IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re **WESCO AIRCRAFT HOLDINGS, INC.**, *et al.*, Debtors.[1]	Case No. 23-90611 (DRJ) Chapter 11 (Jointly Administered)
WESCO AIRCRAFT HOLDINGS, INC., *et al.*, Plaintiffs, *v.* **SSD INVESTMENTS LTD.**, *et al.*, Defendants.	Adv. Pro. No. 23-03091
SSD INVESTMENTS LTD., *et al.*, Counterclaim Plaintiffs, *v.* **WESCO AIRCRAFT HOLDINGS, INC.**, *et al.*, Counterclaim Defendants.	

2024/2026 HOLDERS' FIRST AMENDED COUNTERCLAIMS

[1] The Debtors operate under the trade name Incora and have previously used the trade names Wesco, Pattonair, Haas, and Adams Aviation. A complete list of the Debtors in these chapter 11 cases, with each one's federal tax identification number and the address of its principal office, is available on the website of the Debtors' noticing agent at http://www.kccllc.net/incora. The service address for each of the Debtors in these cases is 2601 Meacham Blvd., Ste. 400, Fort Worth, TX 76137.

Adversary Proceeding Defendants listed on Appendix A (the "Original Secured Plaintiffs") along with additional counterclaim plaintiffs (together with the Original Secured Plaintiffs, the "2024/2026 Holders" or "Counterclaim Plaintiffs"), as holders of certain senior secured notes issued by Debtor Wesco Aircraft Holdings, Inc. (the "Company") due in 2026 (the "2026 Original Secured Notes") and 2024 (the "2024 Original Secured Notes" and together with the 2026 Original Secured Notes, the "Original Secured Notes" or the "Notes"), which are governed by their respective indentures (individually, the "2026 Original Secured Note Indenture," which is filed as Adv. Pro., Docket No. 12-9, and the "2024 Original Secured Note Indenture," which is filed as Adv. Pro., Docket No. 12-12, and together, the "Governing Indentures"), assert the following first amended counterclaims (the "Amended Counterclaims") against:

(i) The Company;

(ii) Certain of the Company's debtor affiliates that guaranteed the Notes (the "Guarantor Defendants" and together with the Company, the "Debtors");

(iii) Platinum Equity Advisors, LLC ("Platinum Advisors" or the "Platinum Sponsor")

(iv) Platinum Equity Capital Partners International, IV (Cayman) LP, (the "Platinum Fund"), a fund controlled by the Platinum Sponsor;

(v) The Debtors' indirect owner, Wolverine Top Holding Corporation (the "Platinum-Controlled Parent" and, together with the Platinum Fund, the "Platinum Creditors"); and

(vi) the "Favored Noteholders" comprising the noteholders favored by the Company and the Platinum Sponsor that participated in the Insider Transaction (as defined herein) and that were managed or advised by, or else are identified as, among others, (a) Silver Point Capital, LP; Silver Point Distressed Opportunities Management, LLC; Silver Point Specialty Credit Fund Management, LLC; and Silver Point Specialty Credit Fund II Management, LLC, (b) Pacific Investment Management Company LLC, (c) The Carlyle Group L.P., (d) Senator GP LLC, (e) Citadel Advisors LLC, (f) Spring Creek Capital LLC, and (g) the Platinum Sponsor (together with the Platinum Creditors, "Platinum").

In support of these Amended Counterclaims, and subject to the Stipulated Comprehensive Scheduling Order, dated July 31, 2023 (Adv. Pro., Docket No. 141) inclusive of all reservations of rights therein (the "Scheduling Order"), the 2024/2026 Holders allege, as follows:

Nature of the Action

1. On March 28, 2022, the Debtors executed an unprecedented position-enhancing transaction that breached the plain terms of the Governing Indentures—the "Insider Transaction." The Debtors, under the control of Platinum, and the Favored Noteholders attempted to deprive the 2024/2026 Holders of the bargained-for liens that secured payment of their Notes even though strict supermajority and other consent requirements under the Governing Indentures expressly prohibited this Insider Transaction.

2. At the time of the Insider Transaction, the 2024/2026 Holders held more than one-third of the 2026 Original Secured Notes. This should have been the end of the matter. But the Company, at the behest of Platinum, embarked on a path that would benefit insiders and a select few favored noteholders, while boxing out all competing alternatives. As one observer prophetically said when the Insider Transaction was first described in the press, it is "***obscenely greedy and one can expect substantial legal challenges***."[2]

3. The Debtors knew that they required a two-thirds supermajority of existing holders to consummate the Insider Transaction. The Favored Noteholders also knew this, as did the market, and the surging trading prices of the Notes shortly before the Insider Transaction reflected exactly that. Yet, after the Favored Noteholders tried and failed to obtain a bona fide supermajority, the Debtors and the Favored Noteholders devised a sham to circumvent the Governing Indentures' supermajority consent requirements, knowing that they had only a simple majority (not a supermajority) of the 2026 Original Secured Notes. They purported to—by a single integrated transaction—create new dilutive notes that were simultaneously issued and retired: the "Phantom Notes."

[2] Reshmi Basu, *Wesco Aircraft in Talks with Select Holders for Priming Roll-Up and New Capital Injection*, Debtwire (Feb. 7, 2022), https://www.debtwire.com/intelligence/view/intelcms-whbsmp.

4. The purpose of the Phantom Notes was to supposedly discharge the 2024/2026 Holders' liens and create new liens for new super-senior notes issued by the Company and made available only to the Favored Noteholders. However, issuing new notes to—"***directly or indirectly***"—"***create, incur, assume or suffer to exist any [l]ien of any kind (other than [p]ermitted [l]iens)"*** is prohibited under the Governing Indentures and thus the Phantom Notes violated those express terms.

5. The Company itself, moreover, has conceded through counsel in open court that this was all just "one liquidity transaction."[3]

6. The Governing Indentures expressly required supermajority consent—which the Company did not have as to the 2026 Original Secured Notes—for any amendment to: (i) "***have the effect of***" releasing the Liens (defined below), (ii) "***modify***" the security instruments securing the Notes in a manner that would "***adversely affect***" holders, "***or***" (iii) "***modify***" the security instruments or the Governing Indentures in "***any manner adverse***" to such holders. The Insider Transaction therefore breached all of these protective provisions.

7. The Insider Transaction let certain Favored Noteholders, and only them, exchange their Original Secured Notes for approximately $1.27 billion of new, super-senior secured notes in the so-called "Uptier Exchange." Further, the Insider Transaction permitted the Platinum Creditors (including the Company's current owner) and Carlyle (the Company's prior owner) to exchange on a dollar-for-dollar basis their ***unsecured*** notes for approximately $473 million of newly issued *secured* notes in the so-called "Unsecured Roll-up," in return for the votes required to effectuate the Uptier Exchange. Critically, though, the vote of the Platinum Creditors could not be counted under the Governing Indentures and, therefore, the Platinum Creditors were not needed

[3] *See* Transcript of June 6, 2023 Emergency Motion Hearing, Adv. Pro., Docket. No. 38. at 44:13-16.

to effectuate the Uptier Exchange. The Debtors nonetheless offered the Platinum Creditors the opportunity to exchange their unsecured notes anyway—essentially for no consideration.

8. The Insider Transaction also purported to stack over $1.7 billion in new senior debt whose maturity would spring ahead of the 2024/2026 Holders' Notes. The Insider Transaction thus modified the "ranking of [the Notes] in respect of right of payment" that "adversely affect[ed]" the 2024/2026 Holders. This breached the 2024/2026 Holders' "sacred rights" under the Governing Indentures and would have required each 2024/2026 Holder's consent.

9. Furthermore, knowing full well that the Insider Transaction would result in this extremely costly litigation, Platinum and its accomplices imposed an indemnity obligation on the Company to cover the costs of their intentional wrongdoing, despite the Governing Indentures not containing any such indemnity. The Insider Transaction likewise included an apparent "settlement basket," which underscores the Company's and Platinum's recognition of their wrongdoing and their knowledge of the future litigation that the Insider Transaction would cause.

10. Because the Favored Noteholders used the Insider Transaction to exit their prior holdings and purportedly create new liens to support their new notes, the 2024/2026 Holders presently own more than 93 percent of the 2026 Original Secured Notes and approximately 36 percent of the 2024 Original Secured Notes.

11. A substantial subset of the 2024/2026 Holders commenced an action in New York state court in October 2022, which the Debtors seek to stay in their Adversary Complaint and which has been stayed on an interim basis by stipulations. *See, e.g.*, Adv. Pro. Docket No. 116.

12. Since that time, the parties negotiated and filed the Scheduling Order, pursuant to which the 2024/2026 Holders stipulated to a further stay of the New York state court action and

agreed with the parties in this action to litigate, as part of the above-captioned adversary proceeding, certain tort claims against several non-Debtor defendants.[4]

13. Accordingly, by these Amended Counterclaims, the 2024/2026 Holders assert claims for equitable lien and equitable subordination, and seek declaratory judgment for: (i) breaches of the Governing Indentures; (ii) breaches of the covenant of good faith and fair dealing implied by those agreements; (iii) tortious interference with the Governing Indentures; (iv) conversion of the 2024/2026 Holders' property; and (v) the 2024/2026 Holders' direct standing to bring these claims.

The Parties

I. Counterclaim Plaintiffs.

14. At the time of the Insider Transaction, each of the 2024/2026 Holders was a holder of the 2026 Original Secured Notes and/or the 2024 Original Secured Notes. Each of the 2024/2026 Holders continues to be a holder of the 2026 Original Secured Notes and/or the 2024 Original Secured Notes.

15. Counterclaim Plaintiff SSD Investments Ltd. is a holder of 2026 Original Secured Notes. SSD Investments Ltd. is a Cayman Islands exempted company with its registered office in the Cayman Islands.

16. Counterclaim Plaintiff JPMorgan Chase Bank, N.A., as Trustee of the Commingled Pension Trust Fund (Core Plus Bond) of JPMorgan Chase Bank, N.A., is a holder of 2026 Original Secured Notes. The Commingled Pension Trust Fund (Core Plus Bond) of JPMorgan Chase Bank, N.A. is a collective investment trust maintained pursuant to a Declaration of Trust governed by

[4] The Parties also agreed, pursuant to the Scheduling Order, that counterclaims could be filed and served as free-standing pleadings, separate from an answer.

New York law. JPMorgan Chase Bank, N.A. is a national banking association with its main office in Ohio.

17. Counterclaim Plaintiff JPMorgan Chase Bank, N.A., as Trustee of the Commingled Pension Trust Fund (Short Duration Core Plus) of JPMorgan Chase Bank, N.A., is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. The Commingled Pension Trust Fund (Short Duration Core Plus) of JPMorgan Chase Bank, N.A. is a collective investment trust maintained pursuant to a Declaration of Trust governed by New York law. JPMorgan Chase Bank, N.A. is a national banking association with its main office in Ohio.

18. Counterclaim Plaintiff JPMorgan Chase Bank, N.A., as Trustee of the Commingled Pension Trust Fund (Income) of JPMorgan Chase Bank, N.A., is a holder of 2026 Original Secured Notes. The Commingled Pension Trust Fund (Income) of JPMorgan Chase Bank, N.A. is a collective investment trust maintained pursuant to a Declaration of Trust governed by New York law. JPMorgan Chase Bank, N.A. is a national banking association with its main office in Ohio.

19. Counterclaim Plaintiff JPMorgan Chase Bank, N.A., as Trustee of the Commingled Pension Trust Fund (Corporate High Yield) of JPMorgan Chase Bank, N.A., is a holder of 2026 Original Secured Notes. The Commingled Pension Trust Fund (Corporate High Yield) of JPMorgan Chase Bank, N.A. is a collective investment trust maintained pursuant to a Declaration of Trust governed by New York law. JPMorgan Chase Bank, N.A. is a national banking association with its main office in Ohio.

20. Counterclaim Plaintiff JPMorgan Chase Bank, N.A., as Trustee of the Commingled Pension Trust Fund (High Yield) of JPMorgan Chase Bank, N.A., is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. The Commingled Pension Trust Fund (High Yield) of JPMorgan Chase Bank, N.A. is a collective investment trust maintained pursuant to a

Declaration of Trust governed by New York law. JPMorgan Chase Bank, N.A. is a national banking association with its main office in Ohio.

21. Counterclaim Plaintiff JPMorgan Investment Funds, on behalf of its sub-fund Global High Yield Bond Fund, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. JPMorgan Investment Funds, a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

22. Counterclaim Plaintiff JPMorgan Investment Funds, on behalf of its sub-fund Income Opportunity Fund, is a holder of 2026 Original Secured Notes. JPMorgan Investment Funds, a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

23. Counterclaim Plaintiff JPMorgan Investment Funds, on behalf of its sub-fund Global Income Fund, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. JPMorgan Investment Funds, a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

24. Counterclaim Plaintiff JPMorgan Investment Funds, on behalf of its sub-fund Global Income Conservative Fund, is a holder of 2026 Original Secured Notes. JPMorgan Investment Funds, a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

25. Counterclaim Plaintiff JPMorgan Funds, on behalf of its sub-fund US High Yield Plus Bond Fund, is a holder of 2026 Original Secured Notes. JPMorgan Funds, a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

26. Counterclaim Plaintiff JPMorgan Funds, on behalf of its sub-fund Income Fund, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. JPMorgan Funds, a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

27. Counterclaim Plaintiff JPMorgan Funds, on behalf of its sub-fund Global Bond Opportunities Sustainable Fund, is a holder of 2026 Original Secured Notes. JPMorgan Funds, a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

28. Counterclaim Plaintiff JPMorgan Funds, on behalf of its sub-fund Global Bond Opportunities Fund, is a holder of 2026 Original Secured Notes. JPMorgan Funds, a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

29. Counterclaim Plaintiff iShares Public Limited Company, on behalf of its sub-fund iShares Global High Yield Corp Bond UCITS ETF, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares Public Limited Company is an Irish corporation that maintains its registered office in Ireland.

30. Counterclaim Plaintiff iShares II Public Limited Company, on behalf of its sub-fund iShares $ High Yield Corp Bond UCITS ETF, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares II Public Limited Company is an Irish corporation that maintains its registered office in Ireland.

31. Counterclaim Plaintiff iShares Trust, on behalf of its series iShares iBonds 2026 Term High Yield and Income ETF, is a holder of 2026 Original Secured Notes. iShares Trust is a Delaware statutory trust with its principal place of business in California.

32. Counterclaim Plaintiff iShares Trust, on behalf of its series iShares Broad USD High Yield Corporate Bond ETF, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares Trust is a Delaware statutory trust with its principal place of business in California.

33. Counterclaim Plaintiff iShares Trust, on behalf of its series iShares 0-5 Year High Yield Corporate Bond ETF, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares Trust is a Delaware statutory trust with its principal place of business in California.

34. Counterclaim Plaintiff iShares Trust, on behalf of its series iShares iBoxx $ High Yield Corporate Bond ETF, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares Trust is a Delaware statutory trust with its principal place of business in California.

35. Counterclaim Plaintiff iShares Trust, on behalf of its series iShares iBonds 2024 Term High Yield and Income ETF, is a holder of 2024 Original Secured Notes. iShares Trust is a Delaware statutory trust with its principal place of business in California.

36. Counterclaim Plaintiff BlackRock Institutional Trust Company, N.A., acting in its capacity as Trustee of the U.S. High Yield Bond Index Non-Lendable Fund B, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. BlackRock Institutional Trust Company, N.A. is a national banking association with its principal place of business in California.

37. Counterclaim Plaintiff iShares VI Public Limited Company, on behalf of its sub-fund iShares Global High Yield Corp Bond GBP Hedged UCITS ETF (Dist), is a holder of 2024 Original Secured Notes. iShares VI Public Limited Company is an Irish corporation that maintains its registered office in Ireland.

38. Counterclaim Plaintiff iShares VI Public Limited Company, on behalf of its sub-fund iShares Global High Yield Corp Bond CHF Hedged UCITS ETF (Dist), is a holder of 2024

Original Secured Notes and 2026 Original Secured Notes. iShares VI Public Limited Company is an Irish corporation that maintains its registered office in Ireland.

39. Counterclaim Plaintiff iShares IV Public Limited Company, on behalf of its sub-fund iShares $ Short Duration High Yield Corp Bond UCITS ETF, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares IV Public Limited Company is an Irish corporation that maintains its registered office in Ireland.

40. Counterclaim Plaintiff iShares Trust, on behalf of its series iShares Core 1-5 Year USD Bond ETF, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares Trust is a Delaware statutory trust with its principal place of business in California.

41. Counterclaim Plaintiff iShares U.S. High Yield Fixed Income Index ETF (CAD-Hedged), ("iShares HY Fixed Income ETF CAD-Hedged"), by its trustee, manager and portfolio adviser BlackRock Asset Management Canada Limited, was a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares HY Fixed Income ETF CAD-Hedged was an Ontarian Trust with its principal place of business in Ontario, Canada. After the filing of the First New York Action, the iShares HY Fixed Income ETF CAD-Hedged merged with Plaintiff iShares U.S. High Yield Bond Index ETF (CAD-Hedged) ("iShares HY Bond Index ETF CAD-Hedged"), which is its successor in interest.

42. Counterclaim Plaintiff iShares Trust, on behalf of its series iShares Core Total USD Bond Market ETF, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares Trust is a Delaware statutory trust with its principal place of business in California.

43. Counterclaim Plaintiff iShares HY Bond Index ETF CAD-Hedged, by its trustee, manager and portfolio adviser BlackRock Asset Management Canada Limited, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares HY Bond Index ETF CAD-

Hedged is an Ontarian Trust with its principal place of business in Ontario, Canada. iShares HY Bond Index ETF CAD-Hedged is the successor in interest to iShares HY Fixed Income ETF CAD-Hedged.

44. Counterclaim Plaintiff iShares, Inc., on behalf of its series iShares US & Intl High Yield Corp Bond ETF, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. iShares, Inc. is a Maryland corporation with its principal place of business in California.

45. Counterclaim Plaintiff BlackRock Bank Loan Fund, by its manager BlackRock Asset Management Ireland Limited, is a holder of 2026 Original Secured Notes. BlackRock Bank Loan Fund is an Irish Trust that maintains its registered office in Ireland.

46. Counterclaim Plaintiff BlackRock Floating Rate Income Trust is a holder of 2026 Original Secured Notes. BlackRock Floating Rate Income Trust is a Delaware statutory trust with its principal place of business in Delaware.

47. Counterclaim Plaintiff BlackRock Limited Duration Income Trust is a holder of 2026 Original Secured Notes. BlackRock Limited Duration Income Trust is a Delaware statutory trust with its principal place of business in Delaware.

48. Counterclaim Plaintiff BlackRock Dynamic High Income Portfolio of BlackRock Funds II is a holder of 2026 Original Secured Notes. BlackRock Dynamic High Income Portfolio of BlackRock Funds II is a Massachusetts business trust with its principal place of business in Delaware.

49. Counterclaim Plaintiff BlackRock Floating Rate Income Portfolio of BlackRock Funds V is a holder of 2026 Original Secured Notes. BlackRock Floating Rate Income Portfolio of BlackRock Funds V is a Massachusetts business trust with its principal place of business in Delaware.

50. Counterclaim Plaintiff BlackRock Managed Income Fund of BlackRock Funds II is a holder of 2026 Original Secured Notes. BlackRock Managed Income Fund of BlackRock Funds II is a Massachusetts business trust with its principal place of business in Delaware.

51. Counterclaim Plaintiff BlackRock Floating Rate Income Strategies Fund, Inc. is a holder of 2026 Original Secured Notes. BlackRock Floating Rate Income Strategies Fund, Inc. is a Maryland corporation with its principal place of business in Delaware.

52. Counterclaim Plaintiff PSAM WorldArb Master Fund Ltd. is a holder of 2024 Original Secured Notes. PSAM WorldArb Master Fund Ltd. is a Cayman Islands exempted company with its registered office in the Cayman Islands.

53. Counterclaim Plaintiff Rebound Portfolio Ltd. is a holder of 2024 Original Secured Notes. Rebound Portfolio Ltd. is a Cayman Islands exempted company with its registered office in the Cayman Islands.

54. Counterclaim Plaintiff JPMorgan Funds, on behalf of its sub-fund Multi-Manager Alternatives Fund, is a holder of 2024 Original Secured Notes. JPMorgan Funds, a société anonyme qualifying as a société d'investissement à capital variable, is incorporated in, and maintains its registered office in, Luxembourg.

55. Counterclaim Plaintiff Lumyna Specialist Funds (formerly called Viaduct Invest FCP-SIF), on behalf of its sub-fund Event Alternative Fund, is a holder of 2024 Original Secured Notes. Lumyna Specialist Funds is an unincorporated joint ownership of assets – specialized investment fund, registered in Luxembourg.

56. Counterclaim Plaintiff Lumyna Investments Ltd., on behalf of its sub-fund PSAM Global Event UCITS Fund, is a holder of 2024 Original Secured Notes. Lumyna Investments Ltd. is a private limited company, with its registered office in the United Kingdom.

57. Counterclaim Plaintiff Kapitalforeningen PenSam Invest - PSI 84 US High Yield II is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. Kapitalforeningen PenSam Invest - PSI 84 US High Yield II is an alternative investment fund (AIF) administered by Nykredit Portefølje Administration A/S, with a registered office in Denmark.

58. Counterclaim Plaintiff The New Zealand Guardian Trust Company Limited, as Trustee for AMP Wholesale High Yield Bond Fund, is the holder of 2024 Original Secured Notes and 2026 Original Secured Notes. AMP Wholesale High Yield Bond Fund is a New Zealand Unit Trust Fund, with a registered office in New Zealand. The New Zealand Guardian Trust Company Limited is a Trustee Company, with a registered office in New Zealand

59. Counterclaim Plaintiff UBS Fund Management (Switzerland) AG is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. UBS Fund Management (Switzerland) AG is a Swiss "Aktiengesellschaft", with a registered office in Switzerland.

60. Counterclaim Plaintiff JNL Series Trust, on behalf of its series JNL/JPMorgan Global Allocation Fund, is a holder of 2026 Original Secured Notes. JNL Series Trust is a is a Massachusetts business trust with its principal place of business in Michigan.

61. Counterclaim Plaintiff JPMorgan Fund ICVC, on behalf of its sub fund JPM Global High Yield Bond Fund, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. JPMorgan Fund ICVC is an open-ended investment company with variable capital with its principal place of business in England.

62. Counterclaim Plaintiff JPMorgan Trust I, on behalf of its series JPMorgan Income Builder Fund, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. JPMorgan Trust I is a Delaware statutory trust with its principal place of business in New York.

63. Counterclaim Plaintiff JPMorgan Trust I, on behalf of its series JPMorgan Total Return Fund, is a holder of 2026 Original Secured Notes. JPMorgan Trust I is a Delaware statutory trust with its principal place of business in New York.

64. Counterclaim Plaintiff JPMorgan Trust I, on behalf of its series JPMorgan Strategic Income Opportunities Fund, is a holder of 2026 Original Secured Notes. JPMorgan Trust I is a Delaware statutory trust with its principal place of business in New York.

65. Counterclaim Plaintiff JPMorgan Fund ICVC, on behalf of its sub fund JPM Multi-Asset Income Fund, is a holder of 2026 Original Secured Notes. JPMorgan Fund ICVC is an open-ended investment company with variable capital with its principal place of business in England.

66. Counterclaim Plaintiff Lincoln Variable Insurance Products Trust, on behalf of its series LVIP JPMorgan High Yield Fund, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. Lincoln Variable Insurance Products Trust is a Delaware statutory trust with its principal place of business in Indiana.

67. Counterclaim Plaintiff Advanced Series Trust, on behalf of its portfolio AST High Yield Portfolio, is a holder of 2026 Original Secured Notes. Advanced Series Trust is an open-ended management investment company with its principal place of business in Connecticut.

68. Counterclaim Plaintiff GIM Trust, on behalf of its series U.S. High Yield Bond Fund, is a holder of 2026 Original Secured Notes. GIM Trust is an open-ended Cayman Islands series trust with its registered office in the Cayman Islands.

69. Counterclaim Plaintiff JPMorgan Trust I, on behalf of its series JPMorgan Global Allocation Fund, is a holder 2026 Original Secured Notes. JPMorgan Trust I is a Delaware statutory trust with its principal place of business in New York.

70. Counterclaim Plaintiff HSBC Institutional Trust Services (Asia) Limited, as trustee of JPMorgan Multi Income Fund, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. HSBC Institutional Trust Services (Asia) Limited is a public company limited by shares incorporated in Hong Kong with its principal place of business in Hong Kong. JPMorgan Multi Income Fund is a unit trust authorized as a collective investment scheme by the Hong Kong Securities and Futures Commission.

71. Counterclaim Plaintiff JPMorgan Trust I, on behalf of its series JPMorgan Global Bond Opportunities Fund, is a holder 2026 Original Secured Notes. JPMorgan Trust I is a Delaware statutory trust with its principal place of business in New York.

72. Counterclaim Plaintiff JPMorgan Trust I, on behalf of its series JPMorgan Short Duration Core Plus Fund, is a holder 2026 Original Secured Notes. JPMorgan Trust I is a Delaware statutory trust with its principal place of business in New York.

73. Counterclaim Plaintiff IBM 401(k) Plus Plan Trust, on behalf of the IBM 401(k) Plus Plan, is a holder 2026 Original Secured Notes. The IBM 401(k) Plan Trust is a retirement plan with its registered office in New York.

74. Counterclaim Plaintiff JPMorgan Trust I, on behalf of its series JPMorgan Income Fund, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. JPMorgan Trust I is a Delaware statutory trust with its principal place of business in New York.

75. Counterclaim Plaintiff Migros-Pensoinskasse Fonds is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. Migros-Pensoinskasse Fonds is a Swiss investment fund with its registered office in Switzerland.

76. Counterclaim Plaintiff J.P. Morgan Exchange-Traded Fund Trust, on behalf of its series JPMorgan Core Plus Bond ETF, is a holder of 2026 Original Secured Notes. J.P. Morgan

Exchange-Traded Fund Trust is a Delaware statutory trust with its principal place of business in New York.

77. Counterclaim Plaintiff HSBC Institutional Trust Services (Asia) Limited, as trustee of JPMorgan Multi Balanced Fund, is a holder of 2026 Original Secured Notes. HSBC Institutional Trust Services (Asia) Limited is a public company limited by shares incorporated in Hong Kong with its principal place of business in Hong Kong. JPMorgan Multi Balanced Fund is a unit trust authorized as a collective investment scheme by the Hong Kong Securities and Futures Commission.

78. Counterclaim Plaintiff Zurich American Insurance Company is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. Zurich American Insurance Company is a company incorporated under the law of the State of New York with its principal place of business in Illinois.

79. Counterclaim Plaintiff NBI High Yield Bond ETF is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. NBI High Yield Bond ETF is an exchange-traded fund established as a trust under the laws of the Province of Ontario, Canada with its registered office in Canada.

80. Counterclaim Plaintiff Deferred Salary Plan of the Electrical Industry is a holder of 2024 Original Secured Notes. Deferred Salary Plan of the Electrical Industry is a Defined Contribution Profit-Sharing Plan with 401(k) and Roth features with its registered office in New York.

81. Counterclaim Plaintiff NBI Unconstrained Fixed Income ETF is a holder of 2026 Original Secured Notes. NBI Unconstrained Fixed Income ETF is an exchange-traded fund

established as a trust under the laws of the Province of Ontario, Canada with its registered office in Canada.

82. Counterclaim Plaintiff National Employment Savings Trust Corporation, in its capacity as trustee of the National Employment Savings Trust, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. National Employment Savings Trust Corporation is a public corporation established under the law of the United Kingdom with its principal place of business in England.

83. Counterclaim Plaintiff JPMorgan Trust II, on behalf of its series JPMorgan Core Plus Bond Fund, is a holder of 2026 Original Secured Notes. JPMorgan Trust II is a Delaware statutory trust with its principal place of business in New York.

84. Counterclaim Plaintiff JPMorgan Trust II, on behalf of its series JPMorgan High Yield Fund, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. JPMorgan Trust II is a Delaware statutory trust with its principal place of business in New York.

85. Counterclaim Plaintiff The Integrity Fund, on behalf of its series Integrity High Income Fund, is a holder of 2024 Original Secured Notes and 2026 Original Secured Notes. The Integrity Fund is a mutual fund managed and/or advised by Viking Fund Management, LLC, headquartered in Minot, North Dakota.

II. Debtor Counterclaim Defendants.

86. Counterclaim Defendant Wesco Aircraft Holdings, Inc. (*i.e.*, the Company) is a Delaware corporation. The Company has its principal place of business and chief executive office in Texas. The Company is the issuer of the Original Senior Secured Notes under the respective Governing Indentures.

87. The Guarantor Defendants that guaranteed the Company's obligations under the Governing Indentures comprise: Adams Aviation Supply Company Limited, a United Kingdom

entity; Flintbrook Limited, a United Kingdom entity; HAAS Chemical Management of Mexico, Inc., a Pennsylvania entity; HAAS Corporation of Canada, a Pennsylvania entity; HAAS Corporation of China, a Pennsylvania entity; HAAS Group International SCM Limited, a United Kingdom entity; HAAS Group International, LLC, a Pennsylvania entity; HAAS Group, LLC, a Delaware entity; HAAS Holdings, LLC, a Delaware entity; HAAS International Corporation, a Pennsylvania entity; HAAS of Delaware LLC, a Delaware entity; HAAS TCM Group of the UK Limited, a United Kingdom entity; HAAS TCM Industries LLC, a Delaware entity; HAAS TCM of Israel Inc., a Delaware entity; Interfast USA Holdings Incorporated, a Delaware entity; Netmro, LLC, a Florida entity; Pattonair Holding, Inc., a Delaware entity; Pattonair (Derby) Limited, a United Kingdom entity; Pattonair Europe Limited, a United Kingdom entity; Pattonair Group Limited, a United Kingdom entity; Pattonair Holdings Limited, a United Kingdom entity; Pattonair Limited, a United Kingdom entity; Pattonair USA, Inc., a Texas entity; Pioneer Finance Corporation, a Delaware entity; Pioneer Holding Corporation, a Delaware entity; Quicksilver Midco Limited, a United Kingdom entity; Uniseal, Inc., an Indiana entity; Wesco 1 LLP, a United Kingdom entity; Wesco 2 LLP, a United Kingdom entity; Wesco Aircraft Canada, LLC, a Delaware entity; Wesco Aircraft EMEA, Ltd., a United Kingdom entity; Wesco Aircraft Europe Limited, a United Kingdom entity; Wesco Aircraft Hardware Corp., a California entity; Wesco Aircraft International Holdings Limited, a United Kingdom entity; Wesco Aircraft SF, LLC, a Delaware entity; Wesco LLC 1, a Delaware entity; Wesco LLC 2, a Delaware entity; Wolverine Intermediate Holding II Corporation, a Delaware entity; and Wolverine UK Holdco Limited, a United Kingdom entity.[5]

[5] The following debtors in these Chapter 11 proceedings did not guarantee the Company's obligations under the Governing Indentures and, therefore, have not been named as defendants in these Amended Counterclaims: (1) HAAS Group Canada, Inc., (2) Haas TCM de Mexico, S. de R.L. de C.V., (3) Wesco Aircraft Canada, Inc., and (4) Wolverine Intermediate Holding Corporation.

III. Non-Debtor Counterclaim Defendants.

88. Counterclaim Defendant Wilmington Savings Fund Society, FSB (*i.e.*, "WSFS") is a federal savings bank with its principal place of business in Delaware. WSFS purportedly served as successor indenture trustee and collateral agent under the Governing Indentures from March 14, 2022, until May 26, 2023.

89. Counterclaim Defendant Platinum Equity Advisors, LLC (*i.e.*, the "Platinum Sponsor") is a Delaware limited liability company with its principal place of business in California. The Platinum Sponsor is the private equity sponsor and a person in control of the Platinum-Controlled Parent and its subsidiaries, including the Company. Upon information and belief, the Platinum Sponsor is also the investment manager or advisor for the Platinum Fund and it often acted as agent for, and on behalf of, the Platinum-Controlled Parent and the Platinum Fund in connection with the Insider Transaction.

90. Counterclaim Defendant Wolverine Top Holding Corporation (*i.e.*, the "Platinum-Controlled Parent") is a Delaware corporation and the indirect, 100% owner of the Company and its subsidiaries. The Platinum-Controlled Parent is an affiliate and person in control of the Company and the Guarantor Defendants.

91. Counterclaim Defendant Platinum Equity Capital Partners International, IV (Cayman) LP (*i.e.*, the "Platinum Fund") is an affiliate of the Platinum-Controlled Parent and the Platinum Sponsor that was, upon information and belief, simultaneously invested in the Platinum-Controlled Parent and certain unsecured notes issued by the Company.[6] The Platinum Fund is an

[6] Upon information and belief, the Platinum-Controlled Parent also might have held a significant portion of the unsecured notes issued by the Company. In that regard, the Debtors' statements in their *First Amended Complaint and Counterclaim Answer*, Adv. Pro. Docket No. 63 (the "FAC" or "Answer"), are inconsistent and ambiguous as to whether the Platinum Fund or some other Platinum entity had purchased the unsecured notes and subsequently exchanged them as part of the Insider Transaction. *Compare* FAC at 30 (referring to "Platinum Fund's Unsecured Notes") *with* Answer at 23-24 (admitting that "the Platinum Fund, or an affiliate thereof, held Unsecured Notes"). The

affiliate and insider of the Company. The Company's consolidated financial statements for the three months ending March 31, 2022 have described the Platinum Fund as a "related part[y]" of the Company.

92. Counterclaim Defendants Silver Point Noteholders (the "Silver Point Noteholders") include Silver Point Capital Fund, L.P.; Silver Point Capital Offshore Master Fund, L.P.; Silver Point Select Opportunities Fund A, L.P.; Silver Point Distressed Opportunities Fund, L.P.; Silver Point Distressed Opportunities Offshore Master Fund, L.P.; Silver Point Distressed Opportunity Institutional Partners Master Fund (Offshore), L.P.; Silver Point Distressed Opportunity Institutional Partners, L.P.; Silver Point SCF CLO I, Ltd.; Silver Point Specialty Lending Fund; and Silver Point Specialty Credit Fund II Mini-Master Fund (Offshore), L.P. The Silver Point Noteholders are those noteholders who participated in the Insider Transaction as holders of 2026 Original Secured Notes and/or 2024 Original Secured Notes and for which Silver Point Capital, L.P.; Silver Point Distressed Opportunities Management, LLC; Silver Point Specialty Credit Fund Management, LLC; and Silver Point Specialty Credit Fund II Management, LLC act as investment or collateral manager.

93. Counterclaim Defendants PIMCO Noteholders (the "PIMCO Noteholders") include PIMCO Tactical Income Opportunities Fund; PIMCO Global Income Opportunities Fund; PIMCO Tactical Income Fund; PIMCO Global StocksPLUS & Income Fund; PCM Fund, Inc.; PIMCO Strategic Income Fund, Inc.; PIMCO Corporate & Income Opportunity Fund; PIMCO High Income Fund; PIMCO Income Strategy Fund; PIMCO Income Strategy Fund II; PIMCO Corporate & Income Strategy Fund; PIMCO Dynamic Income Opportunities Fund; PIMCO

2024/2026 Holders reserve the right to further amend these Amended Counterclaims if discovery reveals that the Platinum-Controlled Parent held some or all of the unsecured notes that are alleged herein to have been held by the Platinum Fund.

Dynamic Income Fund; PIMCO ETFs plc, PIMCO US Short-Term High Yield Corporate Bond Index UCITS ETF (previously identified as PIMCO Fixed Income Source ETFs plc, PIMCO Short-Term High Yield Corporate Bond Index Source UCITS ETF); PIMCO Flexible Credit Income Fund; PIMCO Funds: PIMCO Low Duration Credit Fund; PIMCO Funds: PIMCO High Yield Spectrum Fund; PIMCO ETF Trust: PIMCO 0-5 Year High Yield Corporate Bond Index Exchange-Traded Fund; OC III LVS I LP; PIMCO Tactical Opportunities Master Fund Ltd.; PIMCO OP Trust Flexible Credit Fund, L.P.; PIMCO DISCO Fund III LP; Texas Children's Hospital Foundation; Bakery and Confectionery Union and Industry International Pension Fund; Employees' Retirement System of the State of Rhode Island; Desjardins Floating Rate Income Fund; Desjardins Global Tactical Bond Fund; and BMO Global Strategic Bond Fund. The PIMCO Noteholders are those noteholders who participated in the Insider Transaction as holders of 2026 Original Secured Notes and/or 2024 Original Secured Notes and for which Pacific Investment Management Company LLC acts as investment manager, adviser, or sub-adviser.

94. Counterclaim Defendants Carlyle Noteholders (the "Carlyle Noteholders") include CCOF Onshore Co-Borrower LLC, CSP IV Acquisitions, L.P., and CCOF Master, L.P. The Carlyle Noteholders are those noteholders who participated in the Insider Transaction as holders of Unsecured Notes (as defined in Paragraph 117, below) issued by the Company and who are managed or advised by The Carlyle Group L.P. or its affiliates.

95. Counterclaim Defendant Senator Global Opportunity Master Fund L.P. (the "Senator Noteholder") participated in the Insider Transaction as a holder of the 2024 Original Secured Notes, the 2026 Original Secured Notes, and Unsecured Notes issued by the Company and is managed or advised by Senator GP LLC.

96. Counterclaim Defendant Citadel Equity Fund Ltd. (the "Citadel Noteholder") participated in the Insider Transaction as a holder of 2026 Original Secured Notes issued by the Company and is managed or advised by Citadel Advisors LLC.

97. Counterclaim Defendant Spring Creek Capital LLC (the "Spring Creek Noteholder") participated in the Insider Transaction as a holder of Unsecured Notes issued by the Company and, on information belief, is beneficially owned by SCC Holdings, LLC.

Subject Matter Jurisdiction and Venue

98. This Court has subject matter jurisdiction over this adversary proceeding pursuant to 28 U.S.C. § 1334.

99. Venue of this adversary proceeding in this Court is proper pursuant to 28 U.S.C. § 1409 because this is the district in which the related bankruptcy case is pending.

100. The 2024/2026 Holders' claims for equitable subordination and equitable lien are core claims for which the 2024/2026 Holders consent to entry of a final order or judgment by this Court.

101. The 2024/2026 Holders' declaratory judgment claims are non-core claims for which, pursuant to the Scheduling Order, the 2024/2026 Holders do not consent to entry of a final order or judgment by this Court.

102. Pursuant to Bankruptcy Rule 7008, the 2024/2026 Holders do not consent to the entry of final orders or judgment by this Court in connection with this adversary proceeding if it is determined that, absent consent of the parties, the Court cannot enter final orders or judgments consistent with Article III of the United States Constitution.

Personal Jurisdiction

103. All Debtor Counterclaim Defendants are subject to the jurisdiction of this Court as debtors in the related bankruptcy cases.

104. Additionally, each Counterclaim Defendant is subject to personal jurisdiction pursuant to Federal Rule of Bankruptcy Procedure 7004 because each Counterclaim Defendant herein has established minimum contacts with the United States.

105. The Debtor Counterclaim Defendants are parties to the Governing Indentures, which include consent to the jurisdiction of courts in the United States, namely in the State of New York.

106. WSFS was a party to the Governing Indentures, which include consent to the jurisdiction of courts in the United States, namely in the State of New York.

107. The Favored Noteholders are parties to the Exchange Agreement (as defined in Paragraph 162, below), which includes a consent to the jurisdiction of courts in the United States, namely in the State of New York.

108. Where a federal statute or rule provides for nationwide service of process, as does Bankruptcy Rule 7004, a federal court has personal jurisdiction over any defendant having minimum contacts with the United States.

109. Accordingly, this Court has personal jurisdiction over the Counterclaim Defendants based on their contacts with the United States.

Factual Allegations

I. The Company.

110. The Company is the product of a 2020 merger between Wesco and Pattonair, a portfolio company of the Platinum Sponsor.

111. According to the Debtors, "[t]he Company provides customizable and often on-demand supply chain management services to manufacturers and maintenance providers across several industries, with a focus on the commercial and defense aerospace industry." Declaration

of Raymond Carney in Support of Chapter 11 Petitions and First Day Motions, dated June 1, 2023, (Case No. 23-90611, Docket No. 13) (the "Carney Decl.") ¶ 20.

112. Since their acquisition of the Company in January 2020, the Platinum-Controlled Parent and the Platinum Sponsor have controlled the Company. The Platinum-Controlled Parent is an indirect parent of the Company. Each year, the Company is obligated to pay the Platinum Sponsor approximately $7 million in consulting fees, plus other fees and expenses.

113. The Company states that it is owned "by a chain of three holding companies: Wolverine Intermediate Holding II Corporation . . . [is directly owned by] Wolverine Intermediate [Holding Corp.] . . . [which in turn is directly owned by]" the Platinum-Controlled Parent. Carney Decl. ¶ 39.

114. Upon information and belief, the Platinum Fund owns or controls more than 20% of the voting shares of the Platinum-Controlled Parent, and it and the Company are under the common control of the Platinum Sponsor.

115. The board of directors (the "Board") of Wolverine Intermediate Holding Corp. ("Wolverine Intermediate") is composed of individuals selected and controlled by the Platinum Sponsor. Except for the later-appointed director Patrick Bartels, whom the Debtors describe as "independent," the Debtors do not hold out members of the Board as being independent from the Platinum Sponsor or the Debtors.

116. At the time of the Insider Transaction, the Board consisted entirely of the following senior executives and officers of the Platinum Sponsor, apart from Mr. Bartels:

- Mary Ann Sigler, Chief Financial Officer of the Platinum Sponsor;
- John G. Holland, Managing Director and General Counsel of the Platinum Sponsor;
- Louis Samson, Co-President of the Platinum Sponsor;

- Michael Fabiano, Managing Director of the Platinum Sponsor; and
- Malik Vorderwuelbecke, Managing Director of the Platinum Sponsor

(collectively with Mr. Bartels, the "Directors").

II. The Governing Indentures.

117. To finance the acquisition in January 2020 that led to the 2020 merger between Wesco and Pattonair, the Company sold three debt issuances: (i) $650 million in 2024 Original Secured Notes; (ii) $900 million in 2026 Original Secured Notes; and (iii) $525 million in unsecured notes due 2027 (the "Unsecured Notes").

118. Platinum could not finance its acquisition of the Company on the terms initially proposed to the market. After Platinum and the Company were unable to obtain a syndicated loan, they turned to the high-yield bond market. By the time the acquisition financing was finalized in the Governing Indentures, it included many terms more favorable to creditors than those initially proposed by the Company. The Governing Indentures were negotiated with purchasers and potential purchasers of the Notes before the issuance and contain protections against position-enhancing transactions of precisely the sort here.

119. To secure payment of principal and interest on the Original Secured Notes, the Company granted liens (the "Liens") on specifically identified assets of the Company (the "Collateral") to the holders of the Original Secured Notes. The Liens and Collateral are memorialized in the Governing Indentures and an array of security documents, including intercreditor agreements, pledges, deeds, mortgages, and other instruments securing the Notes (together, the "Security Documents").

120. Additionally, the Guarantor Defendants guaranteed the Company's payment obligations under the Governing Indentures as well as under the indenture for the Unsecured Notes (the "Unsecured Indenture").

121. The Governing Indentures limit the Company's ability to issue additional 2024 Original Secured Notes or 2026 Original Secured Notes to dilute the rights of existing holders by issuing new debt or creating new liens.

122. Specifically, Section 2.01(e) of the Governing Indentures states that the Company's "ability to issue Additional Secured Notes ***shall be subject to*** the Issuer's compliance with Sections 4.09 and 4.12 hereof." (Emphasis added.) The Governing Indentures' definition of "Additional Secured Notes" also refers to Section 2.01(e) and thus, in turn, Section 4.12.[7]

123. Section 4.12(a) of the Governing Indentures—which pursuant to Section 2.01 is a predicate to the issuance of ***any*** Additional Secured Notes—provides that:

> The Issuer ***will not***, and will not permit any Subsidiary Guarantor, if any, to, ***directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind (other than Permitted Liens)***, securing Indebtedness of the Issuer or such Subsidiary Guarantor, if any, on any property or assets now owned or hereafter acquired or any interest therein or any income or profits therefrom.

(Emphasis added.)

124. Permitted Liens are defined in Section 1.01 of the Governing Indentures to include, *inter alia*, the Liens that secured the Original Secured Notes.

125. Section 4.09 of the Governing Indentures—which pursuant to Section 2.01 is also a predicate to the issuance of ***any*** Additional Secured Notes—protects the Original Secured Notes by restricting the incurrence of additional indebtedness other than "Permitted Indebtedness."

126. Permitted Indebtedness is defined in Section 4.09(b) of the Governing Indentures to include, *inter alia*, the 2024 Original Secured Notes and 2026 Original Secured Notes.

[7] All provisions of the 2026 Original Secured Note Indenture and 2024 Original Secured Note Indenture relevant to these Amended Counterclaims are substantively identical. All references to "Section" herein are to the 2026 Original Secured Note Indenture unless otherwise specified.

127. As further protection, the Governing Indentures restrict the Company's ability to amend, supplement or waive certain rights without meeting holder consent thresholds.

128. Under Section 9.02 of the Governing Indentures, supermajority consent is required for any amendments or modifications affecting the Liens, Collateral, or Security Documents. It provides in relevant part that, without consent "of at least 66⅔% in aggregate principal amount of the Secured Notes then outstanding . . . no amendment, supplement, or waiver may":

> (1) ***have the effect of releasing all or substantially all of the Collateral from the Liens*** created pursuant to the Security Documents (except as permitted by the terms of this Indenture, the Security Documents or the Intercreditor Agreements) ***or changing or altering the priority of the security interests of the Holders*** of the [Originally] Secured Notes in the Collateral under the ABL Intercreditor Agreement or the Pari Passu Intercreditor Agreement,
>
> (2) ***make any change*** in the Security Documents, the Intercreditor Agreements or the provisions in this Indenture dealing with the application of proceeds of the Collateral that would ***adversely affect the Holders*** of the [Originally] Secured Notes or
>
> (3) ***modify the security Documents or the provisions of this Indenture dealing with Collateral in any manner adverse to the Holders*** of [Originally] Secured Notes in any material respect other than in accordance with the terms if this Indenture, the Security Documents or the Intercreditor Agreements.

(Emphasis and paragraph breaks added.)

129. Additionally, the Governing Indentures protect the 2024/2026 Holders' security interests in the Collateral in a variety of other ways. For example, Section 6.01 of the Governing Indentures protects the Liens created for the benefit of the Original Secured Notes. Under Section 6.01, "[e]ach of the following is an 'Event of Default'":

> [A]ny material provision of any Security Document or Intercreditor Agreement with respect to the [Original Secured Notes] ceases to be in full force and effect for any reason other than in accordance with the terms of [the Governing Indentures] . . . .
>
> * * *

> [A]ny Security Document covering a material portion of the Collateral for any reason (other than pursuant to the terms hereof) ceases to create a valid and perfected first-priority or second-priority Lien, as applicable, on, and security interest in, any material Collateral covered thereby with respect to the [Original Secured Notes].

130. Section 9.02 also codifies the 2024/2026 Holders' "sacred rights" under the Governing Indentures, which include, among other rights, a requirement that each affected holder consent to any amendment that "make[s] any change to, or modif[ies], the ranking of the [Notes] in respect of right of payment that would adversely affect the Holders of the [Notes]."

131. Section 6.06 of the Governing Indentures provides that one group of holders of the Notes "may not use" the Governing Indentures "to prejudice the rights of another or to obtain a preference or priority over another" group of noteholders.

132. Finally, Section 3.02 of the Governing Indentures requires that, unless the company redeems 100% of the Original Secured Notes (which it did not do here), any Original Secured Note to be redeemed or purchased must be selected by the indenture trustee either pro rata, by lottery, or by some other "fair and appropriate" method.

133. Many of the 2024/2026 Holders purchased their Notes at or near the time of their initial issuance and have continued to hold those Notes through today.

III. Origins of the Insider Transaction.

134. As the Company noted in the Carney Declaration:

> The COVID-19 pandemic in early 2020 devastated the aerospace industry. The Company's business was no exception. Travel restrictions were implemented early in the pandemic and grounded most of the global commercial airline fleet, causing customer demand for parts and services to decrease rapidly. Notably, COVID-19 occurred just as the Company was formed through the consolidation of Wesco and Pattonair . . . .

Carney Decl. ¶ 8.

135. In July 2020, shortly after that consolidation, the Company revealed that the Platinum Fund had been buying Unsecured Notes on the secondary market. Although the Company failed to disclose how many Unsecured Notes the Platinum Fund purchased, or the prices it paid, market data from the relevant time period reveals an average trading price of 69 cents on the dollar. In November 2020, the Company also issued the Platinum-Controlled Parent a $25 million unsecured promissory note.

136. The Platinum Fund's motives for acquiring the Unsecured Notes are now clear. Given the financial straits the Company was facing due to COVID-19, and the likelihood that the Platinum-Controlled Parent's equity stake would be wiped out if the Company continued to struggle, the Platinum Fund, upon information and belief, actively sought a position in the Company's debt structure that it and the Platinum Sponsor could monetize in a restructuring by virtue of the Platinum-Controlled Parent's and the Platinum Sponsor's absolute control over the Company. Had any of the Platinum entities sought to support the Company and its various stakeholders, they could have provided significant debt relief by retiring the Unsecured Notes acquired by the Platinum Fund or by forgiving the $25 million promissory note issued to the Platinum-Controlled Parent. The Platinum Sponsor could also at any time have waived its $7 million annual consulting fee.

137. In late 2021, Platinum and the Company retained advisors and began exploring an out-of-court recapitalization.

138. Upon information and belief, the Platinum Creditors, the Company, and their advisors did not initiate contact with more than one lending group regarding financing opportunities.

139. The Platinum Creditors and the Company did not disclose its exploration of an out-of-court recapitalization to the market, but the news leaked on February 7, 2022.

140. On that date, Debtwire published an article titled "Wesco Aircraft in talks with select holders for priming roll-up and new capital injection." The article reported that discussions were ongoing between certain of the Favored Noteholders and the Company about an out-of-court recapitalization, which would eventually become the Insider Transaction. The article described a framework under which the Favored Noteholders would exchange their holdings of Original Secured Notes into a new senior secured debt facility. According to the article, "[s]uch an uptier deal would effectively reduce the economics for existing bondholders by stripping out liens under its bond indentures."

141. After Debtwire's report, certain 2024/2026 Holders became part of an ad hoc group that held, among other interests, more than one-third of the 2026 Original Secured Notes (the "Ad Hoc Group"). The Ad Hoc Group immediately hired legal and financial advisors and instructed those advisors to prepare alternative financing proposals that would be open to all secured noteholders, not just a subset of them.

142. Consistent with that mandate, the Ad Hoc Group's advisors submitted a first proposal to the Company on March 6, 2022 (the "First Bid"). The First Bid contemplated liquidity enhancements through an up-front investment and through cash interest savings achieved through an exchange of Original Secured Notes into new payment-in-kind bonds. Additional savings would be achieved if, as contemplated by the First Bid, (i) the Platinum Fund would agree to convert its Unsecured Notes to payment-in-kind bonds and (ii) the Platinum Sponsor would waive its $7 million annual consulting fee.

143. The First Bid was what the market has come to refer to as a "pro rata" proposal, which allowed *all* holders of Original Secured Notes to participate in the contemplated transaction, thus eliminating any material risk of litigation.

144. Subsequently, on March 11, 2022, the Ad Hoc Group's advisors submitted to the Company a second financing proposal (the "Second Bid" and together with the First Bid, the "Bids"), which provided the Company the option of drawing even more capital. The Second Bid was driven by the Company's changing indications to the Ad Hoc Group's advisors of the size of its liquidity need. As with the First Bid, the Second Bid was a pro rata proposal that was open to all holders of Original Secured Notes, did not require a complete overhaul of the Company's capital structure to implement, and did not carry material litigation risk. The Bids did not propose that the Company would have any indemnification obligations.

145. After delivery of the Ad Hoc Group's Bids, the Ad Hoc Group repeatedly asked the Company for access to material non-public information about the Company to refine its Bids and to help the Company solve its immediate liquidity issues. But then, on March 29, 2022, the Company simply announced the completion of the Insider Transaction without ever formally countering any of the Ad Hoc Group's Bids or sharing with the Ad Hoc Group the details of the Insider Transaction.

146. The Company did not "engage[] in good faith negotiations with all its stakeholder groups" from the outset, as it claims. Carney Decl. ¶ 10.

147. All of the 2024/2026 Holders held Notes at the time of the Insider Transaction. Many of the 2024/2026 Holders purchased their Notes at or around the time of the initial issuance and have continued to hold those Notes through today.

IV. The Insider Transaction.

148. To implement the Insider Transaction on March 28, 2022, the Company and others simultaneously executed at least ten integrated written agreements, including an unauthorized amendment to the Governing Indentures that was artificially labeled as two amendments: the "Third Supplemental Indenture" and the "Fourth Supplemental Indenture" (together, the "Unauthorized Amendments").[8]

149. Under the Governing Indentures as they existed without the Unauthorized Amendments, the Company could not issue more than approximately $75 million in pari passu first lien secured debt.

150. The Unauthorized Amendments purported to modify the Governing Indentures to allow for the issuance by the Company of $250 million in "Additional Secured Notes"—*i.e.*, the Phantom Notes.

151. Under the Governing Indentures, the issuance of Additional Secured Notes was subject to Section 4.12 and therefore could not "***directly or indirectly create, incur, assume or suffer to exist any Lien of any kind***" other than the Permitted Liens.

152. The Third Supplemental Indenture was not consented to by a supermajority of the 2026 Original Secured Notes then outstanding.

[8] The Third Supplemental Indenture and the Fourth Supplemental Indenture are a single, integrated amendment executed simultaneously for a singular purpose and, therefore, the Amended Counterclaims' use of the plural "Unauthorized Amendments" herein is solely for convenience. The Third Supplemental Indenture and Fourth Supplemental Indenture were executed for each of the 2024 Original Secured Note Indenture and the 2026 Original Secured Note Indenture. As with the Governing Indentures, the supplemental indentures for the 2024 Original Secured Notes and the 2026 Original Secured notes are substantially similar to one another for the purposes of these Amended Counterclaims. The Third Supplemental Indenture and Fourth Supplemental Indenture to the 2024 Original Secured Note Indenture were filed as Adv. Pro., Docket Nos. 12-13 and 12-14, respectively. The Third Supplemental Indenture and Fourth Supplemental Indenture to the 2026 Original Secured Note Indenture were filed as Adv. Pro., Docket Nos. 12-10 and 12-11, respectively.

153. The Company purported to issue the Phantom Notes only to certain Favored Noteholders to dilute the Ad Hoc Group's one-third holding in the 2026 Original Secured Notes to give those Favored Noteholders an artificial supermajority.

154. The purpose of the Phantom Notes was not to provide the Company with additional liquidity as the Debtors claim. The Phantom Notes, rather, were an unauthorized means of manufacturing feigned supermajority consent to terminating the Security Documents and discharging all of the 2024/2026 Holders' Liens on Collateral.

155. New liquidity could have been provided in a much more rational fashion by issuing additional super-priority secured debt with supermajority consent and thus without breaching the Governing Indentures. Instead, the Company chose subterfuge and favoritism by issuing Phantom Notes at par and simultaneously exchanging them for New 1L Notes at par, even though the Original Secured Notes were trading as low as 84 cents in the months leading up to the Insider Transaction.

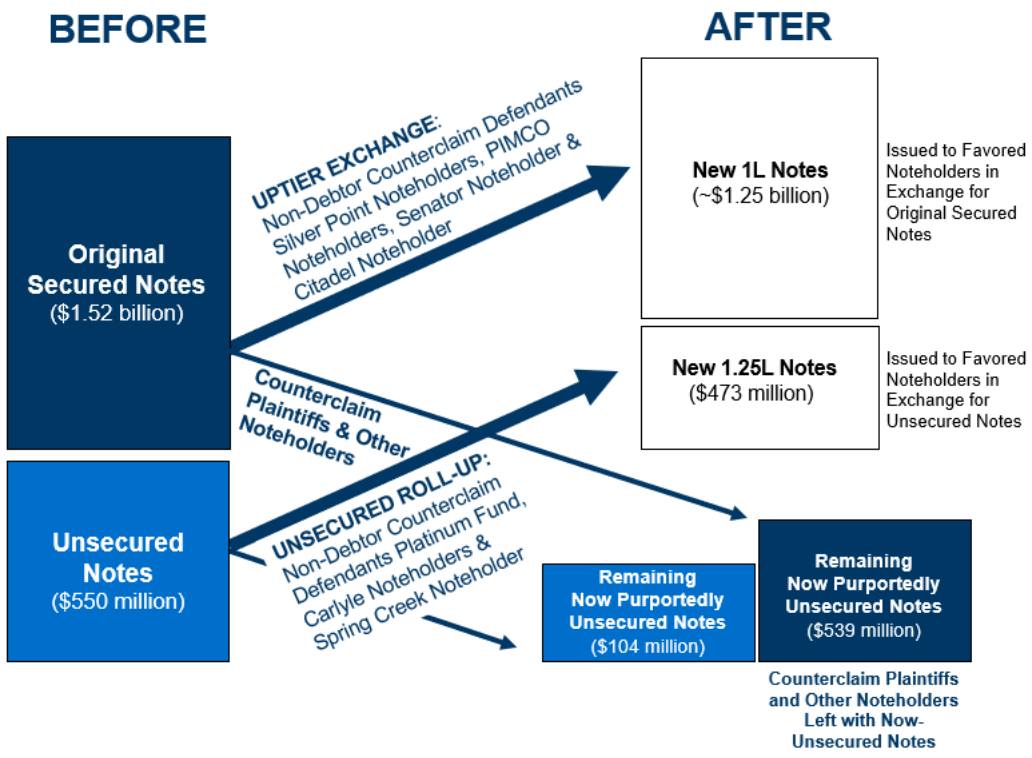
156. The purported effect of the Unauthorized Amendments—and their purpose—was to "release[], terminate[], and discharge[] in full" all of the Liens securing the 2024/2026 Holders' Notes and issue new unpermitted liens such that the 2024/2026 Holders' Notes, supposedly, would "represent unsecured obligations of the Company."

157. The apparition-like existence of the Phantom Notes—which were simultaneously issued, voted, exchanged, and cancelled as part of one transaction—confirms that their purpose was to subvert the 2024/2026 Holders' supermajority consent rights in violation of the Governing Indentures and underscores the singular, integrated nature of the interwoven agreements comprising the Insider Transaction.

158. In the Uptier Exchange, certain Favored Noteholders exchanged Original Secured Notes and Phantom Notes, at par, for approximately $1.27 billion of new, first lien secured notes (the "New 1L Notes"), which purportedly rank senior to the 2024/2026 Holders' now-unsecured notes.

159. In the Unsecured Roll-up, certain Favored Noteholders exchanged Unsecured Notes, together with the $25 million unsecured promissory note held by the Platinum-Controlled Parent, at par, for approximately $473 million of newly issued 1.25 lien secured notes (the "New 1.25L Notes"), which also purportedly rank senior to the 2024/2026 Holders' now-unsecured notes. Prior to the roll-up, the Unsecured Notes were trading at approximately 40 cents on the dollar.

160. A simplified depiction of the Company's debt structure before and after the Insider Transaction is below:



161. The Insider Transaction purported to rank the Favored Noteholders' and the Platinum Creditors' rights to repayment ahead of the 2024/2026 Holders' Notes. Although the New 1L Notes are nominally due in November 2026, by design they would actually mature in October 2024—*before* both the 2024 Original Secured Notes and the 2026 Original Secured Notes—because the indenture for the New 1L Notes contains a "springing maturity" provision whereby those notes would come due in October 2024 if more than $50 million of the 2024 Original Secured Notes remained outstanding as of that date. The 2024/2026 Holders own more than that amount of the 2024 Original Secured Notes, practically ensuring that the provision would be triggered. The New 1L Notes would also be paid before the Original Secured Notes are paid from the Collateral because the New 1L Notes are purportedly secured while the Original Secured Notes are purportedly unsecured.

162. In total, to effectuate the Insider Transaction, the Counterclaim Defendants simultaneously executed at least:

- Six amendments to the notes indentures, including the Unauthorized Amendments to the Governing Indentures and two other supplemental indentures for the Unsecured Notes (*see* Adv. Pro., Docket No. 12-7; 12-8; 12-10; 12-11; 12-13; and 12-14);

- One note purchase agreement pursuant to which the Company issued the Phantom Notes (the "Phantom Note Purchase Agreement") (*see* Adv. Pro., Docket No. 12-15);

- One exchange agreement pursuant to which the Favored Noteholders—including the Platinum Fund and the Platinum-Controlled Parent—exchanged their existing Original Secured Notes (plus the Phantom Notes) and/or their unsecured notes for the New 1L Notes and New 1.25L Notes, respectively (the "Exchange Agreement") (*see* Adv. Pro., Docket No. 12-18); and

- Two new indentures pursuant to which the Company issued the New 1L Notes and New 1.25L Notes (*see* Adv. Pro., Docket No. 12-16 and 12-17).

(collectively, the "Insider Transaction Documents").

163. All of the Insider Transaction Documents were, upon information and belief, prepared before March 28, 2022. And the Insider Transaction Documents include signatures that were affixed before March 28, 2022.

164. Likewise, all of the Insider Transaction Documents were prepared and executed with the understanding that they constituted a single transaction and were prearranged to accomplish one purpose: the Insider Transaction. For example:

- The Favored Noteholders provided authorization letters to consent to the Third Supplemental Indenture and the Fourth Supplemental Indenture that ***pre-date*** March 28, 2022, the date of the Insider Transaction.

- The authorization letters to consent to the Third Supplemental Indenture "make reference" to both the Third Supplemental Indenture ***and*** the Exchange Agreement.

- The Exchange Agreement specifically recites that it was entered into "in connection with" the Phantom Note Purchase Agreement and "to enter into" the Fourth Supplemental Indenture, and it separately refers to the "Additional 2026 [Original Secured] Notes"—i.e., the Phantom Notes—when reciting the basis for asserting supermajority consent.

- The Favored Noteholders themselves, in their briefing in the First New York Action, labeled the Unauthorized Amendments, and the Insider Transaction, as a "package deal." *SSD Investments Ltd., et al. v. Wilmington Savings Fund Society, FSB, et al.*, Index No. 654068/2022, Docket No. 117, at 14.

- The Company's counsel described the Insider Transaction in open court as "one liquidity transaction," noting that while it consisted of "steps [that] are sequential, they're all part of the same transaction." *See* Transcript of June 6, 2023 Emergency Motion Hearing, Case No. 23-03091, Adv. Pro., Docket No. 38, at 44:13-16.

165. The Insider Transaction Documents refer to each other numerous times, and they make no business sense unless they are considered as part of a single, integrated transaction.

166. For example, no rational economic holder of the Original Secured Notes would vote to strip themselves of their security interests in the Collateral without being assured by the Company in advance that their Notes would simultaneously be exchanged for New 1L Notes. Likewise, no rational investor would have purchased the Phantom Notes at or near par but for the

precondition that they would be simultaneously exchanged by the Company for the New 1L Notes given that the Original Secured Notes were trading at approximately 84 cents before news leaked of a potential transaction.

167. In the Unsecured Roll-up, the Carlyle Noteholders exchanged more than half of all Unsecured Notes for new, secured 1.25L notes at par, even though the Unsecured Notes were trading at approximately 40 cents. Platinum and the Company directed this lucrative benefit to the Carlyle Noteholders because, as the holders of a majority of the Unsecured Notes, their consent was necessary to carry out the other aspects of the integrated Insider Transaction. Notably, the Carlyle Group was a previous owner of the Company.

168. The Platinum Fund's participation in the Unsecured Roll-up had no valid business justification for the Company. That is because the Unsecured Indenture provides that Unsecured Notes held by the Company or its affiliates are disregarded for voting purposes. *See* Adv. Pro., Docket No. 12-18 at § 9.02. In turn, "Affiliate" is defined to include entities with control over the Company. The Platinum Fund is therefore an Affiliate and its holdings of Unsecured Notes would not count when calculating voting majorities. Because the Platinum Fund and the Company are "Affiliates," as defined by the Unsecured Indenture, they were prohibited from voting their Unsecured Notes in connection with any proposed amendments, supplements, or waivers. Thus, there was no justification for the Company to extend the Platinum Fund the same opportunity as the Carlyle Noteholders to participate in the Unsecured Roll-up. Nevertheless, the Platinum Fund was able to exchange its Unsecured Notes for the vastly more valuable secured New 1.25L Notes.

169. Similarly, there was no valid business justification for the Company to include the $25 million unsecured promissory note held by the Platinum-Controlled Parent in the Unsecured Roll-up. Upon information and belief, the consent of the Platinum-Controlled Parent under that

promissory note was not required to amend the Governing Indentures. Nevertheless, as part of the Unsecured Roll-up, the Platinum-Controlled Parent exchanged its $25 million unsecured promissory note for the vastly more valuable New 1.25L Notes.

170. Moreover, after the Insider Transaction closed, the Company and the Favored Noteholders proceeded to engage in several follow-on exchanges under the Exchange Agreement and the Phantom Note Purchase Agreement that appear to have been done at face value when the Original Secured Notes were generally trading anywhere from 50-70 cents on the dollar, with some exchanges made shortly before the petition date when the notes were trading at less than 12 cents. Through these follow-on exchanges, the Favored Noteholders thus appear to have obtained a further windfall and enhanced their position.

V. Breaches of the Governing Indentures.

a. Breaches of the 2026 Original Secured Note Indenture.

171. Section 2.01(e) of the Governing Indentures requires that the Company's "ability to issue Additional Secured Notes shall be subject to the [Company's] compliance with Sections 4.09 and 4.12 hereof." Section 4.12, in turn, provides that "[t]he [Company] will not, and will not permit any Subsidiary Guarantor, if any, to, ***directly or indirectly***, create, incur, assume or suffer to exist any Lien of any kind (other than Permitted Liens), securing Indebtedness of the Issuer." (Emphasis added.)

172. The Company violated these provisions of the Governing Indentures by issuing Additional Secured Notes—a.k.a., the Phantom Notes— "to ***directly or indirectly*** create, incur, assume or suffer to exist any Lien of any kind" other than Permitted Liens.

173. The Phantom Notes were issued by the Company, at the direction of the Platinum-Controlled Parent and the Platinum Sponsor and with the approval of the Board and complicity of the Favored Noteholders, in breach of the Governing Indentures.

174. Additionally, Section 9.02 of the 2026 Original Secured Note Indenture provides that, "without the consent of 66⅔ percent in aggregate principal amount of the 2026 Secured Notes ***then outstanding***"—which the Company ***did not*** have—"no amendment, supplement or waiver may (1) ***have the effect*** of releasing all or substantially all of the Collateral from the Liens created pursuant to the Security Documents . . . or changing or altering the priority of the security interests of the Holders of the 2026 [Senior] Secured Notes[.]" Section 9.02 also prohibits any amendments that "(2) make ***any*** change in the Security Documents, the Intercreditor Agreements or the provisions in this Indenture dealing with the application of proceeds of the Collateral ***that would adversely affect*** the Holders of the 2026 [Senior] Secured Notes or (3) ***modify*** the Security Documents or the provisions of this Indenture dealing with Collateral ***in any manner adverse*** to the Holders of the 2026 [Senior] Secured Notes in any material respect[.]"

175. The Phantom Notes could not grant the supermajority consent required to approve the Unauthorized Amendments.

176. For example, under the terms of the Governing Indentures, the phrase "***then*** outstanding" can refer only to 2026 Original Secured Notes outstanding ***before*** consent is given. The Phantom Notes were not "then-outstanding" when the Counterclaim Defendants effected the Insider Transaction, which was executed via multiple documents, but are part of a single integrated agreement under applicable New York law. Furthermore, the Phantom Notes were not "then outstanding" when authorization letters were obtained before March 28, 2022.

177. For these and the other reasons set forth herein, the Phantom Notes are a nullity for purposes of the consent requirement under Section 9.02.

178. The Company did not have supermajority consent for the Insider Transaction, and thus the Company breached all three disjunctive subsections of Section 9.02 requiring

supermajority consent because the Unauthorized Amendments (1) "ha[d] the effect" of "releasing all or substantially all of the Collateral from the Liens created pursuant to the Security Documents . . . or changing or altering the priority of the security interests of the Holders of the 2026 Secured Notes," (2) changed provisions in the relevant documents dealing with the application of proceeds of the Collateral that adversely affected the holders of the Original Secured Notes, and (3) modified the relevant documents dealing with the Collateral in a manner materially adverse to the holders of the Original Secured Notes.

179. The Company likewise violated the Governing Indentures by, among other things, authorizing and issuing secured indebtedness that was neither Permitted Indebtedness nor consented to by a supermajority.

180. Any interpretation of the Governing Indentures advanced by the Counterclaim Defendants that purportedly allows supermajority consent requirements to be circumvented by the issuance of Phantom Notes would render Section 9.02, as well as Sections 4.09 and 4.12, meaningless. For example, if the Company, the indenture trustee, and a simple majority of Original Secured Notes could collude to amend the Governing Indentures so that a simple majority of holders could vote as a purported supermajority that was lacking immediately before their scheme (and obtained only because of their scheme), the supermajority consent requirement is meaningless. This would eviscerate supermajority consent rights and the restrictions on issuing additional notes, which are specifically negotiated by sophisticated market participants to protect against transactions like the Insider Transaction.

b. Breaches of both the 2024 Original Secured Note Indenture and the 2026 Original Secured Note Indenture.

181. Section 9.02 of the Governing Indentures provides that without the consent of each *"**affected**"* holder—which the Company did not have for the Insider Transaction—it cannot "make

any change to, or modify the ranking of the [Original] Secured Notes in respect of right of payment that would adversely affect the Holders of the [Original] Secured Notes[.]"

182. The Insider Transaction made a change to or modified the ranking of the 2024/2026 Holders' Original Secured Notes in respect of right of payment, including by purporting to strip the 2024/2026 Holders' Liens and to issue New 1L Notes with a "springing maturity" so that they would come due before the Original Secured Notes. The Insider Transaction thus purported to put the Original Secured Notes at the back of the line for payment, allowing the Favored Noteholders to jump ahead and leave the 2024/2026 Holders holding the proverbial empty bag.

183. The Company did not have the consent of all holders of the Original Secured Notes "affected" by the Insider Transaction.

184. Because the Insider Transaction made a "change to" or "modif[ied]" the "ranking of the Secured Notes in respect of right of payment that would adversely affect the Holder of the Secured Notes" without the consent of all "affected" holders, the Insider Transaction breached both the 2024 Original Secured Note Indenture and the 2026 Original Secured Note Indenture.

185. Additionally, the Original Secured Notes redeemed or purchased in the Insider Transaction were not selected by the indenture trustee pro rata, by lottery, or by any other "fair and appropriate" method, as required by Section 3.02.

c. Complicity of WSFS as successor trustee.

186. The Bank of New York Mellon Trust Company, N.A. ("BNY") initially served as indenture trustee for the Governing Indentures. Not coincidentally, however, in the run-up to the Insider Transaction, BNY resigned as indenture trustee and was replaced by WSFS with the consent of the Favored Noteholders. Upon information and belief, Platinum and the Favored Noteholders needed a conduit that would violate the Governing Indentures in a manner that favored them and harmed the 2024/2026 Holders. They appointed WSFS.

187. As an initial matter, WSFS was never eligible under the Governing Indentures to serve as indenture trustee. Under Section 7.10 of the Governing Indentures, the indenture trustee must be a "corporation or national banking association organized and doing business under the laws of the United States of America or of any state thereof." WSFS is a federal savings bank organized under the Home Owners' Loan Act. WSFS is thus neither a "corporation" nor a "national association."

188. The Unauthorized Amendments—which WSFS signed purportedly on behalf of all holders of the Original Secured Notes—are violently detrimental to the rights of those Notes. For example, Section 3(b) of the Fourth Supplemental Indenture purported to release the Liens in the Collateral securing the 2024/2026 Holders' Notes and directs that WSFS as Notes Collateral Agent "take all actions . . . to provide evidence that the Liens shall cease to secure" the 2024/2026 Holders' Notes. Also, Section 2(a) of the Fourth Supplemental Indenture purported to delete Sections 6.01(9) and (10) of the Governing Indentures, which trigger Events of Default when any material provision of the Security Documents or Intercreditor Agreements cease to be in full force and effect, or if the Liens lose their priority. The Insider Transaction triggered Events of Default under both of those provisions.

189. The Insider Transaction also attempted to entrench WSFS and thereby impede litigation by holders of the Original Secured Notes harmed by the Insider Transaction, such as the 2024/2026 Holders. The Unauthorized Amendments purport to delete the second sentence of Section 7.08(c) of the Governing Indentures, which gives holders with more than 50 percent of each of the 2026 Original Secured Notes and 2024 Original Secured Notes the right to remove and replace any successor trustee (as WSFS was) with a trustee of their choosing within a year of that trustee's appointment. The Insider Transaction did not, however, similarly delete the first sentence

of Section 7.08(c), which allows the Company itself to appoint a new successor trustee if WSFS were removed for any reason, including by the majority of holders. And tellingly, the Insider Transaction preserved the rights of the Favored Noteholders to select their own replacement trustee: the indentures for their New 1L Notes and the New 1.25L Notes both include the provision purportedly deleted from Section 7.08(c) of the Governing Indentures.

190. Finally, underscoring the damage that WSFS and the Company set out to inflict upon holders of the Original Secured Notes, the Unauthorized Amendments attempted to remove substantially all protective covenants from the Governing Indentures, including:

Section of the Governing Indentures	**Description of Covenant**	**Impact of Amendment on Covenant**
4.07 (Restricted Payments)	Restricted Issuer's and its restricted subsidiaries' ability to pay dividends or other distribution payments with respect to equity interests, purchase, redeem or otherwise acquire any equity interests of the Issuer or make voluntary payments on junior secured debt or restricted investments.	COVENANT DELETED
4.08 (Dividend and Other Payment Restricts Affecting Restricted Subsidiaries)	Restricted Issuer's restricted subsidiaries' ability to pay dividends or make distributions, make loans or advances or sell or transfer any of its properties or assets to the Issuer or any Restricted Subsidiaries.	COVENANT DELETED
4.09 (Incurrence of Indebtedness and Issuance of Disqualified Stock or Preferred Stock)	Restricted Issuer's and its restricted subsidiaries' ability to incur or guarantee debt and issue equity.	COVENANT DELETED
4.10 (Asset Sales)	Restricted Issuer's and its restricted subsidiaries' ability to sell assets below fair market value.	COVENANT DELETED
4.11 (Transactions with Affiliates)	Restricted Issuer's and its restricted subsidiaries' ability to sell, lease or transfer its properties or assets or enter into agreements with its affiliates.	COVENANT DELETED
4.12 (Liens)	Restricted Issuer's and its restricted subsidiaries' ability to incur new liens.	COVENANT DELETED

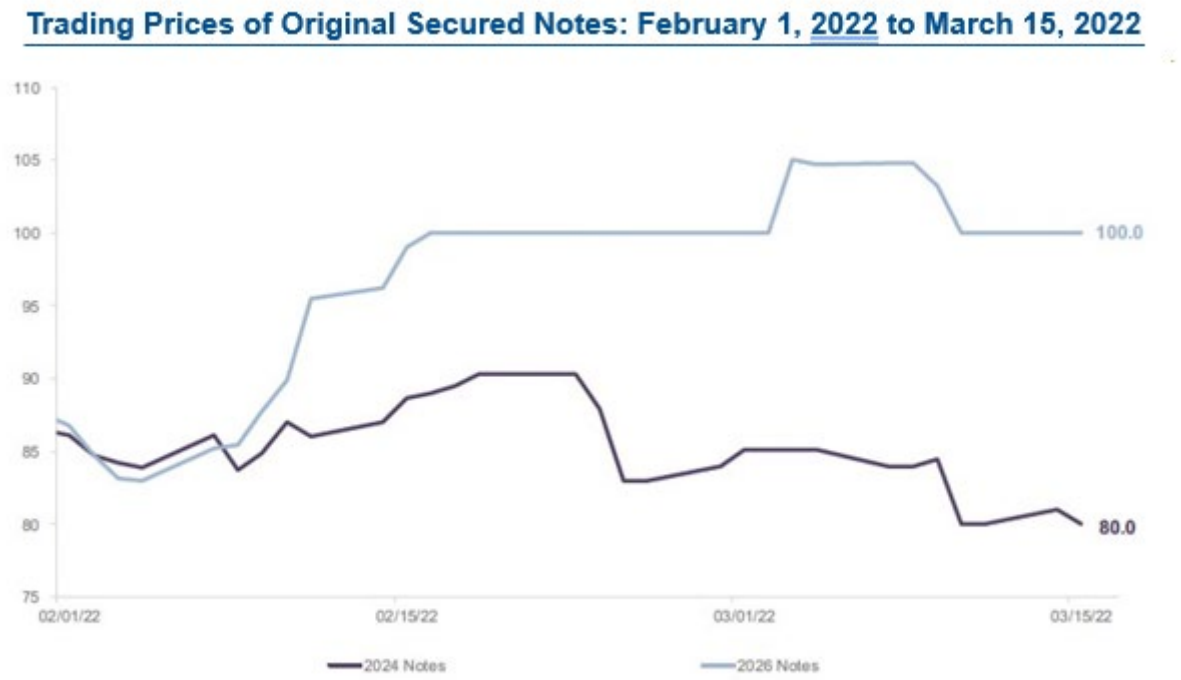
Section of the Governing Indentures	Description of Covenant	Impact of Amendment on Covenant
4.13 (Corporate Existence)	Required Issuer to preserve its corporate existence.	COVENANT DELETED
4.14 (Offer to Repurchase Upon Change of Control)	Gave holders the right to purchase a portion of the secured notes following a change of control.	COVENANT DELETED
4.15 (Permitted Activities of Holdings)	Restricted Holdings ability to engage in business outside of owning the equity interest in Issuer.	COVENANT DELETED
4.16 (Future Guarantees)	Required certain new wholly owned domestic subsidiaries to guaranty the secured notes.	COVENANT DELETED
4.26 (Negative Pledge)	Restricted Issuer's and its restricted subsidiaries' ability to pledge the collateral.	COVENANT DELETED

VI. The Market, Platinum, and the Favored Noteholders Share the 2024/2026 Holders' Interpretation of the Supermajority Protections of the Governing Indentures.

191. In February 2022, certain members of the Ad Hoc Group joined together to form a position greater than one-third of outstanding 2026 Original Secured Notes in response to market rumors about a potential out-of-court restructuring. Through its holdings in the 2026 Original Secured Notes, the Ad Hoc Group (as it was then constituted) sought to block any transaction that would release their security interests in the Collateral without their consent.

192. Upon information and belief, when certain Favored Noteholders learned of the formation of the Ad Hoc Group and its goal of securing a blocking position of one-third of the outstanding 2026 Original Secured Notes, those Favored Noteholders rushed to acquire enough 2026 Original Secured Notes in the secondary market to overcome the blocking position. Upon information and belief, the Favored Noteholders did so because they knew that a Lien-stripping transaction of the kind discussed in press reports at the time required the consent of two-thirds of the outstanding 2026 Original Secured Notes.

193. As reflected in the chart below, the 2026 Original Secured Notes and 2024 Original Secured Notes were both trading at roughly 85 cents on the dollar on February 7, 2022, when rumors of a potential transaction first leaked. By early March 2022, the market price of 2026 Original Secured Notes reached 105 cents on the dollar, while the market price of 2024 Original Secured Notes (secured by the exact same Collateral and with an earlier maturity date) remained relatively unchanged.



194. The bidding war for the 2026 Original Secured Notes—to obtain either a one-third blocking position or a two-thirds supermajority position—demonstrated that the Counterclaim Defendants, the 2024/2026 Holders, and the market all understood the supermajority requirements in the 2026 Original Secured Note Indenture required two-thirds consent for the out-of-court restructuring discussed in news reports in February 2022. Said differently, the market and its

sophisticated participants correctly understood that a release of Liens ***could not*** be consummated without the consent of, at least, a supermajority of the holders of the Original Secured Notes.

195. The Favored Noteholders' scramble to neutralize the Ad Hoc Group by acquiring a supermajority of 2026 Original Secured Notes ultimately failed. By late February 2022, the Ad Hoc Group's aggregate holdings of 2026 Original Secured Notes exceeded one-third of the notes then outstanding. However, upon information and belief, certain Favored Noteholders falsely claimed to other investors, broker-dealers, and the market that they had a supermajority of 2026 Original Secured Notes and could therefore execute a Lien-stripping transaction, again showing that the Counterclaim Defendants understood the importance of holding a supermajority of the 2026 Original Secured Notes.

196. Upon information and belief, Platinum and the Favored Noteholders understood that the transaction contemplated as of February 7, 2022 could not be completed without obtaining the consent of a supermajority of the 2026 Original Secured Notes outstanding as of that date.

197. Upon information and belief, based on the events outlined above, the Company and WSFS—like the rest of the market—understood that the Governing Indentures required a supermajority to release the Liens on Collateral securing the 2024/2026 Holders' Notes. Nevertheless, they proceeded with the Insider Transaction.

198. The Counterclaim Defendants knew that the Insider Transaction would be challenged in court. The terms of the New 1L Notes and 1.25L Notes indentures allowed the Company to issue enough additional New 1.25L Notes to allow it to exchange the Original Secured Notes left outstanding after the Insider Transaction. The main, if not sole, purpose of that provision was apparently to create a "settlement basket" of New 1.25L Notes that could be used to settle claims brought by the Ad Hoc Group or other holders of unexchanged Original Secured

Notes. These New 1.25L Notes, however, would be subordinated: they would rank junior to the New 1L Notes issued to Favored Noteholders (who were previously pari passu with the 2024/2026 Holders), and they would rank pari passu with the New 1.25L Notes issued to the participants in the Unsecured Roll-up (who were previously junior to the 2024/2026 Holders).

VII. The Preordained and Self-interested Nature of the Insider Transaction Shows the Counterclaim Defendants' Bad Faith Toward the 2024/2026 Holders.

199. Unbeknownst to the Ad Hoc Group, their proposals for alternative financing were futile from the start. The Company had, upon information and belief, determined under the dominion of Platinum to proceed with a transaction favorable to the Platinum Creditors and the other Favored Noteholders.

200. The lack of engagement by the Company with the Ad Hoc Group makes plain Platinum's and the Board's intention to exclusively pursue the Insider Transaction. The information provided by the Company to the Ad Hoc Group under the Confidentiality Agreements was so limited, and so delayed, as to render such information practically useless.

201. Before and after the Insider Transaction, the Company also failed to implement appropriate governance protocols to counteract Platinum's insider status.

202. For example, instead of taking steps to ensure that an independent Board fulfilled its duties while insolvent, the Board dominated by Platinum appointed only a single supposedly "independent" director—Mr. Bartels. And Mr. Bartels was not appointed to the Board of the Company or any of the Guarantor Defendants. He was instead appointed to the board of Wolverine Intermediate, alongside multiple senior executives and officers of the Platinum Sponsor. And it was not Mr. Bartels who approved the Insider Transaction; rather, it appears that the Board of Wolverine Intermediate as a whole (including its ***interested*** directors) approved the Insider Transaction. Mr. Carney's first-day declaration suggests, at paragraph 79, that the entire Board

(consisting of all but one insider), which merely included Mr. Bartels, approved the Insider Transaction, stating:

> The board of directors, including Mr. Bartels as an independent director, carefully considered each proposal Incora received in light of all circumstances. Ultimately, the board determined that the best financing terms came from the Majority Noteholders.

203. Although Mr. Bartels had been tasked with overseeing the Company's increasingly urgent efforts to raise liquidity, upon information and belief, he was not provided with independent legal and financial advisors to advise him in the exercise of his duties. Mr. Bartels was therefore required to rely on the legal and financial advisors engaged by the Company, Wolverine Intermediate, and/or its "interested" directors in approving the Insider Transaction.

204. Furthermore, the Company never engaged in a *bona fide* bidding process for a restructuring. While Mr. Bartels, it appears, was formally engaged by the Company on February 8, 2022, he was contacted about service as an independent director for a potential transaction as early as November 1, 2021. And yet, at no point did the Company or its advisors reach out to the minority holders. Instead, upon information and belief, the Company negotiated with the Platinum Creditors (who were acting through their agent, the Platinum Sponsor) and the other Favored Noteholders behind closed doors until news of a potential transaction leaked in February 2022, more than three months later.

205. The Company's failure to undertake a fair and competitive financing process aimed at achieving the highest and best proposal can be explained by Platinum's dominance over the Company and Platinum's desire to ensure that it protected its own interests through the Insider Transaction to the direct detriment of the 2024/2026 Holders.

206. Platinum, upon information and belief, used its control and insider status to ensure the defeat of any proposal put forward by the Ad Hoc Group as an alternative to the Insider

Transaction. Platinum, at all times, preferred the Insider Transaction because, in contrast to the Ad Hoc Group's Bids, the Insider Transaction gave (i) the Platinum Fund the ability to exchange its Unsecured Notes for newly issued secured notes, and (ii) the Platinum-Controlled Parent the ability to exchange its unsecured promissory note for those same newly issued secured notes, each time for no valid consideration to the Company because the Platinum Fund's votes as an "Affiliate" were not counted and because, upon information and belief, the consent of the Platinum-Controlled Parent under its separate promissory note was not required.[9]

207. The Ad Hoc Group's Bids were less beneficial for Platinum but met the Company's stated liquidity needs at the time, which the Company initially told the Ad Hoc Group were around $200 million. Subsequently, the Company revised its liquidity needs to $250 million, without providing the Ad Hoc Group with the underlying data to justify such a change. Under the Ad Hoc Group's Bids, the Company would have had access to the needed liquidity through a combination of new capital, cash interest savings, and minor concessions from the Platinum Sponsor—including its waiver of the $7 million annual consulting fee.

208. For their part, the Favored Noteholders, upon information and belief, threatened to block consummation of the Ad Hoc Group's Bids in a coercive manner, by abusing rights those Favored Noteholders otherwise had under the Governing Indentures as holders of a majority, but not a supermajority, of the 2026 Original Secured Indentures—such as directing the indenture trustee and collateral agent to take (or not take) certain actions in furtherance of consummating a transaction advanced by the Ad Hoc Group.

[9] The waiver by the Platinum Sponsor of its management fee was insignificant in comparison to the lucrative benefits bestowed upon the Platinum Fund and the Platinum-Controlled Parent, i.e. the exchange of unsecured notes for secured notes.

209. Rather, upon information and belief, the Favored Noteholders preferred a deal that caused harm to the minority holders by transferring value from such minority holders to the Favored Noteholders via a non-pro rata transaction, even though opening a transaction to all holders of the Notes as proposed by the Ad Hoc Group would have met the Company's projected liquidity needs communicated at the time, protected the minority holders' Liens, and minimized the risk and expense of follow-on litigation.

210. The Counterclaim Defendants, indeed, knew that litigation was the inevitable outcome of the Insider Transaction and, indeed, was specifically warned of such by counsel for the Ad Hoc Group in writing before the Company proceeded with the Insider Transaction. That knowledge is further demonstrated by the Counterclaim Defendants' attempt to entrench a successor indenture trustee, the off-market provisions in the Confidentiality Agreements (as defined and discussed in Paragraph 218, below), and the "settlement basket" in the new indentures.

211. Yet, knowing this very litigation was certain, the Board, controlled by Platinum, made the litigation exponentially more expensive for the Company, and more favorable to the Platinum Creditors and other Favored Noteholders, by choosing the self-interested proposal that purported to indemnify each of the Platinum entities and the Favored Noteholders in the Exchange Agreement, including for legal fees and expenses arising from the Insider Transaction. That is to say, the Insider Transaction purports to require the Debtors to not only bear their own legal fees and expenses but those for the Platinum Sponsor, the Platinum Creditors, and the other Favored Noteholders.

212. Indemnity provisions are ***not*** common in high-yield notes indentures, and they are not included in the Governing Indentures, nor were they part of the Ad Hoc Group's Bids. The addition of indemnification provisions to the indentures of the New 1L Notes and New 1.25L

Notes by incorporating the indemnity provisions of the Exchange Agreement is further evidence of the Counterclaim Defendants' bad faith.

213. The Debtors now repeatedly refer to the costs associated with litigation as one of the driving causes of their bankruptcy filings. *See*, *e.g.*, Carney Decl. ¶ 89 (claiming that the New York litigation "ha[s] placed considerable strain on the Debtors"); Adv. Pro., Docket No. 1 ¶¶ 8, 9; Docket No. 3 ¶ 30. The indemnity does not apply, however, to the willful misconduct of an indemnified person.

214. Platinum and the Debtors were unwilling to make any concessions and were so intent on completing the Insider Transaction that, upon information and belief, they never seriously considered the Ad Hoc Group's Bids that were open to all secured noteholders, which would have reduced, if not altogether avoided, the litigation risk.

215. Rather, Platinum, the Platinum-controlled Board, and the Debtors favored the Insider Transaction that benefitted the Platinum Creditors and the Platinum Sponsor. Indeed, except for Mr. Bartels, every other Board member was a senior executive and/or employee of the Platinum Sponsor. Eventually, the entire Board, including these interested directors, approved the Insider Transaction. Hence, upon information and belief, all members of the Board, including Mr. Bartels, knew the harm the Insider Transaction would inflict upon the 2024/2026 Holders: that is, moving hundreds of millions of dollars of value from the 2024/2026 Holders to the Platinum Creditors and the Favored Noteholders.

216. The pre-ordained nature of the Insider Transaction is further evidenced by, among other things, the confidentiality agreements that the Company insisted that the Ad Hoc Group's advisors sign before being granted access to limited diligence about the Company (the "Confidentiality Agreements"). The Confidentiality Agreements contained an unusual provision

that purported to restrict the Ad Hoc Group's advisors from using—or ever referring to—certain communications in a subsequent litigation, even if those communications did not constitute "Confidential Information" as defined by those Confidentiality Agreements. That same provision also purported to dictate whether certain communications could be introduced as evidence in a subsequent litigation. In hindsight, if the Company had intended to negotiate with the Ad Hoc Group in good faith, there would have been no need for these draconian, unusual, and off-market provisions. The Confidentiality Agreements thus show the Company's expectation that a deal with the Platinum Creditors that excluded the Ad Hoc Group was a foregone conclusion and would lead to litigation.

217. The Debtors' bad faith, moreover, did not end with the Insider Transaction. After the Insider Transaction closed, the Debtors refused the Ad Hoc Group's request to provide the agreements prepared in connection with the transaction (commonly referred to as a "closing set") and a list of fiduciaries involved in the transaction's approval.

VIII. The "No-action" Provision is Not a Barrier to the Amended Counterclaims.

218. Pursuant to the Scheduling Order, all Counterclaim Defendants have waived any defense they might have otherwise asserted based on the "no-action" clauses in the Governing Indentures. Further, and in any event, the consent rights of the 2024/2026 Holder that were breached by the Insider Transaction are unique to each such holder and exempted under applicable law from the Governing Indentures' no-action provision. And apart from that governing principle, and even if the so-called "no-action" provision in the Governing Indentures had applied to the 2024/2026 Holders' claims and not been waived by the Scheduling Order, adherence would have been futile because of the Company's bad faith and the trustees' conflicts.

a. WSFS.

219. The Company appointed WSFS as successor trustee, and it assumed that role just two weeks before the Insider Transaction closed on March 28, 2022.

220. WSFS accepted the role of indenture trustee for the Original Secured Notes knowing that the Company intended to strip the Liens securing the payment of those Notes.

221. WSFS allowed the 2024/2026 Holders' Liens on the Collateral to be released and transferred to Platinum and other Favored Noteholders without the requisite consent of affected holders. The Ad Hoc Group members who held over one-third of all such votes for the 2026 Original Secured Notes did not consent to the release of their Liens. Nor did all affected holders consent to a modification in the ranking of their rights of payment. The Insider Transaction was therefore not permitted. Yet WSFS and the Company effected the Insider Transaction by issuing additional secured notes in violation of Sections 2.01, 4.09, and 4.12, stripping the Liens without requisite consent in violation of Section 9.02 of the Governing Indentures, and redeeming or purchasing Notes in violation of Section 3.02.

222. Additionally, WSFS entrenched itself as indenture trustee in an attempt to shield itself and the other Counterclaim Defendants from litigation by removing the provision in Section 7.08(c) of the Governing Indentures that would permit the 2024/2026 Holders, now as majority holders of the 2026 Original Secured Notes, to remove and replace WSFS, as successor trustee, with a trustee of their own choosing at any time within the first year of WSFS's tenure. This not only evinces a guilty conscience on the part of WSFS and the Company but was plainly intended to impose a barrier for the 2024/2026 Holders to appoint a new trustee of their choosing that would, in furtherance of its duties under the Governing Indentures, sue the Counterclaim Defendants,

including WSFS, to repair the damage done to the holders of the remaining Original Secured Notes.

223. On or about May 16, 2023, the Company missed its scheduled interest payments under the Original Secured Notes and other funded indebtedness, and it entered a 30-day grace period under its operative agreements, including the Governing Indentures.

224. On May 21, 2023, certain 2024/2026 Holders (among others) wrote to the Company and WSFS to notify them that they were terminating WSFS as trustee of the Original Secured Notes. The 2024/2026 Holders did so pursuant to Section 7.08(b).

225. The writing explained to the Company that its financial distress, as reflected by the missed interest payment, further underscored the conflicts of interest in WSFS purporting to serve as trustee for all or most of the Company's debt instruments.

226. In that letter, the Company and WSFS were also notified that UMB Bank N.A. ("UMB") had expressed that it was ready, willing, and able to serve as successor trustee to WSFS for the Notes under the Governing Indentures. The letter further provided the contact information for a person at UMB.

227. By receipt of that letter, the Debtors knew that the 2024/2026 Holders wanted UMB to serve as successor trustee to WSFS for the Notes under the Governing Indentures.

b. BOKF.

228. On May 30, 2023, counsel for the 2024/2026 Holders that commenced the First New York Action met and conferred with counsel for WSFS about discovery in the First New York Action. Counsel for WSFS did not inform counsel for the 2024/2026 Holders that WSFS had ceased by then to serve as indenture trustee for the 2024/2026 Notes.

229. On June 1, 2023, however, the Debtors' filings in this Court revealed that BOKF had succeeded to the role of indenture trustee for the 2024 Original Secured Notes, the 2026 Original Secured Notes, and the Unsecured Notes on May 26, 2023.

230. Upon information and belief, the Debtors appointed a successor trustee for the 2024 Original Secured Notes, the 2026 Original Secured Notes, and the Unsecured Notes because a conflict prevented WSFS from serving as trustee for those notes while simultaneously serving in that role for the New 1L Notes and New 1.25L Notes.

231. The Debtors knew that the 2024/2026 Holders had commenced litigation to assert their rights as secured noteholders, but the Debtors appointed BOKF to serve as successor trustee for both the Original Secured Notes and the Unsecured Notes, even though the holders of the Unsecured Notes had not asserted (and could not assert) any rights as secured noteholders.

232. After learning that BOKF had succeeded to the role of indenture trustee for the Original Secured Notes, counsel for the 2024/2026 Holders contacted counsel for BOKF.

233. Counsel for BOKF acknowledged that the 2024/2026 Holders had raised a "concern that an actual conflict may exi[s]t under the indentures and that conflict may require BOK[F] as successor trustee to resign from the 2024/2026 or the 2027 debt issues" because there was a conflict between the interests of the Original Secured Notes and the Unsecured Notes. Counsel for BOKF did not state whether they agreed that there was a conflict but instead stated that "BOK[F] is nonetheless giving consideration to your concern."

234. Upon information and belief, the Company chose not to appoint UMB as successor trustee for the Original Secured Notes in order to deprive the 2024/2026 Holders of their choice of successor trustee.

235. The Company appointed BOKF as successor trustee for the Original Secured Notes and the Unsecured Notes knowing that there was an actual or likely conflict between the previously secured Original Secured Notes and the never-secured Unsecured Notes.

236. Upon information and belief, the Company chose to appoint the same successor trustee for the Original Secured Notes and the Unsecured Notes because of (not in spite of) the conflict, and the disclosure of BOKF's appointment as successor trustee was delayed in order to impede the 2024/2026 Holders' ability to appoint a successor trustee. On July 12, 2023, certain 2024/2026 Holders (among others) holding over a majority of each issuance, through counsel, wrote to the Company and BOKF to notify them that they terminated BOKF as trustee of the Original Secured Notes and to seek the appointment of UMB as successor trustee. The 2024/2026 Holders did so pursuant to Section 7.08(b) of the Governing Indentures. That same day, UMB also wrote to the Company and BOKF to state that it was qualified and prepared to serve as successor trustee under the Indentures for each of the Notes.

237. On July 14, 2023, the Company, through counsel, wrote to counsel to the 2024/2026 Holders contending that the 2024/2026 Holders' July 12, 2023 letter was ineffective to initiate BOKF's removal and that the Governing Indentures, as amended by the Insider Transaction, did not allow the 2024/2026 Holders to select a successor trustee.

238. Despite the Company's contention to the contrary, the 2024/2026 Holders' termination of BOKF was effective under the Governing Indentures and the Company is obstructing the installation of the 2024/2026 Holders' choice of successor trustee arbitrarily and in bad faith, to further its, Platinum's and the Favored Noteholders' objectives.

239. In sum, the Counterclaim Defendants purported to amend the Governing Indentures via the Unauthorized Amendments so that the Company could always have a conflicted Trustee

beholden to the Company in a position that purported to represent the interests of the Original Secured Notes that the Company had wrongfully stripped of their Liens. The Company has twice relied on that amendment to ignore the 2024/2026 Holders' selection of UMB as successor trustee.

240. The Governing Indentures' "no-action" provision in Section 6.06 has been waived by the Counterclaim Defendants and is otherwise inapplicable and unenforceable here.

FIRST CAUSE OF ACTION

DECLARATORY JUDGMENT - DECLARATION OF 2024/2026 HOLDERS' DIRECT STANDING TO BRING CAUSES OF ACTION 2 THROUGH 7
(Against All the Counterclaim Defendants as Named Respectively in such Causes of Action)

241. The 2024/2026 Holders repeat, reallege, and incorporate by reference herein the allegations of paragraphs 1 through 240.

242. Individual creditors such as the 2024/2026 Holders have direct standing to bring claims that are based on injury that is (i) specific and personal to those creditors only and (ii) independent of any injury to the debtor. Here, the 2024/2026 Holders' Causes of Action 2 through 7, as set forth in paragraphs 246 through 309 (below), seek redress for injuries that are unique to a subset of the Debtors' creditors, including the 2024/2026 Holders, and do not arise from an injury to the Debtors.

243. Pursuant to Section 2201 of the Declaratory Judgment Act, 28 U.S.C. § 2201, this Court has the authority to issue declaratory judgments where the facts alleged, under all the circumstances, show that there is an actual controversy, between parties having adverse legal interests, of sufficient immediacy and reality, to warrant the issuance of declaratory judgment.

244. Accordingly, the 2024/2026 Holders seek a judicial declaration that they have direct standing to pursue Causes of Action 2 through 7.

245. Such judicial determination of the foregoing is necessary and appropriate at this time and under these circumstances for the Parties to ascertain their rights and obligations.

SECOND CAUSE OF ACTION

DECLARATORY JUDGMENT - DECLARATION OF LIABILITY FOR BREACH OF CONTRACT (Against the Company, the Guarantor Defendants, and WSFS)

246. The 2024/2026 Holders repeat, reallege, and incorporate by reference herein the allegations of paragraphs 1 through 245.

247. The Company and the Guarantor Defendants are, and WSFS was (at the time of the Insider Transaction), parties to the Governing Indentures. The 2024/2026 Holders who hold the Original Secured Notes are also parties to the Governing Indentures. In the alternative, the 2024/2026 Holders are third-party beneficiaries of the Governing Indentures.

248. In their form prior to the Insider Transaction, the Governing Indentures were valid and enforceable agreements.

249. The 2024/2026 Holders have performed all their obligations under the Governing Indentures.

250. The Unauthorized Amendments, the Phantom Note Purchase Agreement, the Super Senior Indentures, and the Exchange Agreements, together with any other document effecting the Insider Transaction, comprise a single, integrated instrument that is part of the single, integrated Insider Transaction. This single transaction was preordained and executed on or before the date on which each operative document became effective: March 28, 2022. The transaction documents are interwoven, interdependent, were executed by substantially the same parties, and were designed to effectuate one purpose.

251. The Company, the Guarantor Defendants, and WSFS did not have the consent of all necessary holders for the Unauthorized Amendments or any other aspect of the Insider Transaction.

252. The Company, the Guarantor Defendants, and WSFS breached the Governing Indentures, including (i) sections 2.01, 3.02, 4.09, 4.12, and 9.02 of the 2026 Original Secured Note Indenture, and (ii) sections 3.02 and 9.02 of the 2024 Original Secured Note Indenture.

253. Breaches of the Governing Indentures by the Company, the Guarantor Defendants, and WSFS have caused damages to the 2024/2026 Holders or otherwise should be remedied in a manner to be determined after a finding of liability for the Company's, the Guarantor Defendants', and WSFS's breaching conduct.

254. Accordingly, the 2024/2026 Holders seek a judicial declaration that the Debtors and WSFS breached the Governing Indentures as set forth herein.

255. Such judicial determination of the foregoing is necessary and appropriate at this time and under these circumstances for the Parties to ascertain their rights and obligations.

THIRD CAUSE OF ACTION

DECLARATORY JUDGMENT - DECLARATION OF LIABILITY FOR BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING
(Against the Company, the Guarantor Defendants, WSFS, the Silver Point Noteholders, the PIMCO Noteholders, the Senator Noteholder, and the Citadel Noteholder)

256. The 2024/2026 Holders repeat, reallege, and incorporate by reference herein the allegations of paragraphs 1 through 255.

257. The Company and the Guarantor Defendants are, and WSFS was (at the time of the Insider Transaction), parties to the Governing Indentures. The Silver Point Noteholders, the PIMCO Noteholders, the Senator Noteholder, and the Citadel Noteholder who hold the Original Secured Notes are parties to the Governing Indentures by virtue of having purchased the Notes.

258. Under New York law, every contract contains an implied covenant of good faith and fair dealing, which requires contract parties to refrain from doing anything that will have the effect of destroying or injuring the right of the other parties to receive the fruits of the contract.

Because New York law governs the 2026 Original Secured Note Indenture and the 2024 Original Secured Note Indenture, the covenant of good faith and fair dealing is implied in those contracts.

259. The covenant of good faith and fair dealing requires the parties to deal fairly and in good faith with one another and with any intended third-party beneficiaries, and that each party refrain from destroying or injuring the right of the other parties to receive the benefits of the Governing Indentures. Further, the covenant encompasses promises that a reasonable person in the position of the 2024/2026 Holders would be justified in understanding was included in the Governing Indentures.

260. As set forth above, the Governing Indentures provide various protections to the security interests that the Company promised to the secured noteholders, such as the 2024/2026 Holders, in exchange for those holders' provision of financing to the Company. Those security interests and the protections they have under the Governing Indentures, both express and implied, are a central benefit of the agreement. The Governing Indentures likewise impose duties on co-noteholders not to prejudice rights of another, among other things.

261. The 2024/2026 Holders—many of whom purchased their Notes at or near the time of their initial issuance by the Company—were justified in understanding that the Governing Indentures contained explicit, and if not explicit, implicit, undertakings by the Company, the Guarantor Defendants, WSFS and the other secured noteholders (i.e., the Silver Point Noteholders, the PIMCO Noteholders, the Senator Noteholder and the Citadel Noteholder) not to, among other things: (1) abuse (or otherwise encourage, aid, abet or endorse the abuse of) the Company's ability to issue new notes with simple majority approval for the purpose of discharging 2024/2026 Holders' Liens and creating new Unpermitted Liens; (2) dilute consent rights and create an artificial supermajority for the purpose of circumventing the supermajority consent requirements;

(3) use the votes of that artificial supermajority to strip the nonvoting noteholders of their Liens; (4) hand those Liens to a group of Favored Noteholders (which included insiders, i.e. the Platinum Creditors); and (5) impose upon those nonvoting noteholders various impediments to challenge the loss of their Liens through legal action.

262. In short, the 2024/2026 Holders reasonably and justifiably expected that a simple majority of holders of the Notes could not purport to transform itself into a supermajority to circumvent the strictures of the Governing Indentures.

263. Through their creation of and/or participation in the Insider Transaction, the Company, the Guarantor Defendants, WSFS, the Silver Point Noteholders, the PIMCO Noteholders, the Senator Noteholder and the Citadel Noteholder breached the covenant of good faith and fair dealing by engaging in intentional, coercive and/or bad faith actions to destroy the 2024/2026 Holders' reasonable and justifiable contractual expectations.

264. The actions of the Company, the Guarantor Defendants and WSFS set forth herein, moreover, constitute an arbitrary, irrational, and/or bad-faith exercise of their contractual discretion directed towards the 2024/2026 Holders because, among other things, they set out to destroy the reasonable expectations of the 2024/2026 Holders and to strip the fundamental benefit of their bargain, namely their Liens in the Collateral.

265. Likewise, the actions of the Silver Point Noteholders, the PIMCO Noteholders, the Senator Noteholder and the Citadel Noteholder constitute an arbitrary, irrational, and/or bad-faith exercise of their contractual discretion directed towards the 2024/2026 Holders because, among other things, they set out to destroy the reasonable expectations of the 2024/2026 Holders and to strip the fundamental benefit of their bargain, namely their Liens in the Collateral. These Counterclaim Defendants did so by, among other things, (i) using their rights as holders of a

majority, but not a supermajority, of the 2026 Original Secured Notes to cause the Company to subvert the Ad Hoc Group's Bids or participation in a *bona fide* process and (ii) approving the issuance of, and subsequently voting, the Phantom Notes in order to strip the 2024/2026 Holders of their Liens.

266. As further evidence of their bad faith conduct, the Silver Point Noteholders, the PIMCO Noteholders, and the Senator Noteholder consented to the Third Supplemental Indenture to the 2024 Original Secured Note Indenture. This amendment purported to authorize the Company to issue the Phantom Notes under the 2026 Original Secured Note Indenture, even though the issuance of additional secured notes under a different indenture would be contrary to their interests as holders of the 2024 Original Secured Notes. They nevertheless provided their consent to the Third Supplemental Indenture because they knew that their 2024 Original Secured Notes (as well as their 2026 Original Secured Notes) would contemporaneously be exchanged for the super-senior New 1L Notes.

267. The Silver Point Noteholders, the PIMCO Noteholders, the Senator Noteholder, and the Citadel Noteholder likewise consented to the amendments in the Fourth Supplemental Indentures for the Original Secured Notes. This amendment purported to strip their own liens and those of the 2024/2026 Holders. They provided such consents, which again would otherwise be contrary to their interests, because they had contemporaneously agreed to exchange their Original Secured Notes for the New 1L Notes. In doing so, these Favored Noteholders intentionally caused harm to the 2024/2026 Holders holding the Original Secured Notes.

268. Additionally, these Counterclaim Defendants proceeded in secret, did not seek the consent of the Ad Hoc Group, did not offer the Ad Hoc Group the opportunity to participate in the transaction, and acted for an abusive and improper purpose—to injure the 2024/2026 Holders' by

destroying their right to receive the fruits of the contracts at issue, i.e. the bargained-for first-Lien priority rights under the Notes.

269. The breaches of the implied covenant of good faith and fair dealing by the Company, the Guarantor Defendants, WSFS, the Silver Point Noteholders, the PIMCO Noteholders, the Senator Noteholder and the Citadel Noteholder have caused damages to the 2024/2026 Holders or otherwise should be remedied in a manner to be determined after a finding of liability for these Counterclaim Defendants' breaching conduct.

270. Accordingly, the 2024/2026 Holders seek a judicial declaration that the Debtors, WSFS, the Silver Point Noteholders, the PIMCO Noteholders, the Senator Noteholder and the Citadel Noteholder breached Governing Indentures' implied covenant of good faith and fair dealing, as set forth herein.

271. Such judicial determination of the foregoing is necessary and appropriate at this time and under these circumstances for the parties to ascertain their rights and obligations.

272. This Third Cause of Action is being asserted in the alternative to the Second Cause of Action as against the Company, the Guarantor Defendants and WSFS, but not in the alternative as to the Silver Point Noteholders, the PIMCO Noteholders, the Senator Noteholder and the Citadel Noteholder because their bad faith misconduct was complicit with and in furtherance of those other Counterclaim Defendants' breaches of the Governing Indentures.

FOURTH CAUSE OF ACTION

EQUITABLE LIEN
(Against the Company, the Guarantor Defendants, the Platinum Fund, the Platinum-Controlled Parent, and the other Favored Noteholders)

273. The 2024/2026 Holders repeat, reallege, and incorporate by reference herein the allegations of paragraphs 1 through 272.

274. By the Governing Indentures, the 2024/2026 Holders, the Debtors, and indenture trustee entered into (or, in the alternative, the 2024/2026 Holders are third-party beneficiaries of) an express agreement that granted Liens for the benefit of the 2024/2026 Holders to secure obligations arising under the Governing Indentures, and thus demonstrated a clear intent to create a security interest to secure the obligation between them.

275. The parties and any third-party beneficiaries to the Governing Indentures intended for those Liens to be granted on specific assets of the Debtors, as defined and identified in the Governing Indentures as the "Collateral."

276. As a result of the Insider Transaction, the Favored Noteholders converted their Original Secured Notes and Unsecured Notes into far more valuable New 1L Notes and/or New 1.25L Notes, as the case may be, which are purportedly secured by the exact same "Collateral." The Platinum-Controlled Parent similarly converted its $25 million unsecured promissory note into New 1.25L Notes secured by the "Collateral." WSFS was appointed as indenture trustee and compensated for its services.

277. All of these Counterclaim Defendants were enriched at the expense of the 2024/2026 Holders.

278. The Insider Transaction was an illegal and inequitable scheme, and it would be against equity and good conscience for the Counterclaim Defendants to be permitted to retain the fruits of this scheme, including their profits, at the expense of the 2024/2026 Holders.

279. Absent relief sought herein, there exists no adequate remedy at law to restore the 2024/2026 Holders to their rightful position as secured creditors, as they undoubtedly were prior to the Insider Transaction, and avoid an unjust result.

280. Under principles of equity, the 2024/2026 Holders are entitled to equitable liens on the Collateral (as such term is defined in the Governing Indentures) with priority over any liens purportedly held by the Platinum Fund, the Platinum-Controlled Parent, and the other Favored Noteholders by virtue of the New 1L Notes and New 1.25L Notes.

FIFTH CAUSE OF ACTION

EQUITABLE SUBORDINATION
(Against the Platinum Fund, the Platinum-Controlled Parent, and the other Favored Noteholders)

281. The 2024/2026 Holders repeat, reallege, and incorporate by reference herein the allegations of paragraphs 1 through 280.

282. The Platinum Fund, the Platinum-Controlled Parent, and the other Favored Noteholders engaged in inequitable conduct by directing and/or participating in the Insider Transaction, through which they intentionally sought to gain an unfair advantage to the detriment of the 2024/2026 Holders.

283. The Platinum-Controlled Parent and the Platinum Fund (i.e., the Platinum Creditors) are insiders of the Debtors. The Platinum-Controlled Parent's insider status is evidenced by, among other things: (i) its 100% indirect ownership of the Company and its subsidiaries; (ii) its status as a person in control of the Company and its subsidiaries; and (iii) it and the Company being under the common control of the Platinum Sponsor, including via the Platinum-related directors appointed to the Board of Wolverine Intermediate. The Platinum Fund's insider status is evidenced by, among other things: (i) its, upon information and belief, indirect ownership of the Company (through the Platinum-Controlled Parent); (ii) it and the Company being under the common control of the Platinum Sponsor; and (iii) its status as an insider of the Platinum-Controlled Parent by reason of its, upon information and belief, direct or indirect ownership or control of over more than 20% of the voting shares of the Platinum-Controlled

Parent. The conduct of the Platinum-Controlled Parent and the Platinum Fund, as insiders, is subject to rigorous scrutiny.

284. Upon information and belief, the Platinum Creditors dominated and controlled the actions of the Debtors and their Board, including through their agent, the Platinum Sponsor, so that the Platinum Creditors could gain an unfair advantage over the 2024/2026 Holders by causing the release of the 2024/2026 Holders' Liens, and the exchange of the Platinum Creditors' unsecured debt for vastly more valuable New 1.25L Notes, which now rank ahead of the 2024/2026 Holders' Original Secured Notes.

285. Upon information and belief, the Platinum Creditors, including through their agent, the Platinum Sponsor, further exerted their influence over the Company to, for example: (i) procure an off-market indemnification for themselves (and the other Favored Noteholders) in the Exchange Agreement, including for legal fees and expenses arising from the Insider Transaction, and (ii) refuse serious consideration of the Ad Hoc Group's proposals. The Platinum Creditors' inequitable conduct and unfair advantage is further evidenced by their acquisitions—only belatedly revealed to the market—of Unsecured Notes and a $25 million unsecured promissory in 2020, later exchanged for New 1.25L Notes, which on information and belief, the Platinum Creditors acquired to attain a monetizable position in the Company's debt structure as part of a potential restructuring over which the Platinum entities could exercise control.

286. The Favored Noteholders engaged in inequitable conduct by colluding with the Platinum-dominated Debtors to circumvent the protections afforded to the 2024/2026 Holders by the Governing Indentures. Certain Favored Noteholders purchased the Phantom Notes in bad faith to thwart the 2024/2026 Holders' blocking position in the 2026 Original Secured Notes. These Favored Noteholders then used their feigned supermajority of such notes to consent to the release

of all of the 2024/2026 Holders' Liens on their Collateral, and locked in their advantage over the 2024/2026 Holders by exchanging the Phantom Notes for New 1L Notes, which rank ahead of the Original Secured Notes. The Carlyle Noteholders separately engaged in inequitable conduct by consenting to the Insider Transaction and exchanging their Unsecured Notes for vastly more valuable New 1.25L Notes, which likewise rank ahead of the Original Secured Notes, without providing any consideration other than their consent and without providing any new money to the Company.

287. The Insider Transaction stripped the 2024/2026 Holders of their bargained-for Liens and subordinated the 2024/2026 Holders' to more than $1.7 billion in new senior secured debt. No other class or group of the Debtors' creditors were similarly harmed. As a result of those actions, the claims of the Favored Noteholders and the Platinum-Controlled Parent are poised to be repaid before the 2024/2026 Holders receive payment under the Original Secured Notes.

288. Under principles of equitable subordination, in equity and good conscience, any and all claims of the Platinum Fund, the Platinum-Controlled Parent, and the other Favored Noteholders should be subordinated for purposes of distribution, pursuant to Sections 510(c) and 105(a) of the Bankruptcy Code, to the claims of the 2024/2026 Holders.

289. Equitably subordinating the claims of the Platinum Fund, the Platinum-Controlled Parent, and the other Favored Noteholders is not inconsistent with the Bankruptcy Code because the equitable subordination requested is necessary to offset the harm to the 2024/2026 Holders.

SIXTH CAUSE OF ACTION

DECLARATORY JUDGMENT - DECLARATION OF LIABILITY FOR TORTIOUS INTERFERENCE WITH CONTRACT (Against the Platinum Sponsor and, as an Alternative Claim against the Silver Point Noteholders, the PIMCO Noteholders, the Senator Noteholder, and the Citadel Noteholder)

290. The 2024/2026 Holders repeat, reallege, and incorporate by reference herein the allegations of paragraphs 1 through 289.

291. The Platinum Sponsor, as the equity sponsor of the Company, was aware of the Governing Indentures and all of its provisions, including the minority and sacred rights protections discussed herein.

292. The Platinum Sponsor procured the breach of the Governing Indentures, as they existed at the time of the Insider Transaction, by conspiring or coordinating with the Company and its Board, both of which the Platinum Sponsor controlled, and WSFS to complete the Insider Transaction, which, in turn, violated (i) sections 2.01, 3.02, 4.09, 4.12, and 9.02 of the 2026 Original Secured Note Indenture as well as the covenant of good faith and fair dealing implied in the 2026 Original Secured Note Indenture, and (ii) sections 3.02 and 9.02 of the 2024 Original Secured Note Indenture as well as the covenant of good faith and fair dealing implied in the 2024 Original Secured Note Indenture.

293. The Platinum Sponsor's conduct with respect to the Insider Transaction was deceptive and unjustifiable, and motivated by self-interest, bad faith, and malice towards the 2024/2026 Holders. The Platinum Sponsor exercised control over the Company and the Board to ensure approval of the Insider Transaction, and the dismissal of the Ad Hoc Group's Bids, with knowledge that the Insider Transaction would violate the 2024/2026 Holders' rights under the Governing Indentures. The Platinum Sponsor also sought to—and did—cause a transfer of value from 2024/2026 Holders to Platinum.

294. The Platinum Sponsor does not hold a direct ownership interest in the Company. It nevertheless stood on both sides of the Insider Transaction. On the one hand, it served as equity sponsor of the Company and as a person in control of the Company's Platinum-Controlled Parent. On the other hand, it served as investment manager or advisor to the Platinum Creditors that held significant unsecured debt of the Company. As such, the Platinum Sponsor's interests were not aligned with the Company's. Upon information and belief, the Platinum Sponsor improperly exerted its influence over the Company to help procure for the Platinum Creditors a lucrative participation in the Unsecured Roll-up, which the Company had no business reason to provide to the Platinum Creditors and which caused direct harm to the 2024/2026 Holders.

295. If the Silver Point Noteholders, the PIMCO Noteholders, the Senator Noteholder, and the Citadel Noteholder assert that they lack sufficient contractual relationship to the Governing Indentures so as to be liable for breach of contract or the implied covenant of good faith and fair dealing, and such a position is accepted by this Court,[10] they would then be strangers to those contracts, and as such, should be found liable for tortiously interfering with the Governing Indentures to the detriment of the 2024/2026 Holders.

296. The Silver Point Noteholders, the PIMCO Noteholders, the Senator Noteholder, and the Citadel Noteholder, as holders of the Notes, were aware of the Governing Indentures and all of their provisions, including the minority and sacred rights protections discussed herein.

297. The Silver Point Noteholders, the PIMCO Noteholders, the Senator Noteholder, and the Citadel Noteholder procured the breach of the Governing Indentures as they existed at the time of the Insider Transaction.

[10] This argument was raised by the Silver Point and PIMCO Noteholders in the First New York Action but not adjudicated.

298. The conduct of the Silver Point Noteholders, the PIMCO Noteholders, the Senator Noteholder, and the Citadel Noteholder with respect to the Insider Transaction was deceptive and unjustifiable, and motivated by self-interest, bad faith, and malice towards the 2024/2026 Holders.

299. Tortious interference with the Governing Indentures by the Platinum Sponsor, the Silver Point Noteholders, the PIMCO Noteholders, the Senator Noteholder, and the Citadel Noteholder has caused damages to the 2024/2026 Holders or otherwise should be remedied in a manner to be determined after a finding of liability for this tort.

300. Further, the actions of the Platinum Sponsor, the Silver Point Noteholders, the PIMCO Noteholders, the Senator Noteholder, and the Citadel Noteholder in conceiving of, concealing, and executing the Insider Transaction were wanton, malicious, oppressive, and undertaken in gross or reckless disregard of the 2024/2026 Holders' rights.

301. Accordingly, the 2024/2026 Holders seek a judicial declaration that the Platinum Sponsor, the Silver Point Noteholders, the PIMCO Noteholders, the Senator Noteholder, and the Citadel Noteholder tortiously interfered with the Governing Indentures.

302. Such judicial determination of the foregoing is necessary and appropriate at this time and under these circumstances for the Parties to ascertain their rights and obligations.

SEVENTH CAUSE OF ACTION

DECLARATORY JUDGMENT - DECLARATION OF LIABILITY FOR CONVERSION (Against the Platinum Fund, the Platinum-Controlled Parent, and the other Favored Noteholders)

303. The 2024/2026 Holders repeat, reallege, and incorporate by reference herein the allegations of paragraphs 1 through 302.

304. Prior to the Insider Transaction, the 2024/2026 Holders held security interests in the Collateral in the form of Liens. The Liens constituted property interests of the 2024/2026

Holders in specifically identified assets of the Company, and the 2024/2026 Holders had an ownership interest in, and right to possess, such Liens. To the extent of their respective pro rata interests, the 2024/2026 Holders had and have a superior possessory and ownership right in the Liens.

305. Prior to the Insider Transaction, the Platinum-Controlled Parent and certain of the Favored Noteholders (including the Platinum Creditors, the Carlyle Noteholder, and the Spring Creek Noteholder) did not possess any Liens or other security interests in the Collateral.

306. Through the Insider Transaction, and without the 2024/2026 Holders' approval and over their objections, the Platinum Fund, the Platinum-Controlled Parent, and the other Favored Noteholders caused the release of the 2024/2026 Holders' property rights—i.e., their interests in the Liens on the Collateral—and the simultaneous transfer of such property to the Platinum Fund, the Platinum-Controlled Parent, and the other Favored Noteholders. By reason of such release and transfer, the Platinum Fund, the Platinum-Controlled Parent, and the other Favored Noteholders are in possession of the 2024/2026 Holders' valuable property. They have also improperly interfered with the 2024/2026 Holders' property rights.

307. The Platinum Fund, the Platinum-Controlled Parent, and the other Favored Noteholders' possession of, and interference with, the 2024/2026 Holders' property rights is ongoing, as the Counterclaim Defendants contend that the Collateral previously securing 2024/2026 Holders' Liens has now been pledged as security for the New 1L Notes and New 1.25L Notes.

308. The Platinum Fund's, the Platinum-Controlled Parent's, and the other Favored Noteholders' conversion has caused damages to the 2024/2026 Holders or otherwise should be remedied in a manner to be determined after a finding of liability for this tort.

309. Further, these Counterclaim Defendants' actions in conceiving of, concealing, and executing the Insider Transaction were wanton, malicious, oppressive, and undertaken in gross or reckless disregard of the 2024/2026 Holders' rights.

310. Accordingly, the 2024/2026 Holders seek a judicial declaration that the Platinum Fund, the Platinum-Controlled Parent, and the other Favored Noteholders converted the 2024/2026 Holders' property rights.

PRAYER FOR RELIEF

WHEREFORE, the 2024/2026 Holders pray for relief as follows:

i. A declaratory judgment that the 2024/2026 Holders have direct standing to assert Causes of Action 2 through 7 against the Counterclaim Defendants;

ii. A declaratory judgment that the Company, the Guarantor Defendants and WSFS breached the Governing Indentures or, in the alternative, that those Counterclaim Defendants breached the duty of good faith and fair dealing implied by the Governing Indentures;

iii. A declaratory judgment that the Silver Point Noteholders, the PIMCO Noteholders, the Senator Noteholder, and the Citadel Noteholder breached the duty of good faith and fair dealing implied by the Governing Indentures;

iv. An order granting the 2024/2026 Holders equitable liens on "Collateral" securing their Notes (as such term is defined in the Governing Indentures), with such liens taking priority over any liens purportedly held by the Platinum Creditors and the other Favored Noteholders;

v. An order equitably subordinating the claims of the Platinum Creditors and the other Favored Noteholders to the claims of the 2024/2026 Holders;

vi. A declaratory judgment that the Platinum Sponsor tortiously interfered with the Governing Indentures, and, in the event that the Silver Point Noteholders, the PIMCO Noteholders, the Citadel Noteholder and the Senator Noteholder are determined not to have breached the duty of good faith and fair dealing implied by the Governing Indentures due to lack of sufficient relationship to those contracts, a declaratory judgment that those Counterclaim Defendants tortiously interfered with the Governing Indentures;

vii. A declaratory judgment that the Platinum Fund, the Platinum-Controlled Parent, and the other Favored Noteholders converted 2024/2026 Holders' property rights;

viii. An order (i) confirming and/or directing the removal of BOKF as successor trustee under the Governing Indentures and (ii) directing the appointment of an independent non-conflicted successor trustee for the Governing Indentures;

ix. Reasonable costs and expenses, including attorneys' fees in an amount to be determined; and

x. Such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

The 2024/2026 Holders hereby respectfully make a demand for a trial by jury.

Dated: July 31, 2023
Houston, Texas

FOLEY & LARDNER LLP

By: */s/ John P. Melko*

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Counsel to the 2024/2026 Holders

APPENDIX A

ANSWERING ADVERSARY PROCEEDING DEFENDANTS

A. Original Secured Plaintiff & Answering Defendant

1. DELA Depositary & Asset Management B.V.

B. Counterclaim Plaintiffs, Original Secured Plaintiffs & Answering Defendants

2. SSD Investments Ltd.
3. JPMorgan Chase Bank, N.A., as Trustee of the Commingled Pension Trust Fund (Core Plus Bond) of JPMorgan Chase Bank, N.A.
4. JPMorgan Chase Bank, N.A., as Trustee of the Commingled Pension Trust Fund (Short Duration Core Plus) of JPMorgan Chase Bank, N.A.
5. JPMorgan Chase Bank, N.A., as Trustee of the Commingled Pension Trust Fund (Income) of JPMorgan Chase Bank, N.A.
6. JPMorgan Chase Bank, N.A., as Trustee of the Commingled Pension Trust Fund (Corporate High Yield) of JPMorgan Chase Bank, N.A.
7. JPMorgan Chase Bank, N.A., as Trustee of the Commingled Pension Trust Fund (High Yield) of JPMorgan Chase Bank, N.A.
8. JPMorgan Investment Funds, on behalf of its sub-fund Global High Yield Bond Fund
9. JPMorgan Investment Funds, on behalf of its sub-fund Income Opportunity Fund
10. JPMorgan Investment Funds, on behalf of its sub-fund Global Income Fund
11. JPMorgan Investment Funds, on behalf of its sub-fund Global Income Conservative Fund
12. JPMorgan Funds, on behalf of its sub-fund US High Yield Plus Bond Fund
13. JPMorgan Funds, on behalf of its sub-fund Income Fund
14. JPMorgan Funds, on behalf of its sub-fund Global Bond Opportunities Sustainable Fund
15. JPMorgan Funds, on behalf of its sub-fund Global Bond Opportunities Fund
16. iShares Public Limited Company, on behalf of its sub-fund iShares Global High Yield Corp Bond UCITS ETF
17. iShares II Public Limited Company, on behalf of its sub-fund iShares $ High Yield Corp Bond UCITS ETF
18. iShares Trust, on behalf of its series iShares iBonds 2026 Term High Yield and Income ETF
19. iShares Trust, on behalf of its series iShares Broad USD High Yield Corporate Bond ETF
20. iShares Trust, on behalf of its series iShares 0-5 Year High Yield Corporate Bond ETF
21. iShares Trust, on behalf of its series iShares iBoxx $ High Yield Corporate Bond ETF
22. iShares Trust, on behalf of its series iShares iBonds 2024 Term High Yield and Income ETF
23. BlackRock Institutional Trust Company, N.A., acting in its capacity as Trustee of the U.S. High Yield Bond Index Non-Lendable Fund B
24. iShares VI Public Limited Company, on behalf of its sub-fund iShares Global High Yield Corp Bond GBP Hedged UCITS ETF (Dist)
25. iShares VI Public Limited Company, on behalf of its sub-fund iShares Global High Yield Corp Bond CHF Hedged UCITS ETF (Dist)

26. iShares IV Public Limited Company, on behalf of its sub-fund iShares $ Short Duration High Yield Corp Bond UCITS ETF
27. iShares Trust, on behalf of its series iShares Core 1-5 Year USD Bond ETF
28. iShares U.S. High Yield Fixed Income Index ETF (CAD-Hedged), by its trustee, manager and portfolio adviser BlackRock Asset Management Canada Limited
29. iShares Trust, on behalf of its series iShares Core Total USD Bond Market ETF
30. iShares U.S. High Yield Bond Index ETF (CADHedged), by its trustee, manager and portfolio adviser BlackRock Asset Management Canada Limited
31. iShares, Inc., on behalf of its series iShares US & Intl High Yield Corp Bond ETF
32. BlackRock Bank Loan Fund, by its manager BlackRock Asset Management Ireland Limited
33. BlackRock Floating Rate Income Trust
34. BlackRock Limited Duration Income Trust
35. BlackRock Dynamic High Income Portfolio of BlackRock Funds II
36. BlackRock Floating Rate Income Portfolio of BlackRock Funds V
37. BlackRock Managed Income Fund of BlackRock Funds II
38. BlackRock Floating Rate Income Strategies Fund, Inc.
39. PSAM WorldArb Master Fund Ltd.
40. Rebound Portfolio Ltd.
41. JPMorgan Funds, on behalf of its sub-fund Multi-Manager Alternatives Fund
42. Lumyna Specialist Funds (formerly called Viaduct Invest FCP-SIF), on behalf of its sub-fund Event Alternative Fund
43. Lumyna Investments Ltd., on behalf of its sub-fund PSAM Global Event UCITS Fund
44. Kapitalforeningen PenSam Invest - PSI 84 US High Yield II
45. The New Zealand Guardian Trust Company Limited, as Trustee for AMP Wholesale High Yield Bond Fund
46. UBS Fund Management (Switzerland) AG
47. JNL Series Trust, on behalf of its series JNL/JPMorgan Global Allocation Fund

C. Additional Counterclaim Plaintiffs (Not Adversary Proceeding Defendants)

48. The Integrity Fund on behalf of its series, Integrity High Income Fund
49. JPMorgan Trust II on behalf of its series, JPMorgan Core Plus Bond Fund
50. JPMorgan Trust II, on behalf of its series JPMorgan High Yield Fund
51. JPMorgan Fund ICVC, on behalf of its sub fund JPM Global High Yield Bond Fund
52. JPMorgan Trust I, on behalf of its series JPMorgan Income Builder Fund
53. JPMorgan Trust I, on behalf of its series JPMorgan Total Return Fund
54. JPMorgan Trust I, on behalf of its series JPMorgan Strategic Income Opportunities Fund
55. JPMorgan Fund ICVC, on behalf of its sub fund JPM Multi-Asset Income Fund
56. Lincoln Variable Insurance Products Trust, on behalf of its series LVIP JPMorgan High Yield Fund
57. Advanced Series Trust, on behalf of its portfolio AST High Yield Portfolio
58. GIM Trust, on behalf of its series U.S. High Yield Bond Fund
59. JPMorgan Trust I, on behalf of its series JPMorgan Global Allocation Fund
60. HSBC Institutional Trust Services (Asia) Limited, as trustee of JPMorgan Multi Income Fund

61. JPMorgan Trust I, on behalf of its series JPMorgan Global Bond Opportunities Fund
62. JPMorgan Trust I, on behalf of its series JPMorgan Short Duration Core Plus Fund
63. IBM 401(k) Plus Plan Trust , on behalf of the IBM 401(k) Plus Plan
64. JPMorgan Trust I, on behalf of its series JPMorgan Income Fund
65. Migros-Pensoinskasse Fonds
66. J.P. Morgan Exchange-Traded Fund Trust, on behalf of its series JPMorgan Core Plus Bond ETF
67. HSBC Institutional Trust Services (Asia) Limited, as trustee of JPMorgan Multi Balanced Fund
68. Zurich American Insurance Company
69. NBI High Yield Bond ETF
70. Deferred Salary Plan of the Electrical Industry
71. NBI Unconstrained Fixed Income ETF
72. National Employment Savings Trust Corporation, in its capacity as trustee of the National Employment Savings Trust

COUNTERCLAIM DEFENDANTS

A. Debtor Defendants (Adversary Proceeding Plaintiffs)

1. Wesco Aircraft Holdings, Inc.
2. Adams Aviation Supply Company Limited
3. Flintbrook Limited
4. HAAS Chemical Management of Mexico, Inc.
5. HAAS Corporation of Canada
6. HAAS Corporation of China
7. HAAS Group International SCM Limited
8. HAAS Group International, LLC
9. HAAS Group, LLC
10. HAAS Holdings, LLC
11. HAAS International Corporation
12. HAAS of Delaware LLC
13. HAAS TCM Group of the UK Limited
14. HAAS TCM Industries LLC
15. HAAS TCM of Israel Inc.
16. Interfast USA Holdings Incorporated
17. Netmro, LLC
18. Pattonair Holding, Inc.
19. Pattonair (Derby) Limited
20. Pattonair Europe Limited
21. Pattonair Group Limited
22. Pattonair Holdings Limited
23. Pattonair Limited
24. Pattonair USA, Inc.

25. Pioneer Finance Corporation
26. Pioneer Holding Corporation
27. Quicksilver Midco Limited
28. Uniseal, Inc.
29. Wesco 1 LLP
30. Wesco 2 LLP
31. Wesco Aircraft Canada, LLC
32. Wesco Aircraft EMEA, Ltd.
33. Wesco Aircraft Europe Limited
34. Wesco Aircraft Hardware Corp.
35. Wesco Aircraft International Holdings Limited
36. Wesco Aircraft SF, LLC
37. Wesco LLC 1
38. Wesco LLC 2
39. Wolverine Intermediate Holding II Corporation
40. Wolverine UK Holdco Limited

B. Non-Debtor Defendants (Not Plaintiffs in Adversary Proceeding)

41. Wilmington Savings Fund Society, FSB
42. Platinum Equity Advisors, LLC
43. Wolverine Top Holding Corporation
44. Platinum Equity Capital Partners International, IV (Cayman) LP
45. Silver Point Capital Fund, L.P.
46. Silver Point Capital Offshore Master Fund, L.P.
47. Silver Point Select Opportunities Fund A, L.P.
48. Silver Point Distressed Opportunities Fund, L.P.
49. Silver Point Distressed Opportunities Offshore Master Fund, L.P.
50. Silver Point Distressed Opportunity Institutional Partners Master Fund (Offshore), L.P.
51. Silver Point Distressed Opportunity Institutional Partners, L.P.
52. Silver Point SCF CLO I, Ltd.
53. Silver Point Specialty Lending Fund
54. Silver Point Specialty Credit Fund II Mini-Master Fund (Offshore), L.P.
55. PIMCO Tactical Income Opportunities Fund
56. PIMCO Global Income Opportunities Fund
57. PIMCO Tactical Income Fund
58. PIMCO Global StocksPLUS & Income Fund
59. PCM Fund, Inc.
60. PIMCO Strategic Income Fund, Inc.
61. PIMCO Corporate & Income Opportunity Fund
62. PIMCO High Income Fund
63. PIMCO Income Strategy Fund
64. PIMCO Income Strategy Fund II

65. PIMCO Corporate & Income Strategy Fund
66. PIMCO Dynamic Income Opportunities Fund
67. PIMCO Dynamic Income Fund
68. PIMCO ETFs plc
69. PIMCO US Short-Term High Yield Corporate Bond Index UCITS ETF (previously identified as PIMCO Fixed Income Source ETFs plc, PIMCO Short-Term High Yield Corporate Bond Index Source UCITS ETF)
70. PIMCO Flexible Credit Income Fund
71. PIMCO Funds: PIMCO Low Duration Credit Fund
72. PIMCO Funds: PIMCO High Yield Spectrum Fund
73. PIMCO ETF Trust: PIMCO 0-5 Year High Yield Corporate Bond Index Exchange-Traded Fund
74. OC III LVS I LP
75. PIMCO Tactical Opportunities Master Fund Ltd.
76. PIMCO OP Trust Flexible Credit Fund, L.P.
77. PIMCO DISCO Fund III LP
78. Texas Children's Hospital Foundation
79. Bakery and Confectionery Union and Industry International Pension Fund
80. Employees' Retirement System of the State of Rhode Island
81. Desjardins Floating Rate Income Fund
82. Desjardins Global Tactical Bond Fund
83. BMO Global Strategic Bond Fund
84. CCOF Onshore Co-Borrower LLC
85. CSP IV Acquisitions, L.P.
86. CCOF Master, L.P.
87. Senator Global Opportunity Master Fund L.P.
88. Citadel Equity Fund Ltd.
89. Spring Creek Capital LLC

Certificate of Service

I certify that on July 31, 2023, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ John P. Melko