

Hearing Date & Time: September 16, 2020 at 10:00 a.m. (prevailing Eastern Time)
Objection Deadline: September 8, 2020 at 4:00 p.m. (prevailing Eastern Time)

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*Counsel for Debtors and
Debtors-In-Possession*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re: : Chapter 11
:
AVIANCA HOLDINGS S.A., *et al.*,¹ : Case No. 20-11133 (MG)
:
Debtors. : (Jointly Administered)
:
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**NOTICE OF HEARING ON DEBTORS' MOTION FOR
(I) AUTHORIZATION TO FILE BACKSTOP COMMITMENT
LETTER UNDER SEAL AND (II) GRANTING RELATED RELIEF**

¹ The Debtors in these chapter 11 cases, and each Debtor's federal tax identification number (to the extent applicable), are as follows: Avianca Holdings S.A. (N/A); Aero Transporte de Carga Unión, S.A. de C.V. (N/A); Aeroinversiones de Honduras, S.A. (N/A); Aerovías del Continente Americano S.A. Avianca (N/A); Airlease Holdings One Ltd. (N/A); America Central (Canada) Corp. (00-1071563); America Central Corp. (65-0444665); AV International Holdco S.A. (N/A); AV International Holdings S.A. (N/A); AV International Investments S.A. (N/A); AV International Ventures S.A. (N/A); AV Investments One Colombia S.A.S. (N/A); AV Investments Two Colombia S.A.S. (N/A); AV Taca International Holdco S.A. (N/A); Avianca Costa Rica S.A. (N/A); Avianca Leasing, LLC (47-2628716); Avianca, Inc. (13-1868573); Avianca-Ecuador S.A. (N/A); Aviaservicios, S.A. (N/A); Aviateca, S.A. (N/A); Avifreight Holding Mexico, S.A.P.I. de C.V. (N/A); C.R. Int'l Enterprises, Inc. (59-2240957); Grupo Taca Holdings Limited (N/A); International Trade Marks Agency Inc. (N/A); Inversiones del Caribe, S.A. (N/A); Isleña de Inversiones, S.A. de C.V. (N/A); Latin Airways Corp. (N/A); Latin Logistics, LLC (41-2187926); Nicaraguense de Aviación, Sociedad Anónima (Nica, S.A.) (N/A); Regional Express Américas S.A.S. (N/A); Ronair N.V. (N/A); Servicio Terrestre, Aereo y Rampa S.A. (N/A); Servicios Aeroportuarios Integrados SAI S.A.S. (92-4006439); Taca de Honduras, S.A. de C.V. (N/A); Taca de México, S.A. (N/A); Taca International Airlines S.A. (N/A); Taca S.A. (N/A); Tampa Cargo S.A.S. (N/A); Technical and Training Services, S.A. de C.V. (N/A). The Debtors' principal offices are located at Avenida Calle 26 # 59 – 15 Bogotá, Colombia.



PLEASE TAKE NOTICE that a hearing will be held at **10:00 a.m. (prevailing Eastern Time) on September 16, 2020** before the Honorable Martin Glenn, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004 to consider the *Debtors' Motion for (I) Authorization to File Backstop Commitment Letter under Seal and (II) Granting Related Relief* (the "Motion").

PLEASE TAKE FURTHER NOTICE that, in accordance with General Order M-543 dated March 20, 2020, the Hearing will be conducted telephonically. Any parties wishing to participate must do so telephonically through CourtSolutions (www.court-solutions.com). Instructions to register for CourtSolutions LLC are attached to General Order M-543.

PLEASE TAKE FURTHER NOTICE that, any objections or responses to the relief requested in the Motion shall: (a) be in writing; (b) conform to the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the Southern District of New York, all General Orders applicable to chapter 11 cases in the United States Bankruptcy Court for the Southern District of New York, and the Case Management Order; (c) be filed electronically with this Court on the docket of *In re Avianca Holdings S.A.*, Case 20-11133 (MG) by registered users of this Court's electronic filing system and in accordance with the General Order M-399 (which is available on this Court's website at <http://www.nysb.uscourts.gov>) by **September 8, at 4:00 p.m., prevailing Eastern Time**; and (d) be promptly served on the following parties: (i) the Chambers of the Honorable Martin Glenn, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, NY 10004; (ii) the Debtors, c/o Richard Galindo (richard.galindo@avianca.com); (iii) Milbank LLP, 55 Hudson Yards, New York, New York 10001 (Attn: Evan R. Fleck, Esq. and Gregory A. Bray, Esq. (efleck@milbank.com and gbray@milbank.com)), counsel for the Debtors; (iv) Morrison & Foerster LLP,

brettmiller@mofo.com and tgoren@mofo.com (Attn: Brett H. Miller, Esq. and Todd M. Goren, Esq.), counsel to the Official Committee of Unsecured Creditors (the “Committee”), (v) William K. Harrington, U.S. Department of Justice, Office of the U.S. Trustee, 201 Varick Street, Room 1006, New York, NY 10014 (Attn: Brian Masumoto, Esq. and Greg Zipes, Esq.); (vi) the Securities and Exchange Commission, 100 F Street, NE, Washington, D.C. 20549; and (vii) the Federal Aviation Administration, 800 Independence Ave., S.W. Washington, DC 20591 (Attn: Office of the Chief Counsel).

PLEASE TAKE FURTHER NOTICE that copies of the Motion and other pleadings for subsequent hearings may be obtained free of charge by visiting the KCC website at <http://www.kccllc.net/avianca>. You may also obtain copies of any pleadings by visiting at <http://www.nysb.uscourts.gov> in accordance with the procedures and fees set forth therein.

PLEASE TAKE FURTHER NOTICE that *your rights may be affected*. You should read the Motion carefully and discuss them with your attorney, if you have one. If you do not have an attorney, you may wish to consult with one.

PLEASE TAKE FURTHER NOTICE that the Hearing may be continued or adjourned thereafter from time to time without further notice other than an announcement of the adjourned date or dates at the Hearing or at a later hearing.

PLEASE TAKE FURTHER NOTICE that you need not appear at the Hearing if you do not object to the relief requested in the Motion.

PLEASE TAKE FURTHER NOTICE that if you do not want the Court to grant the relief requested in the Motion, or if you want the Court to consider your view on the Motion, then you or your attorney must attend the Hearing. If you or your attorney do not take these steps, the Court

may decide that you do not oppose the relief sought in the Motion and may enter orders granting the relief requested in the Motion with no further notice or opportunity to be heard.

Dated: August 31, 2020
New York, New York

/s/ Evan R. Fleck

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Hearing Date & Time: September 16, 2020 at 10:00 a.m. (prevailing Eastern Time)
Objection Deadline: September 8, 2020 at 4:00 p.m. (prevailing Eastern Time)

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:	:	Chapter 11
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AVIANCA HOLDINGS S.A., <i>et al.</i> , ¹	:	Case No. 20-11133 (MG)
	:	
Debtors.	:	(Jointly Administered)
	:	
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**DEBTORS' MOTION FOR
(I) AUTHORIZATION TO FILE BACKSTOP COMMITMENT
LETTER UNDER SEAL AND (II) GRANTING RELATED RELIEF**

Avianca Holdings S.A. and its direct and indirect subsidiaries in the above-captioned chapter 11 cases (the "Chapter 11 Cases"), as debtors and debtors in possession (collectively the "Debtors") respectfully represent as follows in support of this motion (the "Motion"):

RELIEF REQUESTED

1. By this Motion, pursuant to sections 105(a) and 107(b) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the "Bankruptcy Code"), rule 9018 of the

¹ The debtors in these chapter 11 cases (the "Debtors"), and each Debtor's federal tax identification number (to the extent applicable), are as follows: Avianca Holdings S.A. (N/A); Aero Transporte de Carga Unión, S.A. de C.V. (N/A); Aeroinversiones de Honduras, S.A. (N/A); Aerovías del Continente Americano S.A. Avianca (N/A); Airlease Holdings One Ltd. (N/A); America Central (Canada) Corp. (00-1071563); America Central Corp. (65-0444665); AV International Holdco S.A. (N/A); AV International Holdings S.A. (N/A); AV International Investments S.A. (N/A); AV International Ventures S.A. (N/A); AV Investments One Colombia S.A.S. (N/A); AV Investments Two Colombia S.A.S. (N/A); AV Taca International Holdco S.A. (N/A); Avianca Costa Rica S.A. (N/A); Avianca Leasing, LLC (47-2628716); Avianca, Inc. (13-1868573); Avianca-Ecuador S.A. (N/A); Aviaservicios, S.A. (N/A); Aviateca, S.A. (N/A); Avifreight Holding Mexico, S.A.P.I. de C.V. (N/A); C.R. Int'l Enterprises, Inc. (59-2240957); Grupo Taca Holdings Limited (N/A); International Trade Marks Agency Inc. (N/A); Inversiones del Caribe, S.A. (N/A); Isleña de Inversiones, S.A. de C.V. (N/A); Latin Airways Corp. (N/A); Latin Logistics, LLC (41-2187926); Nicaraguense de Aviación, Sociedad Anónima (Nica, S.A.) (N/A); Regional Express Américas S.A.S. (N/A); Ronair N.V. (N/A); Servicio Terrestre, Aereo y Rampa S.A. (N/A); Servicios Aeroportuarios Integrados SAI S.A.S. (92-4006439); Taca de Honduras, S.A. de C.V. (N/A); Taca de México, S.A. (N/A); Taca International Airlines S.A. (N/A); Taca S.A. (N/A); Tampa Cargo S.A.S. (N/A); Technical and Training Services, S.A. de C.V. (N/A). The Debtors' principal offices are located at Avenida Calle 26 # 59 – 15 Bogotá, Colombia.

Federal Rules of Bankruptcy Procedure (as amended, the “Bankruptcy Rules”), and rules 9013-1(a) and 9018-1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of New York (as amended, the “Local Bankruptcy Rules”), the Debtors request (i) authority to file under seal the Backstop Commitment Letter (as defined below), filed contemporaneously herewith, and (ii) related relief. The Debtors propose providing unredacted copies of the Backstop Commitment Letter to (A) this Court, (B) the Office of the United States Trustee for the Southern District of New York (the “U.S. Trustee”) on a strictly confidential basis, and (C) on a strictly confidential, “professionals only” basis to any advisors to the Committee. A proposed form of order granting the relief requested herein is attached hereto as **Exhibit A** (the “Proposed Order”).

JURISDICTION

2. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The bases for the relief requested herein are sections 105(a) and 107(b) of the Bankruptcy Code, Bankruptcy Rule 6004, and Local Bankruptcy Rules 9013-1(a) and 9018-1.

BACKGROUND

4. On May 10, 2020 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

5. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors’ cases are being jointly administered pursuant to Bankruptcy Rule 1015(b) and the *Amended Order*

(I) *Directing Joint Administration of Chapter 11 Cases* and (II) *Granting Related Relief* [Docket No. 73].

6. On May 22, 2020, the United States Trustee for the Southern District of New York appointed an official committee of unsecured creditors (the “Committee”). See *Notice of Appointment of Official Committee of Unsecured Creditors* [Docket No. 154]. No trustee or examiner has been appointed in these cases.

7. Additional information regarding the Debtors’ business, capital structure, and the circumstances leading to the filing of these cases is set forth in the *Declaration of Adrian Neuhauser in Support of the Debtors’ Chapter 11 Petitions and First Day Orders* [Docket No. 20] (the “First Day Declaration”).

THE BACKSTOP COMMITMENT LETTER

8. As described in more detail in the *Debtors’ Motion for Entry of an Order Authorizing Incurrence and Payment of Break-Up Fee, Transaction Expenses, and Indemnification Obligations in Connection with Postpetition Financing* (the “DIP Break-Up Fee Motion”),² filed contemporaneously herewith, the Debtors seek authority (i) approving the Break-Up Fee as described in that certain Debtor in Possession Term Loan Credit Facility Backstop Commitment Letter, dated as of August 28, 2020 (the “Backstop Commitment Letter”) annexed in redacted form and filed separately under seal as Exhibit D to that certain Restructuring Support Agreement, dated as of August 28, 2020, by and among the Debtors and the Consenting Noteholders that are party thereto, attached to the DIP Break-Up Fee Motion as Exhibit B (the “RSA”), (ii) approving the Indemnification Obligations as set forth in Section 6 of the Backstop

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the DIP Break-Up Fee Motion.

Commitment Letter, and (iii) approving the Expense Reimbursement pertaining to the transaction expenses incurred by the advisors to the Consenting Noteholders, as more fully described in Section 8.05 of the RSA.

9. The DIP Break-Up Fee Motion seeks authority to pay certain fees set forth in the Backstop Commitment Letter between the Debtors and each of the respective Backstop Parties. In connection with the filing of the DIP Break-Up Fee Motion, the Debtors seek authorization to file the Backstop Commitment Letter under seal. The Backstop Commitment Letter contain sensitive confidential and commercial information regarding the structure and amount of the fees relating to the Debtors' anticipated Tranche A DIP Facility (the "Confidential Information"). Because the disclosure of this information could harm the Debtors and each of the respective Backstop Parties, the Debtors seek authorization for the Backstop Commitment Letter to be filed under seal.

RELIEF REQUESTED SHOULD BE GRANTED

10. The Bankruptcy Code provides strong support for sealing the Backstop Commitment Letter. Pursuant to section 107(b)(1) of the Bankruptcy Code, the Court may authorize the Debtors to file the Backstop Commitment Letter under seal by permitting the issuance of an order that protects entities from potential harm that may result from the disclosure of certain confidential information. See 11 U.S.C. § 107(b). Specifically, Section 107(b) provides, in relevant part, that:

On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may — (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information

11 U.S.C. § 107(b).

11. Bankruptcy Rule 9018 sets forth the procedures by which a party may obtain a protective order authorizing the filing of a document under seal. Bankruptcy Rule 9018 provides, in relevant part, that “[o]n motion, or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information.” Fed. R. Bankr. P. 9018. See also Local Bankruptcy Rule 9037-1 (“[A] motion, reply or other document may initially be filed under seal if the filing party simultaneously files a motion requesting that the document be maintained under seal.”).

12. Unlike its counterpart in Rule 26(c) of the Federal Rules of Civil Procedure, section 107(b) of the Bankruptcy Code does not require an entity seeking such protection to demonstrate “good cause.” See, e.g., Video Software Dealers Ass’n v. Orion Pictures Corp. (In re Orion Pictures Corp.), 21 F.3d 24, 28 (2d Cir. 1994) (holding that a license agreement authorizing a licensee “to reproduce, manufacture, distribute, and sell videocassettes” of three films contained confidential commercial information). Rather, if the material sought to be protected satisfies one of the categories identified in section 107(b), the court is required to protect a requesting party and has no discretion to deny the application. See id. at 27 (Holding that once a court determines that a party in interest is seeking protection of information that falls within the ambit of section 107(b) of the Bankruptcy Code, “the court is required to protect a requesting interested party and has no discretion to deny the application.”).

13. The Second Circuit has noted that section 107(b)(1) of the Bankruptcy Code creates an exception to the general rule that court records are open to examination by the public. Id. Thus, under this exception, an interested party has to show only that the information it wishes to seal is “‘confidential’ and ‘commercial’ in nature.” Id. Commercial information, however, need not rise

to the level of a trade secret to be protected under section 107(b) of the Bankruptcy Code. Id. at 28.

14. Courts have further held that the resulting sealing order should be broad (i.e., “any order which justice requires”). See, e.g., In re Glob. Crossing, Ltd., 295 B.R. 720, 724 (Bankr. S.D.N.Y. 2003) (citing Fed. R. Bankr. P. 9018). “Courts have supervisory powers over their records and files and may deny access to those records and files to prevent them from being used for an improper purpose.” In re Kaiser Aluminum Corp., 327 B.R. 554, 560 (D. Del. 2005). Indeed, the “authority goes not just to the protection of confidential documents, but to other confidentiality restrictions that are warranted in the interests of justice.” In re Glob. Crossing, Ltd., 295 B.R. at 724. Moreover, section 105(a) of the Bankruptcy Code codifies the bankruptcy court’s inherent equitable powers and empowers it to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

15. The Debtors submit that the Confidential Information falls within the scope of commercial information that may be protected by the Court pursuant to section 107(b)(1) of the Bankruptcy Code and Bankruptcy Rule 9018. In granting motions to seal “commercial information,” courts have defined this term as “information which would result in ‘an unfair advantage to competitors by providing them information as to the commercial operations of the debtor.’” In re Alterra Healthcare Corp., 353 B.R. 66, 75 (Bankr. D. Del. 2006); In re Glob. Crossing, Ltd., 295 B.R. at 725 (finding that the purpose of Bankruptcy Rule 9018 is to “protect business entities from disclosure of information that could reasonably be expected to cause the entity commercial injury”).

16. Here, the Backstop Commitment Letter contains commercially sensitive information, thus satisfying one of the categories enumerated in section 107(b) of the Bankruptcy

Code for sealing documents. The Backstop Commitment Letter contains closely-guarded proprietary and commercial information that is highly sensitive to the Debtors and the lenders under the Backstop Commitment Letter. Because of the sensitivity of these materials, the Debtors have agreed to keep the specific information relating to the fees confidential and ask that the Court authorize it to file those materials under seal for that same reason.

17. Given the totality of the circumstances, however, including the Debtors' recognition of the importance of the Court's review of the Backstop Commitment Letter and that a certain degree of transparency and public scrutiny is a necessary part of the bankruptcy process, and balancing these interests with the need to protect confidential and proprietary commercial information, the Debtors propose to file a copy of the Backstop Commitment Letter with the Court under seal and to share copies of the Backstop Commitment Letter with (i) the U.S. Trustee on a strictly confidential basis and (ii) counsel to the Committee on a strictly confidential, "professionals only" basis.

18. The terms of the Backstop Commitment Letter are the product of extensive good faith, arms'-length negotiations, and the Debtors have agreed to keep such terms confidential. Each of the respective Backstop Parties have advised the Debtors that the Backstop Commitment Letter contains closely-guarded, proprietary, and commercial information that is highly sensitive to the Backstop Parties. The disclosure of the terms of the Backstop Commitment Letter would likely cause substantial harm to the Debtors and the Backstop Parties and violate the Debtors' agreement with the Backstop Parties to keep the terms confidential. This is consistent with customs in the finance lending industry.

19. The fees provided in the Backstop Commitment Letter are designed to compensate the Backstop Parties for the financial risk they are undertaking in agreeing to provide new money

financing to the Debtors. The Backstop Parties have incurred a significant opportunity cost by agreeing to hold available at least \$200 million of capital for use in the anticipated DIP Facility that, but for their commitment, could be deployed elsewhere. The Backstop Commitment Letter contains proprietary information describing the fees to be paid in connection with the foregoing, which information is customarily considered by the Backstop Parties, specifically, and the commercial lending industry, in general, to be highly sensitive and confidential information not typically disclosed to the public or made available to other competing financial institutions. Given the highly competitive nature of the investment banking and lending industries, it is of the utmost importance that the details of the Backstop Commitment Letter be kept confidential so that competitors may not use the information contained in it to gain a strategic advantage in the marketplace. Moreover, a broad publication of the Backstop Commitment Letter would not facilitate evaluation of the financing and would be materially harmful to the businesses of the Backstop Parties. Accordingly, the Debtors respectfully submit that cause exists to file the Backstop Commitment Letter under seal.

20. In addition, it is common practice for financial institutions and borrowers to execute fee letters such as the Backstop Commitment Letter on a confidential basis. Courts in this district have authorized the filing of similar confidential financing documents under seal in other chapter 11 cases. See, e.g., In re Hollander Sleep Products, LLC., Case No. 19-11608 (MEW) (Bankr. S.D.N.Y. July 3, 2019) [Docket No. 183] (authorizing the sealing of an exit backstop commitment letter and certain fee letters); In re Nine West Holdings, Inc., Case No. 18-10947 (SCC) (Bankr. S.D.N.Y. Feb. 26, 2019) [Docket No. 1299] (authorizing the debtors to file under seal certain fee letters, and a backstop fee letter, and to redact certain portions of a term loan commitment letter and exit financing supplement); In re Calpine Corp., Case No. 05-60200

(BRL) (Bankr. S.D.N.Y. Jan. 29, June 21, and Dec. 14, 2007) [Docket Nos. 3494, 5028, and 7118] (authorizing debtors to file under seal fee letter with respect to debtors' refinancing effort and exit financing); In re Northwest Airlines Corp., Case No. 05-17930 (ALG) (Bankr. S.D.N.Y. May 2, 2007) [Docket No. 6511] (authorizing a debtor to file a fee letter under seal in connection with the debtor's motion for approval of an exit financing facility); In re Adelphia Commc'ns Corp., Case No. 02-41729 (REG) (Bankr. S.D.N.Y. Jan. 25, 2007) [Docket No. 13092] (authorizing debtor to file under seal documentation of fee structure for underwriting agreement).

WAIVER OF BANKRUPTCY RULE 6004(A) AND 6004(H)

21. To implement the foregoing successfully, the Debtors respectfully request a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the fourteen (14)-day stay of an order authorizing the use, sale or lease of property under Bankruptcy Rule 6004(h). Pursuant to Bankruptcy Rule 6004(h), "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." The relief proposed herein is essential to the Debtors' ability to obtain post-petition financing to, among other things, continue the operation of their business, maintain important customer relationships, meet payroll, satisfy working capital and operational needs, all of which are required to preserve and maintain the Debtors' going concern value for the benefit of all parties in interest. Accordingly, the Debtors submit that ample cause exists to justify a waiver of the fourteen (14)-day stay imposed by Bankruptcy Rule 6004(h), to the extent that it applies.

NOTICE

22. Notice of this Motion has been or will be given to the following parties or, in lieu thereof, to their counsel, if known: (a) the Standard Parties (as defined in the *Order Implementing Certain Case Management and Notice Procedures* [Docket No. 47]); and (b) any party that has

requested service pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, the Debtors submit that no further notice need be given.

NO PRIOR REQUEST

23. No prior request for the relief sought in this motion has been made to this or any other court.

WHEREFORE the Debtors respectfully request that the Motion be granted and that they be granted such other and further relief as is just.

Dated: New York, New York
August 31, 2020

/s/ Evan R. Fleck

Dennis F. Dunne

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*Counsel for Debtors and
Debtors-in-Possession*

Exhibit A

Proposed Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
:
In re: : Chapter 11
:
AVIANCA HOLDINGS S.A., *et al.*,¹ : Case No. 20-11133 (MG)
:
Debtors. : (Jointly Administered)
:
-----X

**ORDER (I) AUTHORIZING THE DEBTORS
TO FILE BACKSTOP COMMITMENT LETTER
UNDER SEAL AND (II) GRANTING RELATED RELIEF**

Upon the Motion (the “Motion”)² of Avianca Holdings S.A. and its direct and indirect subsidiaries in the above-captioned chapter 11 cases, as debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”) pursuant to sections 105(a) and 107(b) of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Bankruptcy Rules 9013-1(a) and 9018-1 (i) authorizing the Debtors to file under seal the Backstop Commitment Letter, filed contemporaneously with the Motion and (ii) directing that the Backstop Commitment Letter remain under seal and not be made available to anyone without the prior written consent of the

¹ The Debtors in these chapter 11 cases, and each Debtor’s federal tax identification number (to the extent applicable), are as follows: Avianca Holdings S.A. (N/A); Aero Transporte de Carga Unión, S.A. de C.V. (N/A); Aeroinversiones de Honduras, S.A. (N/A); Aerovías del Continente Americano S.A. Avianca (N/A); Airlease Holdings One Ltd. (N/A); America Central (Canada) Corp. (00-1071563); America Central Corp. (65-0444665); AV International Holdco S.A. (N/A); AV International Holdings S.A. (N/A); AV International Investments S.A. (N/A); AV International Ventures S.A. (N/A); AV Investments One Colombia S.A.S. (N/A); AV Investments Two Colombia S.A.S. (N/A); AV Taca International Holdco S.A. (N/A); Avianca Costa Rica S.A. (N/A); Avianca Leasing, LLC (47-2628716); Avianca, Inc. (13-1868573); Avianca-Ecuador S.A. (N/A); Aviaservicios, S.A. (N/A); Aviateca, S.A. (N/A); Avifreight Holding Mexico, S.A.P.I. de C.V. (N/A); C.R. Int’l Enterprises, Inc. (59-2240957); Grupo Taca Holdings Limited (N/A); International Trade Marks Agency Inc. (N/A); Inversiones del Caribe, S.A. (N/A); Isleña de Inversiones, S.A. de C.V. (N/A); Latin Airways Corp. (N/A); Latin Logistics, LLC (41-2187926); Nicaraguense de Aviación, Sociedad Anónima (Nica, S.A.) (N/A); Regional Express Américas S.A.S. (N/A); Ronair N.V. (N/A); Servicio Terrestre, Aereo y Rampa S.A. (N/A); Servicios Aeroportuarios Integrados SAI S.A.S. (92-4006439); Taca de Honduras, S.A. de C.V. (N/A); Taca de México, S.A. (N/A); Taca International Airlines S.A. (N/A); Taca S.A. (N/A); Tampa Cargo S.A.S. (N/A); Technical and Training Services, S.A. de C.V. (N/A). The Debtors’ principal offices are located at Avenida Calle 26 # 59 – 15 Bogotá, Colombia.

² Capitalized terms used herein but not defined shall have the meanings ascribed to them in the Motion.

Debtors and the Backstop Parties, all as more fully set forth in the Motion; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and upon any hearing held on the Motion; and all objections, if any, to the Motion having been withdrawn, resolved, or overruled; and it appearing that the relief requested in the Motion is in the best interests of the Debtors and their respective estates and creditors; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors and their respective estates and creditors; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor, IT IS HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. The Debtors are authorized to file the Backstop Commitment Letter under seal pursuant to sections 105(a) and 107(b) of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Bankruptcy Rule 9037-1.
3. The Backstop Commitment Letter is confidential and shall remain under seal, and shall not be made available to anyone, except that copies of the Backstop Commitment Letter shall be provided to the Court, the Clerk of the Court, the U.S. Trustee, and counsel to the Committee. The U.S. Trustee shall keep the Backstop Commitment Letter and the terms thereof strictly confidential, and counsel to the Committee shall keep the Backstop Commitment Letter and the

terms thereof strictly confidential and maintained on a “professionals only” basis. Any party who receives the Backstop Commitment Letter in accordance with this Order shall not disclose or otherwise disseminate such Backstop Commitment Letter, or the information contained therein, to any other person or entity without the prior consent of the Backstop Parties.

4. Upon closure of the chapter 11 cases, the Clerk’s Office is directed to release any hard copies or electronic storage device of the Backstop Commitment Letter to the Debtors for disposal.

5. Notice of the Motion is adequate under Bankruptcy Rule 6004(a).

6. Notwithstanding the provisions of Bankruptcy Rule 6004(h), this Order shall be immediately effective and enforceable upon its entry.

7. The Debtors are authorized to take all actions necessary or appropriate to carry out the relief granted in this Order.

8. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: _____, 2020
New York, New York

UNITED STATES BANKRUPTCY JUDGE