii) the transfer agents for the Common Stock; and (viii) all parties requesting notice pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

BASIS FOR RELIEF

A. The Significance of the Debtors’ Tax Attributes

18. The Debtors have incurred, and are expecting to incur, NOLs and significant Excess Interest Expense. The Debtors believe that, as of December 31, 2019, they have Federal NOLs totaling approximately \$22 million and state NOLs totaling approximately \$418,000.⁹ The Debtors are experiencing significant operational losses that are expected to generate consolidated federal and additional state NOLs and Excess Interest Expense in 2020, which may include losses arising from the restructuring transaction, and additional Excess Interest Expense may be generated prior to the effective date of the Debtors’ chapter 11 plan of reorganization.¹⁰ The Debtors’ Tax Attributes could translate into significant potential future tax savings for the Debtors. The value of the Debtors’ Tax Attributes therefore will inure to the benefit of all the Debtors’ future stakeholders.

⁹ As of the date of this Motion, the Debtors have not filed their tax returns with respect to the tax year ending December 31, 2020. These estimates described herein are subject to change upon finalization of such tax returns, including with respect to analyzing the impact of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”).

¹⁰ The CARES Act generally permits NOLs generated in the 2018, 2019 and 2020 tax years to be carried back to offset taxable income in each of the five preceding taxable years.

19. Subject to certain limitations, Section 172(b) and Section 163(j) of the Tax Code permit a corporation to carry forward NOLs and Excess Interest Expense, respectively, to offset future taxable income, thereby potentially resulting in both a significant reduction in U.S. federal income tax liability and an improvement in such corporation's cash position.¹¹ In addition, built-in tax losses can be generated on taxable disposition of the Debtors' assets or through other circumstances, such as depreciation and amortization. The Debtors' Tax Attributes are valuable assets of their estates that, if available, could help facilitate the Debtors' successful reorganization and serve to improve creditor recoveries. The termination or limitation of the Tax Attributes could be materially detrimental to all parties in interest. The Debtors' ability to use their pre-change-of-ownership Tax Attributes, however, could be severely limited under Section 382 as a result of the transfer of, or any worthlessness deduction with respect to, Common Stock prior to the consummation of a chapter 11 plan of reorganization.

B. The Provisions of Section 382

20. As described above, Section 382 imposes an annual limitation on the amount of taxable income a corporation can offset using its Tax Attributes if the corporation undergoes an ownership change. If an ownership change were to, for example, occur during the course of the Chapter 11 Cases, Section 382 would impose an annual limitation on the amount of taxable income that the Debtors could offset by pre-change-of-ownership Tax Attributes to an amount equal to the long-term tax-exempt bond rate (as published monthly by the United States Treasury), as of the ownership change date, multiplied by the value of the stock of the corporation immediately before the ownership change. This formulaic limitation under Section 382 can severely restrict the ability

¹¹ The CARES Act generally increases the interest expense limitation under Section 163(j) for any taxable year beginning in 2019 or 2020. The Debtors are evaluating the impact of this change, and thus, the Debtors' estimates of Excess Interest Expense may be subject to change.

to use pre-change-of-ownership Tax Attributes as the value of the stock of a distressed corporation may be quite low. Moreover, once an equity transfer takes place, it cannot be undone, and once a Section 382 Limitation is triggered, the Debtors' use of their pre-change-of-ownership Tax Attributes would be forever limited. The relief sought herein is necessary to avoid the potentially significant limitations on the Debtors' ability to fully utilize their Tax Attributes to offset taxable income on a reorganized basis, which would jeopardize savings that could substantially enhance the Debtors' value and contribute to the Debtors' plan for a successful reorganization. Otherwise, the unrestricted transfer of, and the taking of any worthlessness deduction with respect to, Common Stock would likely result in irreparable harm to the Debtors and the Debtors' estates.

C. Relief from the Provisions Section 382

21. The limitations imposed by Section 382 are significantly more relaxed in the context of an ownership change pursuant to a confirmed chapter 11 plan of reorganization. First, the ownership change must occur pursuant to the consummation of the chapter 11 plan of reorganization, and not during the course of the Chapter 11 Cases prior to such consummation, in order for the Debtors to qualify for these Section 382 bankruptcy relief provisions—Sections 382(l)(5) or (l)(6) of the Tax Code. Under Section 382(l)(5) of the Tax Code, a Section 382 Limitation will not result from an ownership change arising from the consummation of a chapter 11 plan of reorganization, provided that, under such plan, a debtor's pre-change-of-ownership shareholders (*i.e.*, persons or entities who owned such debtor's stock immediately before such ownership change) and/or certain qualified creditors emerge from the reorganization owning at least 50% of such debtor's stock (measured by value and voting power) immediately after the ownership change due to such shareholders and/or qualified creditors being shareholders and/or qualified creditors immediately prior to the ownership change. Section 382(l)(6) of the Tax

Code provides that if a corporation undergoes an ownership change pursuant to a chapter 11 plan of reorganization and Section 382(l)(5) of the Tax Code does not apply (either because the corporation elects out of such provision or because such provision's requirements are not satisfied), then the value of such corporation's equity for purposes of calculating the Section 382 Limitation shall reflect the increase (if any) in value of such corporation's stock resulting from any surrender or cancellation of creditors' claims in the chapter 11 plan of reorganization. Thus, assuming the value of the equity of the Debtors increases as a result of a reorganization, Section 382(l)(6) of the Tax Code would provide for a higher annual limitation than would result under the general rules of Section 382 and could allow the Debtors to use a greater portion of their pre-change-of-ownership Tax Attributes to offset any post-change taxable income.

22. Second, preventing an ownership change prior to the consummation of the plan of reorganization may also benefit the Debtors and Debtors' estates by allowing the Debtors a greater use of their Tax Attributes to offset any taxable income that arises as a result of, or prior to, the effective date of such plan. Thus, in all circumstances, it is in the best interests of the Debtors and the Debtors' estates to grant the requested relief so as to prevent an ownership change prior to consummation of a chapter 11 plan of reorganization.

D. The Requested Relief is Narrowly Tailored

23. The requested relief does not *per se* bar all transfers of, or the taking of all worthlessness deductions with respect to, Common Stock. Rather, it merely implements notice and hearing procedures for such transfers and deductions. At this early juncture, the Debtors seek to establish procedures only to monitor those types of transfers and restrict those types of worthless stock deductions that would pose a serious risk of resulting in a Section 382 Limitation upon the Debtors' pre-change-of-ownership Tax Attributes, so as to preserve the Debtors' ability to seek

substantive relief if it appears that a proposed transfer or deduction will jeopardize the Debtors' ability to fully utilize their Tax Attributes. The procedures requested by the Debtors in this Motion would likely permit most transfers to continue, subject to applicable law. The restrictions on taking worthlessness deductions with respect to Common Stock would apply only to 50-percent Shareholders and, even then, would not prohibit such deductions entirely but would merely require them to be postponed to taxable years ending after the Debtors emerge from chapter 11 protection.

E. The Requested Relief is Necessary to Avoid Irreparable Harm to the Debtors

24. Once a Tax Attribute is limited under Section 382, its use is limited forever, and once an equity interest is transferred, that transfer cannot be undone. The relief sought herein is necessary to avoid both the potentially significant limitations on the Debtors' ability to fully utilize their Tax Attributes to offset taxable income on a reorganized basis and the irreparable harm to the Debtors and the Debtors' estates that could be caused by the unrestricted transfer of, and the taking of worthlessness deductions with respect to, Common Stock.

25. Moreover, the Debtors and the Debtors' estates could be irreparably harmed unless the Court grants the relief requested herein on an immediate basis. If the Debtors filed this Motion in accordance with the usual notice procedures set forth in the Bankruptcy Rules, transfers involving Common Stock may immediately follow, and such transfers may impact the Debtors' ability to fully utilize their Tax Attributes. Parties holding such stock might rush to transfer their interests before the restrictions on transfers are imposed by the Court. Similarly, a 50-percent Shareholder could rush to take a worthlessness deduction with respect to Common Stock on such shareholder's income tax returns for a tax year ending before the Debtors' emergence from chapter 11 protection. Such unrestricted transfers and the taking of such worthless stock deductions could put the Debtors' Tax Attributes at risk of being subject to a Section 382 Limitation, as described

above, and would therefore be counterproductive to the Debtors' objectives in seeking this relief. Accordingly, the Debtors respectfully request that the procedures described herein be approved.

F. Tax Attributes are Property of the Debtors' Estates and are Entitled to Court Protection

26. Courts have uniformly held that a debtor's NOLs constitute property of a debtor's estate under Bankruptcy Code Section 541 and that, as a result, courts have authority to implement certain protective measures to preserve these Tax Attributes. The seminal case articulating this rule is *In re Prudential Lines, Inc.*, 107 B.R. 832 (Bankr. S.D.N.Y. 1989), *aff'd*, 119 B.R. 430 (S.D.N.Y. 1990), *aff'd*, 928 F.2d 565 (2d Cir. 1991). In *Prudential Lines*, the Bankruptcy Court for the Southern District of New York enjoined a parent corporation from taking a worthless stock deduction with respect to its wholly owned debtor subsidiary on the grounds that doing so would destroy its debtor-subsidary's NOLs. In issuing the injunction, the court held that a "debtor's potential ability to utilize [net operating losses] is property of [the] estate." 107 B.R. at 838. In addition, "the taking of a worthless stock deduction is an exercise of control over a debtor's [net operating losses]," 107 B.R. at 842, and thus was properly subject to the automatic stay provisions of Bankruptcy Code Section 362. *See In re Grossman's, Inc.*, Case No. 97-695 (PJW) (Bankr. D. Del. Oct. 9, 1997) (noting that the debtors' net operating loss carry-forwards are property of the debtors' estates protected by the automatic stay provisions of the Bankruptcy Code); *In re White Metal Rolling & Stamping Corp.*, 222 B.R. 417, 424 (Bankr. S.D.N.Y. 1998) ("It is beyond peradventure that [net operating loss] carry-backs and carry[-forwards] are property of the estate of the loss corporation that generated them.").

27. Similar to NOLs, other Tax Attributes constitute property of a debtor's estate under Bankruptcy Code Section 541, and as a result, courts have authority to implement certain protective measures to preserve them as well. *See, e.g., In re Quicksilver Res. Inc.*, Case No. 15-

10585 (LSS) (Bankr. D. Del. April 17, 2015); *In re Delta Air Lines, Inc.*, Case No. 05-17923 (PCB) (Bankr. S.D.N.Y. Sept. 16, 2005) (finding that tax credit carryforwards are property of the debtors' estates and subsequently approving notification procedures and restrictions on certain transfers of claims against and interests in the debtors to protect, among other things, the tax credit carryforwards).

28. Accordingly, because the Debtors' Tax Attributes are property of their estates, the Court has the authority under Bankruptcy Code Section 362 to enforce the automatic stay by restricting the transfer of, and the taking of any worthlessness deduction with respect to, Common Stock that could jeopardize the Debtors' ability to fully utilize these valuable assets.

29. Courts have routinely restricted transfers of equity interests and/or the taking of worthless stock deductions, or otherwise issued injunctive relief to protect a debtor against the possible loss of their Tax Attributes. *See, e.g., In re GNC Holdings, Inc.*, Case No. 20-11662 (KBO) (Bankr. D. Del. June 25, 2020) (approving NOL trading restriction for public corporation's securities); *In re Pyxus Int'l, Inc.*, Case No. 20-11570 (LSS) (Bankr. D. Del. June 17, 2020) (approving NOL trading restriction for public corporation's securities); *In re Akorn, Inc.*, Case No. 20-11777 (KBO) (Bankr. D. Del. May 22, 2020) (approving NOL trading restriction for public corporation's securities); *In re Exide Holdings, Inc.*, Case No. 20-11157 (CSS) (Bankr. D. Del. May 21, 2020) (approving NOL trading restriction for private corporation's securities); *In re Cloud Peak Energy Inc.*, Case No. 19-11047 (KG) (Bankr. D. Del. May 14, 2019) (approving NOL trading restriction for public corporation's securities).

30. The Debtors' Tax Attributes are valuable assets that could inure to the benefit of the Debtors' estates and stakeholders and facilitate the Debtors' reorganization. Unrestricted transfers of Common Stock with no advance warning of such transfers or the unrestricted taking

of worthlessness deductions with respect to Common Stock could jeopardize and impair the Debtors' ability to utilize these valuable assets. The requested relief imposes a minimal burden to achieve a substantial benefit for the Debtors, their estates, their creditors and other interested parties. Accordingly, the Court should grant the requested relief and establish a notice and hearing procedure governing the transfers of Common Stock and the taking of worthlessness deductions with respect to Common Stock.

RESERVATION OF RIGHTS

31. Nothing in this Motion shall be deemed: (a) an admission as to the amount of, basis for, or validity of any claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Motion; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to Bankruptcy Code Section 365; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; or (g) a waiver of any claims or causes of action which may exist against any entity under the Bankruptcy Code or any other applicable law. If the Court enters any order granting the relief sought herein, any payment made pursuant to such order is not intended and should not be construed as an admission as to the validity of any particular claim or a waiver of the Debtors' rights to subsequently dispute such claim.

NOTICE

32. Notice of this Motion will be given to: (i) the United States Trustee for the District of Delaware; (ii) the holders of the five (5) largest unsecured claims against the Debtors;

(iii) counsel to the prepetition lender; (iv) the United States Attorney's Office for the District of Delaware; (v) the Internal Revenue Service; (vi) the Securities and Exchange Commission; (vii) any directly registered and record holders of outstanding Common Stock (with instructions to serve down to beneficial holders, as applicable); (viii) the transfer agents for the Common Stock; and (ix) all parties requesting notice pursuant to Bankruptcy Rule 2002. Notice of this Motion and any order entered hereon will be served in accordance with Local Rule 9013-1(m). The Debtors submit that, under the circumstances, no other or further notice is required.

[Remainder of page intentionally left blank.]

WHEREFORE, the Debtors respectfully request entry of orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, granting the relief requested herein and such other relief as is just and proper.

Dated: March 29, 2021
Wilmington, Delaware

/s/ Joseph M. Mulvihill

Joseph M. Barry (No. 4221)

Ryan M. Bartley (No. 4985)

Joseph M. Mulvihill (No. 6061)

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-and-

Lorenzo Marinuzzi (*pro hac vice* admission pending)

Erica J. Richards (*pro hac vice* admission pending)

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erichards@mofo.com

Proposed Counsel to the Debtors and Debtors in Possession

EXHIBIT A

Proposed Interim Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

	X	
	:	Chapter 11
In re	:	
	:	Case No. 21- <u>10636</u> ()
AEROCENTURY CORP., <i>et al.</i> ,	:	
	:	(Jointly Administered)
Debtors. ¹	:	
	:	Re: Docket No. ____
	X	

**INTERIM ORDER (I) APPROVING NOTIFICATION AND HEARING PROCEDURES
FOR CERTAIN TRANSFERS OF AND DECLARATIONS OF WORTHLESSNESS
WITH RESPECT TO COMMON STOCK, AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”) of the Debtors for an order establishing certain notice and hearing procedures that must be satisfied before certain shareholders may make transfers of, or worthlessness deductions with respect to, common stock (the “Common Stock”) in AeroCentury Corp.; and upon consideration of the First Day Declaration; and due and proper notice of the Motion having been given; and it appearing that no other or further notice of the Motion is required; and this Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having determined that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having determined that venue of the Chapter 11 Cases and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that the relief requested in the Motion and provided for herein is in the best interest of the Debtors, their estates, and their creditors; and after due deliberation and sufficient cause appearing therefor:

¹ The Debtors in these chapter 11 cases, along with the last four digits of their federal employer identification number, are: AeroCentury Corp. (3974); JetFleet Holding Corp. (5342); and JetFleet Management Corp. (0929). The Debtors’ mailing address is 1440 Chapin Avenue, Suite 310, Burlingame, CA 94010.

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein on an interim basis.
2. Objections to entry of an order granting the Motion on a final basis must be filed by _____, 2021, at 4:00 p.m. (ET) and served on: (i) proposed co-counsel to the Debtors, (a) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801, Attn: Joseph M. Barry, Esq., and Ryan M. Bartley, Esq., and (b) Morrison & Foerster LLP, 250 West 55th Street, New York, NY 10019-9601, Attn: Lorenzo Marinuzzi, Esq., and Erica J. Richards, Esq.; (ii) the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Linda Casey, Esq.; and (iii) counsel to the prepetition lender, Vedder Price, P.C., 222 North LaSalle Street, Chicago, Illinois 60601, Attn: Neil Poland and David L. Kane. A final hearing, if required, on the Motion will be held on _____, 2021, at _____.m. (ET). If no objections are filed to the Motion, this Court may enter a final order without further notice or hearing.
3. The purchase, sale, or other transfer of, or the taking of any worthlessness deduction with respect to, Common Stock in violation of the procedures set forth herein shall be null and void *ab initio* as an act in violation of the automatic stay under Bankruptcy Code Section 362.
4. The following procedures and notices are approved and shall apply to transfers of Common Stock (the “Equity Transfer Procedures”):
 - (a) Any person or entity (as defined in Treasury Regulations section 1.382-3(a)) who currently is or hereafter becomes a Substantial Shareholder (as such term is defined in paragraph (e) below) must file with the Court, and serve upon (i) the Debtors, 1440 Chapin Avenue, Suite 310, Burlingame, CA 94010, Attn: Christopher B. Tigno, Esq.; (ii) proposed co-counsel to the Debtors, (a) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801, Attn: Joseph M. Barry, Esq., and Ryan M. Bartley, Esq., and (b) Morrison & Foerster LLP, 250 West 55th Street, New York, NY 10019-9601, Attn: Lorenzo Marinuzzi, Esq., and Erica J. Richards, Esq.; (iii) the U.S. Trustee, 844 King Street,

Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Linda Casey, Esq.; and (iv) counsel to the prepetition lender Vedder Price, P.C., 222 North LaSalle Street, Chicago, Illinois 60601, Attn: Neil Poland and David L. Kane; (v) counsel to any committee appointed under section 1102 of the Bankruptcy Code in the Chapter 11 Cases; and (vi) to the extent not listed herein, those parties requesting notice pursuant to Bankruptcy Rule 2002 (collectively, the “Notice Parties”), a notice of such status, in substantially the form attached to the Motion as **Exhibit C**, on or before the later of (i) twenty (20) calendar days after entry of this Interim Order or (ii) ten (10) days after becoming a Substantial Shareholder.

- (b) At least twenty (20) calendar days prior to effectuating any transfer of Common Stock (including options to acquire Common Stock, as defined in paragraph (e) below) that would result in an increase in the amount of Common Stock beneficially owned by a Substantial Shareholder, or would result in a person or entity becoming a Substantial Shareholder, such Substantial Shareholder, person or entity must file with the Court, and serve upon the Notice Parties, an advance written notice of the intended transfer of Common Stock, in substantially the form attached to the Motion as **Exhibit D** (each a “Notice of Intent to Purchase, Acquire, or Otherwise Accumulate”).
- (c) At least twenty (20) calendar days prior to effectuating any transfer of Common Stock (including options to acquire Common Stock) that would result in a decrease in the amount of Common Stock beneficially owned by a Substantial Shareholder, or would result in a person or entity ceasing to be a Substantial Shareholder, such Substantial Shareholder, person or entity must file with the Court, and serve upon the Notice Parties, an advance written notice of the intended transfer of Common Stock, in substantially the form attached to the Motion as **Exhibit E** (each a “Notice of Intent to Sell, Trade, or Otherwise Transfer” and, collectively with each Notice of Intent to Purchase, Acquire, or Otherwise Accumulate, a “Notice of Proposed Transfer”).
- (d) The Debtors (and any other parties in interest) shall have twenty (20) calendar days after receipt of a Notice of Proposed Transfer to file with the Court and serve upon such Substantial Shareholder, person or entity an objection to any proposed transfer of Common Stock described in the Notice of Proposed Transfer on the grounds that such transfer might adversely affect the Debtors’ ability to utilize their Tax Attributes. If the Debtors (or any other parties in interest) file an objection, such transfer would not be effective unless approved by a final and non-appealable order of the Court. If no objection is filed within such 20-day period, such transfer shall be permitted to proceed solely as set forth in the Notice of Proposed Transfer. Further transfers within the scope of this paragraph (d) shall be

the subject of additional notices as set forth herein, with additional 20-day waiting periods.

- (e) For purposes of these procedures: (i) a “Substantial Shareholder” is any person or entity that beneficially owns in excess of: 73,429 shares of Common Stock (representing approximately 4.75% of all issued and outstanding shares of Common Stock); (ii) “beneficial ownership” of equity interests means beneficial ownership for U.S. federal income tax purposes as determined in accordance with applicable rules under Section 382 of the Internal Revenue Code of 1986, as amended (the “Tax Code”), Treasury Regulations promulgated thereunder and rulings issued by the Internal Revenue Service, and thus, to the extent provided therein, from time to time shall include, without limitation, (A) direct and indirect, actual and constructive, beneficial ownership (for example, a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries), (B) ownership by such holder’s family members and other related persons and persons acting in concert with such holder to make a coordinated acquisition of stock, and (C) ownership of shares which such holder has an option to acquire; and (iii) an “option” to acquire stock includes any option, contingent purchase, warrant, put, stock subject to risk of forfeiture, contract to acquire stock, or similar interest, regardless of whether it is contingent or otherwise not currently exercisable.
- (f) Effective as of the Petition Date and until further order of the Court to the contrary, any purchase, sale, or other transfer of beneficial ownership of Common Stock, including options to acquire Common Stock, in violation of these procedures shall be null and void *ab initio* as an act in violation of the automatic stay under Bankruptcy Code Section 362.

5. The following restrictions shall apply to taking worthlessness deductions, for income tax purposes, with respect to Common Stock (the “Worthless Stock Deduction Procedures”):

- (a) Any person or entity that currently is or becomes a 50-percent Shareholder (as such term is defined in paragraph (d) below) must file with the Court, and serve upon the Notice Parties, a notice of such status, in substantially the form attached to the Motion as **Exhibit F**, on or before the later of (i) twenty (20) calendar days after entry of this Interim Order or (ii) ten (10) days after becoming a 50-percent Shareholder.
- (b) At least twenty-eight (28) calendar days prior to filing any income tax return, or any amendment to such a return, taking any worthlessness deduction with respect to Common Stock for a tax year ending before the Debtors’ emergence from chapter 11 protection, such 50-percent

Shareholder must file with the Court, and serve upon the Notice Parties, an advance written notice of the intended worthlessness deduction, in substantially the form attached to the Motion as **Exhibit G** (each a “Notice of Intent to Take a Worthless Stock Deduction”).

- (c) The Debtors (and any other parties in interest) shall have twenty (20) calendar days after receipt of a Notice of Intent to Take a Worthless Stock Deduction to file with the Court and serve upon such 50-percent Shareholder an objection to any proposed worthlessness deduction described in the Notice of Intent to Take a Worthless Stock Deduction on the grounds that such deduction might adversely affect the Debtors’ ability to utilize their Tax Attributes. If the Debtors (or any other parties in interest) file an objection, the filing of the income tax return with such deduction would not be permitted or effective unless approved by a final and non-appealable order of the Court. If no objection is filed within such 20-day period, the filing of the income tax return with such deduction shall be permitted as set forth in the Notice of Intent to Take a Worthless Stock Deduction. Additional income tax returns within the scope of this paragraph (c) shall be the subject of additional notices as set forth herein, with additional 20-day waiting periods.
- (d) For purposes of these procedures: (i) a “50-percent Shareholder” is any person or entity that at any time during the three-year period ending on the Petition Date has had beneficial ownership of 50% or more of Common Stock or is otherwise considered a 50-percent shareholder of AeroCentury within the meaning of Section 382(g)(4)(D) of the Tax Code; (ii) “beneficial ownership” of equity interests means beneficial ownership for U.S. federal income tax purposes as determined in accordance with applicable rules under Section 382 of the Tax Code, Treasury Regulations promulgated thereunder and rulings issued by the Internal Revenue Service, and thus, to the extent provided therein, from time to time shall include, without limitation, (A) direct and indirect, actual and constructive, beneficial ownership (for example, a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries), (B) ownership by such holder’s family members and other related persons and persons acting in concert with such holder to make a coordinated acquisition of stock, and (C) ownership of shares which such holder has an option to acquire; and (iii) an “option” to acquire stock includes any option, contingent purchase, warrant, put, stock subject to risk of forfeiture, contract to acquire stock, or similar interest, regardless of whether it is contingent or otherwise not currently exercisable.
- (e) In the event that a 50-percent Shareholder takes a worthlessness deduction with respect to AeroCentury common stock in violation of these procedures, such worthlessness deduction shall be null and void *ab initio* as an act in violation of the automatic stay under Bankruptcy Code Section 362, and

such 50-percent Shareholder shall be required to file an amended income tax return, as applicable, revoking such worthlessness deduction.

6. The Debtors may waive, in writing, and in their sole and absolute discretion, any and all restrictions, stays, and notification procedures contained in this Interim Order.

7. Within three (3) business days of entry of this Interim Order, the Debtors shall serve a notice in substantially the form attached to the Motion as **Exhibit H** (the “Notice of Order”) to: (i) the United States Trustee for the District of Delaware; (ii) the holders of the twenty (20) largest unsecured claims against the Debtors; (iii) counsel to the prepetition lender; (iv) the United States Attorney’s Office for the District of Delaware; (v) the Internal Revenue Service; (vi) the Securities and Exchange Commission; (vii) any directly registered and record holders of outstanding Common Stock (with instructions to serve down to beneficial holders, as applicable); (viii) the transfer agents for the Common Stock; and (ix) all parties requesting notice pursuant to Bankruptcy Rule 2002. No further notice of entry of this Interim Order need be served by the Debtors.

8. The requirements set forth in this Interim Order are in addition to the requirements of Bankruptcy Rules 3001 and 3002 and all applicable securities, corporate and other laws, and do not waive compliance or excuse non-compliance therewith.

9. The requirements set forth in this Interim Order are in addition to the requirements of all applicable laws and do not excuse compliance therewith.

10. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Interim Order.

11. This Interim Order and the Equity Transfer Procedures and the Worthless Stock Deduction Procedures approved herein shall remain in full force and effect until such time as the Court enters a final order with respect to the Motion.

12. Entry of this Interim Order is without prejudice to the right to any party to seek to shorten any of the time periods for filing and serving any notices or objections required hereunder.

13. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

14. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order.

15. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

EXHIBIT B

Proposed Final Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

	-X	
	:	Chapter 11
In re	:	
	:	Case No. 21- <u>10636</u> ()
AEROCENTURY CORP., <i>et al.</i> ,	:	
	:	(Jointly Administered) Re:
Debtors. ¹	:	
	:	Docket Nos. ____ & ____

**FINAL ORDER (I) APPROVING NOTIFICATION AND HEARING PROCEDURES
FOR CERTAIN TRANSFERS OF AND DECLARATIONS OF WORTHLESSNESS
WITH RESPECT TO COMMON STOCK, AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”) of the Debtors for an order establishing certain notice and hearing procedures that must be satisfied before certain shareholders may make transfers of, or worthlessness deductions with respect to, common stock (the “Common Stock”) in AeroCentury Corp.; and upon consideration of the First Day Declaration; and due and proper notice of the Motion having been given; and it appearing that no other or further notice of the Motion is required; and this Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having determined that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having determined that venue of the Chapter 11 Cases and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that the relief requested in the Motion and provided for herein is in the best interest of the Debtors, their estates, and their creditors; and after due deliberation and sufficient cause appearing therefor:

¹ The Debtors in these chapter 11 cases, along with the last four digits of their federal employer identification number, are: AeroCentury Corp. (3974); JetFleet Holding Corp. (5342); and JetFleet Management Corp. (0929). The Debtors’ mailing address is 1440 Chapin Avenue, Suite 310, Burlingame, CA 94010.

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein on a final basis.
2. The purchase, sale, or other transfer of, or the taking of any worthlessness deduction with respect to, Common Stock in violation of the procedures set forth in the Court's *Interim Order (I) Approving Notification and Hearing Procedures for Certain Transfers of and Declarations of Worthlessness with Respect to Common Stock, and (II) Granting Related Relief*, entered on _____, 2021 (the "Interim Order") shall be null and void *ab initio* as an act in violation of the automatic stay under Bankruptcy Code Section 362.
3. The restrictions and procedures set forth in the Interim Order remain and shall remain in full force and effect.
4. The Debtors may waive, in writing, and in their sole and absolute discretion, any and all restrictions, stays, and notification procedures contained in this Final Order, including those set forth in the Interim Order.
5. The requirements set forth in this Final Order are in addition to the requirements of Bankruptcy Rules 3001 and 3002 and all applicable securities, corporate and other laws, and do not waive compliance or excuse non-compliance therewith.
6. The terms and conditions of this Final Order shall be immediately effective and enforceable upon its entry.
7. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Final Order.

EXHIBIT C

Notice as Status as a Substantial Shareholder

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

	-X	:	
	:	:	
In re	:	:	Chapter 11
	:	:	
AEROCENTURY CORP., <i>et al.</i> ,	:	:	Case No. 21-_____ ()
	:	:	
Debtors. ¹	:	:	(Jointly Administered)
	:	:	
	-X		

NOTICE OF STATUS AS A SUBSTANTIAL SHAREHOLDER

PLEASE TAKE NOTICE that [Name of Substantial Shareholder] [is/has become] a Substantial Shareholder² with respect to the common stock in AeroCentury Corp. (“AeroCentury”) (the “Common Stock”), a debtor and debtor in possession in Case No. 21-_____ () pending in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”).

PLEASE TAKE FURTHER NOTICE that, as of [Date], [Name of Substantial Shareholder] beneficially owns [] shares of Common Stock. The following table sets forth the date(s) on which [Name of Substantial Shareholder] acquired or otherwise became the beneficial owner of such Common Stock:

Number of Shares	Date Acquired

¹ The Debtors in these chapter 11 cases, along with the last four digits of their federal employer identification number, are: AeroCentury Corp. (3974); JetFleet Holding Corp. (5342); and JetFleet Management Corp. (0929). The Debtors’ mailing address is 1440 Chapin Avenue, Suite 310, Burlingame, CA 94010.

² For purposes of these procedures: (a) a “Substantial Shareholder” is any person or entity that beneficially owns in excess of 73,429 shares of Common Stock (representing approximately 4.75% of all issued and outstanding shares of Common Stock); (b) “beneficial ownership” of equity interests means beneficial ownership for U.S. federal income tax purposes as determined in accordance with applicable rules under Section 382 of the Internal Revenue Code of 1986, as amended, Treasury Regulations promulgated thereunder and rulings issued by the Internal Revenue Service, and thus, to the extent provided therein, from time to time shall include, without limitation, (i) direct and indirect, actual and constructive, beneficial ownership (for example, a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries), (ii) ownership by such holder’s family members and other related persons and persons acting in concert with such holder to make a coordinated acquisition of stock; and (iii) ownership of shares which such holder has an option to acquire, and (c) an “option” to acquire stock includes any option, contingent purchase, warrant, put, stock subject to risk of forfeiture, contract to acquire stock, or similar interest, regardless of whether it is contingent or otherwise not currently exercisable.

PLEASE TAKE FURTHER NOTICE that the taxpayer identification number of [Name of Substantial Shareholder] is [_____].

PLEASE TAKE FURTHER NOTICE that, under penalties of perjury, [Name of Substantial Shareholder] hereby declares that it has examined this Notice and accompanying attachments (if any), and, to the best of its knowledge and belief, this Notice and any attachments that purport to be part of this Notice, are true, correct, and complete in all respects.

PLEASE TAKE FURTHER NOTICE that, pursuant to that certain [Interim/Final] Order (I) Approving Notification and Hearing Procedures for Certain Transfers of and Declarations of Worthlessness with respect to Common Stock, and (II) Granting Related Relief, this Notice is being (a) filed with the Bankruptcy Court, 824 Market Street, Wilmington, Delaware, 19801 and (b) served upon (i) the Debtors, 1440 Chapin Avenue, Suite 310, Burlingame, CA 94010, Attn: Christopher B. Tigno, Esq.; (ii) proposed co-counsel to the Debtors, (a) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801, Attn: Joseph M. Barry, Esq., and Ryan M. Bartley, Esq., and (b) Morrison & Foerster LLP, 250 West 55th Street, New York, NY 10019-9601, Attn: Lorenzo Marinuzzi, Esq., and Erica J. Richards, Esq.; (iii) the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Linda Casey, Esq.; and (iv) counsel to the prepetition lender, Vedder Price, P.C., 222 North LaSalle Street, Chicago, Illinois 60601, Attn: Neil Poland and David L. Kane; (v) counsel to any committee appointed under section 1102 of the Bankruptcy Code in the Chapter 11 Cases; and (vi) to the extent not listed herein, those parties requesting notice pursuant to Bankruptcy Rule 2002.

[Name of Substantial Shareholder]

By: _____

Name: _____

Address: _____

Telephone: _____

Facsimile: _____

Date: _____

EXHIBIT D

Notice of Intent to Purchase, Acquire, or Otherwise Accumulate

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

	-X	
	:	
In re	:	Chapter 11
	:	
AEROCENTURY CORP., <i>et al.</i> ,	:	Case No. 21-_____ ()
	:	
Debtors. ¹	:	(Jointly Administered)
	:	
	-X	

NOTICE OF INTENT TO PURCHASE, ACQUIRE, OR OTHERWISE ACCUMULATE

PLEASE TAKE NOTICE that [Name of Prospective Acquirer] hereby provides notice of its intention to purchase, acquire, or otherwise accumulate one or more shares of the common stock (the “Common Stock”), or an option with respect thereto (the “Proposed Transfer”) of AeroCentury Corp. (“AeroCentury”), a debtor and debtor in possession in Case No. 21-_____ () pending in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”).

PLEASE TAKE FURTHER NOTICE that, if applicable, on [Prior Date(s)], [Name of Prospective Acquirer] filed a Notice of Status as a Substantial Shareholder² with the Bankruptcy Court and served copies thereof on (i) the Debtors, 1440 Chapin Avenue, Suite 310, Burlingame, CA 94010, Attn: Christopher B. Tigno, Esq.; (ii) proposed co-counsel to the Debtors, (a) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801, Attn: Joseph M. Barry, Esq., and Ryan M. Bartley, Esq., and (b) Morrison & Foerster LLP, 250 West 55th Street, New York, NY 10019-9601, Attn: Lorenzo Marinuzzi, Esq., and Erica J. Richards, Esq.; (iii) the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Linda Casey, Esq.; and (iv) counsel to the prepetition lender, Vedder Price, P.C., 222 North LaSalle Street, Chicago, Illinois 60601, Attn:

¹ The Debtors in these chapter 11 cases, along with the last four digits of their federal employer identification number, are: AeroCentury Corp. (3974); JetFleet Holding Corp. (5342); and JetFleet Management Corp. (0929). The Debtors’ mailing address is 1440 Chapin Avenue, Suite 310, Burlingame, CA 94010.

² For purposes of these procedures: (a) a “Substantial Shareholder” is any person or entity that beneficially owns in excess of 73,429 shares of Common Stock (representing approximately 4.75% of all issued and outstanding shares of Common Stock); (b) “beneficial ownership” of equity interests means beneficial ownership for U.S. federal income tax purposes as determined in accordance with applicable rules under Section 382 of the Internal Revenue Code of 1986, as amended, Treasury Regulations promulgated thereunder and rulings issued by the Internal Revenue Service, and thus, to the extent provided therein, from time to time shall include, without limitation, (i) direct and indirect, actual and constructive, beneficial ownership (for example, a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries), (ii) ownership by such holder’s family members and other related persons and persons acting in concert with such holder to make a coordinated acquisition of stock; and (iii) ownership of shares which such holder has an option to acquire, and (c) an “option” to acquire stock includes any option, contingent purchase, warrant, put, stock subject to risk of forfeiture, contract to acquire stock, or similar interest, regardless of whether it is contingent or otherwise not currently exercisable.

Neil Poland and David L. Kane; (v) counsel to any committee appointed under section 1102 of the Bankruptcy Code in the Chapter 11 Cases; and (vi) to the extent not listed herein, those parties requesting notice pursuant to Bankruptcy Rule 2002 (collectively, the “Notice Parties”).

PLEASE TAKE FURTHER NOTICE that [Name of Prospective Acquirer] currently beneficially owns [] shares of the Common Stock.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Proposed Transfer, [Name of Prospective Acquirer] proposes to purchase, acquire, or otherwise accumulate [] shares of the Common Stock, or an option with respect to [] shares of the Common Stock. If the Proposed Transfer is permitted to occur, [Name of Prospective Acquirer] will beneficially own [] shares of the Common Stock after the transfer becomes effective.

PLEASE TAKE FURTHER NOTICE that the taxpayer identification number of [Name of Prospective Acquirer] is [].

PLEASE TAKE FURTHER NOTICE that, under penalties of perjury, [Name of Prospective Acquirer] hereby declares that it has examined this Notice and accompanying attachments (if any), and, to the best of its knowledge and belief, this Notice and any attachments that purport to be part of this Notice are true, correct and complete in all respects.

PLEASE TAKE FURTHER NOTICE that, pursuant to that certain [Interim/Final] Order (I) Approving Notification and Hearing Procedures for Certain Transfers of and Declarations of Worthlessness with respect to Common Stock, and (II) Granting Related Relief, this Notice is being (a) filed with the Bankruptcy Court, 824 Market Street, Wilmington, Delaware, 19801 and (b) served upon the Notice Parties.

PLEASE TAKE FURTHER NOTICE that the Debtors (and other parties in interest) have twenty (20) calendar days after receipt of this Notice to object to the Proposed Transfer described herein. If the Debtors (or any other parties in interest) file an objection, such Proposed Transfer will not be effective unless approved by a final and non-appealable order of the Bankruptcy Court. If no objection is filed within such 20-day period, then after expiration of such period the Proposed Transfer may proceed solely as set forth in this Notice.

[Remainder of page intentionally left blank]

PLEASE TAKE FURTHER NOTICE that any further transactions contemplated by [Name of Prospective Acquirer] that may result in [Name of Prospective Acquirer] purchasing, acquiring or otherwise accumulating additional shares of the Common Stock (or an option with respect thereto) will each require an additional notice filed with the Court to be served in the same manner as this Notice.

[Name of Prospective Acquirer]

By: _____

Name: _____

Address: _____

Telephone: _____

Facsimile: _____

Date: _____

EXHIBIT E

Notice of Intent to Sell, Trade, or Otherwise Transfer

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

	-X	:	
In re	:	:	Chapter 11
	:	:	
AEROCENTURY CORP., <i>et al.</i> ,	:	:	Case No. 21-_____ ()
	:	:	
Debtors. ¹	:	:	(Jointly Administered)
	:	:	
	-X		

NOTICE OF INTENT TO SELL, TRADE, OR OTHERWISE TRANSFER

PLEASE TAKE NOTICE that [Name of Prospective Seller] hereby provides notice of its intention to sell, trade, or otherwise transfer shares of the common stock (the “Common Stock”), or an option with respect thereto (the “Proposed Transfer”) of AeroCentury Corp.. (“AeroCentury”), a debtor and debtor in possession in Case No. 21-_____ () pending in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”).

PLEASE TAKE FURTHER NOTICE that, if applicable, on [Prior Date(s)], [Name of Prospective Seller] filed a Notice of Status as a Substantial Shareholder² with the Bankruptcy Court and served copies thereof on (i) the Debtors, 1440 Chapin Avenue, Suite 310, Burlingame, CA 94010, Attn: Christopher B. Tigno, Esq.; (ii) proposed co-counsel to the Debtors, (a) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801, Attn: Joseph M. Barry, Esq., and Ryan M. Bartley, Esq., and (b) Morrison & Foerster LLP, 250 West 55th Street, New York, NY 10019-9601, Attn: Lorenzo Marinuzzi, Esq., and Erica J. Richards, Esq.; (iii) the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Linda Casey, Esq.; and (iv) counsel to the prepetition lender Vedder Price, P.C. 222 North LaSalle Street, Chicago, Illinois 60601, Attn: Neil Poland and David L. Kane; (v) counsel to any committee appointed under section 1102 of the

¹ The Debtors in these chapter 11 cases, along with the last four digits of their federal employer identification number, are: AeroCentury Corp. (3974); JetFleet Holding Corp. (5342); and JetFleet Management Corp. (0929). The Debtors’ mailing address is 1440 Chapin Avenue, Suite 310, Burlingame, CA 94010.

² For purposes of these procedures: (a) a “Substantial Shareholder” is any person or entity that beneficially owns in excess of 73,429 shares of Common Stock (representing approximately 4.75% of all issued and outstanding shares of Common Stock); (b) “beneficial ownership” of equity interests means beneficial ownership for U.S. federal income tax purposes as determined in accordance with applicable rules under Section 382 of the Internal Revenue Code of 1986, as amended, Treasury Regulations promulgated thereunder and rulings issued by the Internal Revenue Service, and thus, to the extent provided therein, from time to time shall include, without limitation, (i) direct and indirect, actual and constructive, beneficial ownership (for example, a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries), (ii) ownership by such holder’s family members and other related persons and persons acting in concert with such holder to make a coordinated acquisition of stock, and (iii) ownership of shares which such holder has an option to acquire; and (c) an “option” to acquire stock includes any option, contingent purchase, warrant, put, stock subject to risk of forfeiture, contract to acquire stock, or similar interest, regardless of whether it is contingent or otherwise not currently exercisable.

Bankruptcy Code in the Chapter 11 Cases; and (vi) to the extent not listed herein, those parties requesting notice pursuant to Bankruptcy Rule 2002 (collectively, the “Notice Parties”).

PLEASE TAKE FURTHER NOTICE that [Name of Prospective Seller] currently beneficially owns [] shares of the Common Stock.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Proposed Transfer, [Name of Prospective Seller] proposes to sell, trade, or otherwise transfer [] shares of the Common Stock, or an option with respect to [] shares of the Common Stock. If the Proposed Transfer is permitted to occur, [Name of Prospective Seller] will beneficially own [] shares of the Common Stock after the transfer becomes effective.

PLEASE TAKE FURTHER NOTICE that the taxpayer identification number of [Name of Prospective Seller] is [].

PLEASE TAKE FURTHER NOTICE that, under penalties of perjury, [Name of Prospective Seller] hereby declares that it has examined this Notice and accompanying attachments (if any), and, to the best of its knowledge and belief, this Notice and any attachments that purport to be part of this Notice are true, correct and complete in all respects.

PLEASE TAKE FURTHER NOTICE that, pursuant to that certain [Interim/Final] Order (I) Approving Notification and Hearing Procedures for Certain Transfers of and Declarations of Worthlessness with respect to Common Stock, and (II) Granting Related Relief, this Notice is being (a) filed with the Bankruptcy Court, 824 Market Street, Wilmington, Delaware, 19801 and (b) served upon the Notice Parties.

PLEASE TAKE FURTHER NOTICE that the Debtors (and other parties in interest) have twenty (20) calendar days after receipt of this Notice to object to the Proposed Transfer described herein. If the Debtors (or other parties in interest) file an objection, such Proposed Transfer will not be effective unless approved by a final and non-appealable order of the Bankruptcy Court. If no objection is filed within such 20-day period, then after expiration of such period the Proposed Transfer may proceed solely as set forth in this Notice.

PLEASE TAKE FURTHER NOTICE that any further transactions contemplated by [Name of Prospective Seller] that may result in [Name of Prospective Seller] selling, trading, or otherwise transferring shares of the Common Stock (or an option with respect thereto) will each require an additional notice filed with the Bankruptcy Court to be served in the same manner as this Notice.

[Name of Prospective Seller]

By: _____

Name: _____

Address: _____

Telephone: _____

Facsimile: _____

Date: _____

EXHIBIT F

Notice of Status as a 50-Percent Shareholder

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

	-X	:	
	:	:	
In re	:	:	Chapter 11
	:	:	
AEROCENTURY CORP., <i>et al.</i> ,	:	:	Case No. 21-_____ ()
	:	:	
Debtors. ¹	:	:	(Jointly Administered)
	:	:	
	-X		

NOTICE OF STATUS AS 50-PERCENT SHAREHOLDER

PLEASE TAKE NOTICE that [Name of 50-percent Shareholder] [is/has become] a 50-percent Shareholder² with respect to the common stock (the “Common Stock”) or of AeroCentury Corp. (“AeroCentury”), a debtor and debtor in possession in Case No. 21-_____ () pending in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”).

PLEASE TAKE FURTHER NOTICE that, as of [Date], [Name of 50-percent Shareholder] beneficially owns [] shares of the Common Stock. The following table sets forth the date(s) on which [Name of 50-percent Shareholder] acquired or otherwise became the beneficial owner of such Common Stock:

Number of Shares	Date Acquired

¹ The Debtors in these chapter 11 cases, along with the last four digits of their federal employer identification number, are: AeroCentury Corp. (3974); JetFleet Holding Corp. (5342); and JetFleet Management Corp. (0929). The Debtors’ mailing address is 1440 Chapin Avenue, Suite 310, Burlingame, CA 94010.

² For purposes of these procedures: (a) a “50-percent Shareholder” is any person or entity that at any time during the three-year period ending on the Petition Date has had beneficial ownership of 50% or more of the Common Stock or is otherwise considered a 50-percent shareholder of AeroCentury within the meaning of Section 382(g)(4)(D) of the Internal Revenue Code of 1986, as amended (the “Tax Code”); (b) “beneficial ownership” of equity interests means beneficial ownership for U.S. federal income tax purposes as determined in accordance with applicable rules under Section 382 of the Tax Code, Treasury Regulations promulgated thereunder and rulings issued by the Internal Revenue Service, and thus, to the extent provided therein, from time to time shall include, without limitation, (i) direct and indirect, actual and constructive, beneficial ownership (for example, a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries), (ii) ownership by such holder’s family members and other related persons and persons acting in concert with such holder to make a coordinated acquisition of stock, and (iii) ownership of shares which such holder has an option to acquire; and (c) an “option” to acquire stock includes any option, contingent purchase, warrant, put, stock subject to risk of forfeiture, contract to acquire stock, or similar interest, regardless of whether it is contingent or otherwise not currently exercisable.

PLEASE TAKE FURTHER NOTICE that the taxpayer identification number of [Name of 50-percent Shareholder] is [_____].

PLEASE TAKE FURTHER NOTICE that, under penalties of perjury, [Name of 50-percent Shareholder] hereby declares that it has examined this Notice and accompanying attachments (if any), and, to the best of its knowledge and belief, this Notice and any attachments that purport to be part of this Notice are true, correct, and complete in all respects.

PLEASE TAKE FURTHER NOTICE that, pursuant to that certain [*Interim/Final*] *Order (I) Approving Notification and Hearing Procedures for Certain Transfers of and Declarations of Worthlessness with respect to Common Stock, and (II) Granting Related Relief*, this Notice is being (a) filed with the Bankruptcy Court, 824 Market Street, Wilmington, Delaware, 19801 and (b) served upon (i) the Debtors, 1440 Chapin Avenue, Suite 310, Burlingame, CA 94010, Attn: Christopher B. Tigno, Esq.; (ii) proposed co-counsel to the Debtors, (a) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801, Attn: Joseph M. Barry, Esq., and Ryan M. Bartley, Esq., and (b) Morrison & Foerster LLP, 250 West 55th Street, New York, NY 10019-9601, Attn: Lorenzo Marinuzzi, Esq., and Erica J. Richards, Esq.; (iii) the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Linda Casey, Esq.; and (iv) counsel to the prepetition lender Vedder Price, P.C., 222 North LaSalle Street, Chicago, Illinois 60601, Attn: Neil Poland and David L. Kane; (v) counsel to any committee appointed under section 1102 of the Bankruptcy Code in the Chapter 11 Cases; and (vi) to the extent not listed herein, those parties requesting notice pursuant to Bankruptcy Rule 2002.

[Name of 50-percent Shareholder]

By: _____

Name: _____

Address: _____

Telephone: _____

Facsimile: _____

Date: _____

EXHIBIT G

Notice of Intent to Take a Worthless Stock Deduction

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

	-X	:	
		:	
In re		:	Chapter 11
		:	
AEROCENTURY CORP., <i>et al.</i> ,		:	Case No. 21-_____ ()
		:	
Debtors. ¹		:	(Jointly Administered)
		:	
	-X		

NOTICE OF INTENT TO TAKE A WORTHLESS STOCK DEDUCTION

PLEASE TAKE NOTICE that [Name of Prospective Claimant] hereby provides notice of its intention to take a worthlessness deduction (the “Proposed Worthless Claim”) with respect to shares of the common stock (the “Common Stock”) of AeroCentury Corp. (“AeroCentury”), a debtor and debtor in possession in Case No. 21-_____ () pending in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”).

PLEASE TAKE FURTHER NOTICE that, if applicable, on [Prior Date(s)], [Name of Prospective Claimant] filed a Notice of Status as a 50-percent Shareholder² with the Bankruptcy Court and served copies thereof on (i) the Debtors, 1440 Chapin Avenue, Suite 310, Burlingame, CA 94010, Attn: Christopher B. Tigno, Esq.; (ii) proposed co-counsel to the Debtors, (a) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801, Attn: Joseph M. Barry, Esq., and Ryan M. Bartley, Esq., and (b) Morrison & Foerster LLP, 250 West 55th Street, New York, NY 10019-9601, Attn: Lorenzo Marinuzzi, Esq., and Erica J. Richards, Esq.; (iii) the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Linda Casey, Esq.; and (iv) counsel to the prepetition lender, Vedder Price, P.C. 222 North LaSalle Street, Chicago, Illinois 60601, Attn: Neil Poland and David L. Kane; (v) counsel to any committee appointed under section 1102 of the Bankruptcy Code in the Chapter 11

¹ The Debtors in these chapter 11 cases, along with the last four digits of their federal employer identification number, are: AeroCentury Corp. (3974); JetFleet Holding Corp. (5342); and JetFleet Management Corp. (0929). The Debtors’ mailing address is 1440 Chapin Avenue, Suite 310, Burlingame, CA 94010.

² For purposes of these procedures: (a) a “50-percent Shareholder” is any person or entity that at any time during the three-year period ending on the Petition Date has had beneficial ownership of 50% or more of the Common Stock or is otherwise considered a 50-percent shareholder of AeroCentury within the meaning of Section 382(g)(4)(D) of the Internal Revenue Code of 1986, as amended; (b) “beneficial ownership” of equity interests means beneficial ownership for U.S. federal income tax purposes as determined in accordance with applicable rules under Section 382 of the Tax Code, Treasury Regulations promulgated thereunder and rulings issued by the Internal Revenue Service, and thus, to the extent provided therein, from time to time shall include, without limitation, (i) direct and indirect, actual and constructive, beneficial ownership (for example, a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries), (ii) ownership by such holder’s family members and other related persons and persons acting in concert with such holder to make a coordinated acquisition of stock, and (iii) ownership of shares which such holder has an option to acquire; and (c) an “option” to acquire stock includes any option, contingent purchase, warrant, put, stock subject to risk of forfeiture, contract to acquire stock, or similar interest, regardless of whether it is contingent or otherwise not currently exercisable.

Cases; and (vi) to the extent not listed herein, those parties requesting notice pursuant to Bankruptcy Rule 2002 (collectively, the “Notice Parties”).

PLEASE TAKE FURTHER NOTICE that [Name of Prospective Claimant] currently beneficially owns [] shares of the Common Stock.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Proposed Worthless Claim, [Name of Prospective Claimant] proposes to declare for income tax purposes that [] shares of the Common Stock became worthless during the tax year ending [].

PLEASE TAKE FURTHER NOTICE that the taxpayer identification number of [Name of Prospective Claimant] is [].

PLEASE TAKE FURTHER NOTICE that, under penalties of perjury, [Name of Prospective Claimant] hereby declares that it has examined this Notice and accompanying attachments (if any), and, to the best of its knowledge and belief, this Notice and any attachments that purport to be part of this Notice are true, correct and complete in all respects.

PLEASE TAKE FURTHER NOTICE that, pursuant to that certain [*Interim/Final*] *Order (I) Approving Notification and Hearing Procedures for Certain Transfers of and Declarations of Worthlessness with respect to Common Stock, and (II) Granting Related Relief*, this Notice is being (a) filed with the Bankruptcy Court, 824 Market Street, Wilmington, Delaware, 19801 and (b) served upon the Notice Parties.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Order, [Name of Prospective Claimant] acknowledges that it is enjoined from filing an income tax return with respect to the Proposed Worthless Claim unless and until [Name of Prospective Claimant] complies with the procedures set forth in the Order, but the undersigned 50-percent Shareholder otherwise reserves all rights regarding the Order or the motion granted prior thereto.

PLEASE TAKE FURTHER NOTICE that the Debtors (and other parties in interest) have twenty (20) calendar days after receipt of this Notice to object to the Proposed Worthless Claim described herein. If the Debtors (or other parties in interest) file an objection, such Proposed Worthless Claim will not be permitted or effective unless approved by a final and non-appealable order of the Bankruptcy Court. If no objection is filed within such 20-day period, then after expiration of such period the Proposed Worthless Claim may proceed solely as set forth in this Notice.

PLEASE TAKE FURTHER NOTICE that any further transactions contemplated by [Name of Prospective Claimant] that may result in [Name of Prospective Claimant] filing an income tax return with respect to a Proposed Worthless Claim will each require an additional notice filed with the Court to be served in the same manner as this Notice.

[Name of Prospective Claimant]

By: _____

Name: _____

Address: _____

Telephone: _____

Facsimile: _____

Date: _____

EXHIBIT H

Notice of Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

	-X	:	
	:	:	
In re	:	:	Chapter 11
	:	:	
AEROCENTURY CORP., <i>et al.</i> ,	:	:	Case No. 21-_____ ()
	:	:	
Debtors. ¹	:	:	(Jointly Administered)
	:	:	
	-X		

**NOTICE OF (I) NOTIFICATION PROCEDURES APPLICABLE TO SUBSTANTIAL
SHAREHOLDERS AND 50-PERCENT SHAREHOLDERS OF AEROCENTURY CORP.
COMMON STOCK, (II) NOTIFICATION AND HEARING PROCEDURES FOR
TRANSFERRING AEROCENTURY CORP. COMMON STOCK, (III) NOTIFICATION
AND HEARING PROCEDURES FOR TAKING A WORTHLESSNESS DEDUCTION
WITH RESPECT TO AEROCENTURY CORP. COMMON STOCK, AND (IV)
ALLOWING A HEARING ON THE PROSPECTIVE APPLICATION THEREOF**

**TO: CERTAIN PERSONS OR ENTITIES WITH COMMON STOCK IN
AEROCENTURY CORP.**

PLEASE TAKE NOTICE that on [●], 2021 (the “Petition Date”), AeroCentury Corp. (“AeroCentury”) and its above-captioned affiliates (collectively, the “Debtors”), commenced chapter 11 cases (the “Chapter 11 Cases”) under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended (the “Bankruptcy Code”). Subject to certain exceptions, Bankruptcy Code Section 362 operates as a stay of any act to obtain possession of property of the Debtors’ estates or to exercise control over property of the Debtors’ estates.

PLEASE TAKE FURTHER NOTICE that on [●], 2021, the Debtors filed a motion (the “Motion”) seeking entry of an order pursuant to Bankruptcy Code Sections 105(a), 362(a)(3), and 541 establishing certain notice and hearing procedures that must be satisfied before certain shareholders may make transfers of, or worthlessness deductions with respect to, common stock in AeroCentury (the “Common Stock”).

PLEASE TAKE FURTHER NOTICE that on _____, 2021, the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) entered an interim order approving the procedures set forth in the Motion to preserve the Debtors’ ability to fully utilize their Tax Attributes (as defined in the Motion) pursuant to Bankruptcy Code Sections 105(a), 362(a)(3), and 541 (the “Interim Order”). Capitalized terms used but not defined herein shall have the same meanings ascribed to them in the Interim Order, unless otherwise stated.

¹ The Debtors in these chapter 11 cases, along with the last four digits of their federal employer identification number, are: AeroCentury Corp. (3974); JetFleet Holding Corp. (5342); and JetFleet Management Corp. (0929). The Debtors’ mailing address is 1440 Chapin Avenue, Suite 310, Burlingame, CA 94010.

Any purchase, sale, or other transfer of, or the taking of any worthlessness deduction with respect to, Common Stock in violation of the procedures set forth below shall be null and void *ab initio* as an act in violation of the automatic stay under Bankruptcy Code Section 362.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Interim Order, the following procedures shall apply to owning and transferring Common Stock (the “Equity Transfer Procedures”):²

- (a) Any person or entity (as defined in Treasury Regulations section 1.382-3(a)) who currently is or hereafter becomes a Substantial Shareholder (as such term is defined in paragraph (e) below) must file with the Bankruptcy Court, and serve upon (i) the Debtors, 1440 Chapin Avenue, Suite 310, Burlingame, CA 94010, Attn: Christopher B. Tigno, Esq.; (ii) proposed co-counsel to the Debtors, (a) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801, Attn: Joseph M. Barry, Esq., and Ryan M. Bartley, Esq., and (b) Morrison & Foerster LLP, 250 West 55th Street, New York, NY 10019-9601, Attn: Lorenzo Marinuzzi, Esq., and Erica J. Richards, Esq.; (iii) the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Linda Casey, Esq.; and (iv) counsel to the prepetition lender, Vedder Price 222 North LaSalle Street, Chicago, Illinois 60601, Attn: Neil Poland and David L. Kane; (v) counsel to any committee appointed under section 1102 of the Bankruptcy Code in the Chapter 11 Cases; and (vi) to the extent not listed herein, those parties requesting notice pursuant to Bankruptcy Rule 2002 (collectively, the “Notice Parties”), a notice of such status (each a “Notice of Status as Substantial Shareholder”) on or before the later of (i) twenty (20) calendar days after entry of the Interim Order or (ii) ten (10) days after becoming a Substantial Shareholder.
- (b) At least twenty (20) calendar days prior to effectuating any transfer of Common Stock (including options to acquire Common Stock, as defined in paragraph (e) below) that would result in an increase in the amount of Common Stock beneficially owned by a Substantial Shareholder, or would result in a person or entity becoming a Substantial Shareholder, such Substantial Shareholder, person or entity must file with the Bankruptcy Court, and serve upon the Notice Parties, an advance written notice of the intended transfer of Common Stock (each a “Notice of Intent to Purchase, Acquire, or Otherwise Accumulate”).

² This summary is qualified in its entirety by reference to the provisions of the Interim Order. To the extent any inconsistency exists between this Notice and the Interim Order, the terms of the Interim Order shall govern and control.

- (c) At least twenty (20) calendar days prior to effectuating any transfer of Common Stock (including options to acquire Common Stock) that would result in a decrease in the amount of Common Stock beneficially owned by a Substantial Shareholder, or would result in a person or entity ceasing to be a Substantial Shareholder, such Substantial Shareholder, person or entity must file with the Bankruptcy Court, and serve upon the Notice Parties, an advance written notice of the intended transfer of Common Stock (each a “Notice of Intent to Sell, Trade, or Otherwise Transfer” and, collectively with each Notice of Intent to Purchase, Acquire, or Otherwise Accumulate, a “Notice of Proposed Transfer”).
- (d) The Debtors (and other parties in interest) shall have twenty (20) calendar days after receipt of a Notice of Proposed Transfer to file with the Bankruptcy Court and serve upon such Substantial Shareholder, person or entity an objection to any proposed transfer of Common Stock described in the Notice of Proposed Transfer on the grounds that such transfer might adversely affect the Debtors’ ability to utilize their Tax Attributes. If the Debtors (or any other parties in interest) file an objection, such transfer would not be effective unless approved by a final and non-appealable order of the Bankruptcy Court. If no objection is filed within such 20-day period, such transfer shall be permitted to proceed solely as set forth in the Notice of Proposed Transfer. Further transfers within the scope of this paragraph (d) shall be the subject of additional notices as set forth herein, with additional 20-day waiting periods.
- (e) For purposes of these procedures: (i) a “Substantial Shareholder” is any person or entity that beneficially owns in excess of: (A) 73,429 shares of Common Stock (representing approximately 4.75% of all issued and outstanding shares of Common Stock); (ii) “beneficial ownership” of equity interests means beneficial ownership for U.S. federal income tax purposes as determined in accordance with applicable rules under Section 382 of the Internal Revenue Code of 1986, as amended (the “Tax Code”), Treasury Regulations promulgated thereunder and rulings issued by the Internal Revenue Service, and thus, to the extent provided therein, from time to time shall include, without limitation, (A) direct and indirect, actual and constructive, beneficial ownership (for example, a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries), (B) ownership by such holder’s family members and other related persons and persons acting in concert with such holder to make a coordinated acquisition of stock, and (C) ownership of shares which such holder has an option to acquire; and (iii) an “option” to acquire stock includes any option, contingent purchase, warrant, put, stock subject to risk of

forfeiture, contract to acquire stock, or similar interest, regardless of whether it is contingent or otherwise not currently exercisable.

- (f) Effective as of the Petition Date and until further order of the Court to the contrary, any purchase, sale, or other transfer of beneficial ownership of Common Stock, including options to acquire Common Stock, in violation of these procedures shall be null and void *ab initio* as an act in violation of the automatic stay under Bankruptcy Code Section 362.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Interim Order, the following procedures shall apply to taking worthlessness deductions, for income tax purposes, with respect to AeroCentury common stock (the “Worthless Stock Deduction Procedures”):³

- (a) Any person or entity that currently is or becomes a 50-percent Shareholder (as such term is defined in paragraph (d) below) must file with the Bankruptcy Court, and serve upon the Notice Parties, a notice of such status (each a “Notice of Status as a 50-percent Shareholder”) on or before the later of (i) twenty (20) calendar days after entry of the Interim Order or (ii) ten (10) days after becoming a 50-percent Shareholder.
- (b) At least twenty-eight (28) calendar days prior to filing any income tax return, or any amendment to such a return, taking any worthlessness deduction with respect to Common Stock for a tax year ending before the Debtors’ emergence from chapter 11 protection, such 50-percent Shareholder must file with the Bankruptcy Court, and serve upon the Notice Parties, an advance written notice of the intended worthlessness deduction (each a “Notice of Intent to Take a Worthless Stock Deduction”).
- (c) The Debtors (and any other parties in interest) shall have twenty (20) calendar days after receipt of a Notice of Intent to Take a Worthless Stock Deduction to file with the Bankruptcy Court and serve upon such 50-percent Shareholder an objection to any proposed worthlessness deduction described in the Notice of Intent to Take a Worthless Stock Deduction on the grounds that such deduction might adversely affect the Debtors’ ability to utilize their Tax Attributes. If the Debtors (or any other parties in interest) file an objection, the filing of the income tax return with such deduction would not be permitted or effective unless approved by a final and non-appealable order of the Bankruptcy Court. If no objection is filed within such 20-day period, the filing of the income tax return

³ This summary is qualified in its entirety by reference to the provisions of the Interim Order. To the extent any inconsistency exists between this Notice and the Interim Order, the terms of the Interim Order shall govern and control.

with such deduction shall be permitted as set forth in the Notice of Intent to Take a Worthless Stock Deduction. Additional income tax returns within the scope of this paragraph (c) shall be the subject of additional notices as set forth herein, with additional 20-day waiting periods.

- (d) For purposes of these procedures: (i) a “50-percent Shareholder” is any person or entity that at any time during the three-year period ending on the Petition Date has had beneficial ownership of 50% or more of Common Stock or is otherwise considered a 50-percent shareholder of AeroCentury within the meaning of Section 382(g)(4)(D) of the Tax Code; (ii) “beneficial ownership” of equity interests means beneficial ownership for U.S. federal income tax purposes as determined in accordance with applicable rules under Section 382 of the Tax Code, Treasury Regulations promulgated thereunder and rulings issued by the Internal Revenue Service, and thus, to the extent provided therein, from time to time shall include, without limitation, (A) direct and indirect, actual and constructive, beneficial ownership (for example, a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries), (B) ownership by such holder’s family members and other related persons and persons acting in concert with such holder to make a coordinated acquisition of stock, and (C) ownership of shares which such holder has an option to acquire; and (iii) an “option” to acquire stock includes any option, contingent purchase, warrant, put, stock subject to risk of forfeiture, contract to acquire stock, or similar interest, regardless of whether it is contingent or otherwise not currently exercisable.
- (e) In the event that a 50-percent Shareholder takes a worthlessness deduction with respect to Common Stock in violation of these procedures, such worthlessness deduction shall be null and void *ab initio* as an act in violation of the automatic stay under Bankruptcy Code Section 362, and such 50-percent Shareholder shall be required to file an amended income tax return, as applicable, revoking such worthlessness deduction.

PLEASE TAKE FURTHER NOTICE that, upon written request, the Debtors’ notice and claims agent, Kurtzman Carson Consultants LLC (“KCC”), will provide a form of each of the required notices described above.

PLEASE TAKE FURTHER NOTICE that KCC can be contacted online at <http://www.kccllc.net/aerocentury>, or by calling (866) 967-1783 (U.S./Canada) or (310) 751-2683 (International).

**FAILURE TO FOLLOW THE PROCEDURES SET FORTH IN THIS
NOTICE OF ORDER AND THE INTERIM ORDER SHALL**

CONSTITUTE A VIOLATION OF THE AUTOMATIC STAY PROVISIONS OF BANKRUPTCY CODE SECTION 362.

ANY PROHIBITED PURCHASE, SALE, TRADE, OR OTHER TRANSFER OF, OR THE TAKING OF ANY WORTHLESSNESS DEDUCTION WITH RESPECT TO, COMMON STOCK IN VIOLATION OF THE INTERIM ORDER BE NULL AND VOID *AB INITIO* AND MAY BE PUNISHED BY CONTEMPT OR OTHER SANCTIONS IMPOSED BY THE BANKRUPTCY COURT.

PLEASE TAKE FURTHER NOTICE that the requirements set forth in this Notice of Order are in addition to the requirements of Bankruptcy Rules 3001 and 3002 and all applicable securities, corporate and other laws, and do not waive compliance or excuse non-compliance therewith.

PLEASE TAKE FURTHER NOTICE that if no written objections to the Motion are timely filed, served and received in accordance with the requirements set forth below, a final order will be submitted which will provide that the Motion shall be granted in its entirety on a final basis. If timely written objections are filed, served and received, a hearing (the “Hearing”) to consider approval of the Motion on a final basis will be held at _:_ .m. prevailing Eastern Time on _____, 2021, before _____.

PLEASE TAKE FURTHER NOTICE that objections, if any, to final approval of the Motion must (a) be in writing, (b) comply with the Federal Rules of Bankruptcy Procedure and the Local Rules for the United States Bankruptcy Court for the District of Delaware, (c) be filed on or before 4:00 p.m. prevailing Eastern Time on _____, 2021 (the “Objection Deadline”) with the Clerk for the United States Bankruptcy Court for the District of Delaware, and (d) be served on the Notice Parties so as to be **ACTUALLY RECEIVED** on or before the Objection Deadline.

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PLEASE TAKE FURTHER NOTICE that only those objections made in writing and timely filed and received by the Objection Deadline will be considered by the Bankruptcy Court at the Hearing, and that if no objections to the Motion are timely filed and served in accordance with the procedures set forth herein, then the Bankruptcy Court may enter a final order granting the Motion **without further notice**.

Dated: March 29, 2021
Wilmington, Delaware

/s/ [DRAFT]

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Proposed Counsel to the Debtors and Debtors in Possession