

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

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<i>In re</i>	:	Chapter 11
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TECT AEROSPACE GROUP HOLDINGS,	:	Case No. 21– ____ (____)
INC., <i>et al.</i> ,	:	
	:	Joint Administration Requested
Debtors. ¹	:	
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**MOTION OF DEBTORS FOR ENTRY OF
INTERIM AND FINAL ORDERS (I) AUTHORIZING DEBTORS
TO (A) PAY PREPETITION WAGES, SALARIES, EMPLOYEE
BENEFITS, AND OTHER COMPENSATION, (B) MAINTAIN EMPLOYEE
BENEFIT PROGRAMS AND PAY RELATED OBLIGATIONS, AND (C) PAY
PREPETITION EMPLOYEE EXPENSES AND (II) GRANTING RELATED RELIEF**

TECT Aerospace Group Holdings, Inc. and its debtor affiliates in the above-captioned chapter 11 cases, as debtors and debtors in possession (collectively, “TECT Aerospace” or the “Debtors”), respectfully represent as follows in support of this motion (the “Motion”):²

PRELIMINARY STATEMENT

1. By this Motion, the Debtors seek to pay and maintain their various Employee Compensation Obligations and Employee Benefit Obligations (each, as defined below) to ensure a smooth transition into chapter 11 and preserve the Debtors’ estates. As further described in the First Day Declaration, the Debtors are privately held companies, owned by Glass Holdings, LLC (“Glass”) and related Glass owned or Glass controlled entities, that manufacture complex aerospace components, parts and assemblies. The Debtors produce thousands of assemblies

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: TECT Aerospace Group Holdings, Inc. (9338); TECT Aerospace Kansas Holdings, LLC (4241); TECT Aerospace Holdings, LLC (9112); TECT Aerospace Wellington Inc. (4768); TECT Aerospace, LLC (8650); TECT Hypervelocity, Inc. (8103); and Sun Country Holdings, LLC (6079). The Debtors’ mailing address is 300 W. Douglas, Suite 100, Wichita, KS 67202.

² Certain facts and circumstances supporting the relief requested herein are set forth in the First Day Declaration (as defined herein) filed contemporaneously herewith. Capitalized terms used but not defined herein have the respective meanings given to those terms in the First Day Declaration.

and parts that are used in flight controls, fuselage/interior structures, doors wings, landing gear, struts & nacelles, and cockpits. The Debtors' employees are highly skilled and essential in order to meet the needs of the Debtors' customers. As a result, failure to maintain obligations to their employees would expose the Debtors to a variety of risks and potentially result in irreparable harm to the Debtors' estates. Accordingly, the relief requested herein is crucial to minimize any disruptions to the Debtors' chapter 11 strategy and maximize value for all parties in interest.

BACKGROUND

2. On the date hereof (the "**Petition Date**"), the Debtors commenced with this Court voluntary cases under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"). The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

3. Contemporaneously herewith, the Debtors have filed a motion requesting joint administration of their chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 1015-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**").

4. Additional information regarding the Debtors' businesses, capital structures, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the *Declaration of Shaun Martin in Support of Chapter 11 Petitions and First Day Pleadings* (the "**First Day Declaration**"), filed contemporaneously herewith and incorporated herein by reference.

JURISDICTION

5. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Pursuant to Local Rule 9013-1(f), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

6. By this Motion, the Debtors, pursuant to sections 105(a), 363(b), and 507(a) of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004, request (a) authority to (i) pay Employee Compensation Obligations and Employee Benefit Obligations (each, as defined below), related expenses, and fees and costs attendant to the foregoing, including amounts owed to third-party service providers and administrators and taxing authorities, and (ii) maintain, continue to honor, and pay amounts with respect to the Debtors' business practices, programs, and policies for their employees as such were in effect as of the Petition Date and as such may be modified or supplemented from time to time in the ordinary course of business and (b) related relief.

7. A proposed form of order granting the relief requested herein on an interim basis is attached hereto as **Exhibit A** (the "**Proposed Interim Order**"), and a proposed form of order granting the relief requested herein on a final basis herein is attached hereto as **Exhibit B** (the "**Proposed Final Order**" and together with the Proposed Interim Order, the "**Proposed Orders**"). The monetary relief sought in the Proposed Interim Order is discussed in further detail below and summarized in the following chart:

Prepetition Obligations	Interim Relief Requested (Due within 30 Days of Petition Date)	Total Relief Requested (inclusive of Interim Relief Requested)
Employee Compensation Obligations	\$1,326,000	\$1,326,000
Employee Benefit Obligations	\$689,500	\$1,578,000
Total Employee Obligations	\$2,015,500	\$2,904,000

DEBTORS' WORKFORCE

8. As of the Petition Date, the Debtors collectively employ approximately three hundred eighty-one (381) active employees (the “**Employees**”), all of which are full-time employees. Of the Debtors’ Employees, approximately one hundred fifty-three (153) are located at the Debtors’ Everett, Washington facility, one hundred fifty-five (155) are located at the Debtors’ Wellington, Kansas facility, sixty (60) are located at the Debtors’ Park City, Kansas facility, and thirteen (13) are administrative Employees located at the Debtors’ headquarters in Wichita, Kansas. In addition, approximately eighty-nine (89) Employees are paid on a salaried basis (the “**Salaried Employees**”) and approximately two hundred ninety-two (292) Employees are paid on an hourly basis (the “**Hourly Employees**”). Approximately ten (10) percent of the Salaried Employees are considered “non-exempt” under the Fair Labor Standards Act (the “**FLSA**”).³ In addition, the Debtors currently utilize the services of two independent contractors (collectively, the “**Supplemental Workforce**”), whom are retained through PDS Tech, Inc. (“**PDS**”). The Employees and Supplemental Workforce are critical to the success of the Debtors’ business, responsible for ensuring, among other things, that Debtors’ administrative,

³ The FLSA is a federal law establishing, among other things, overtime pay eligibility affecting full-time and part-time workers. An employee may be exempt (not subject to overtime) or nonexempt (required to be paid overtime at time and a half) pursuant to the FLSA. In order for an employee to be exempt, the employee’s specific job duties and salary must meet the requirements of the Department of Labor’s regulations. Section 13(a)(1) of the FLSA provides an exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, professional, computer, and outside sales employees.

mechanical, engineering, and operational segments continue to run smoothly and customer satisfaction is met on a daily basis. None of the Debtors' Employees are represented by a union.

EMPLOYEE COMPENSATION OBLIGATIONS

9. The Debtors' outstanding prepetition obligations related to compensation of Employees (the "**Employee Compensation Obligations**" and together with the Employee Benefit Obligations (as defined below), the "**Employee Obligations**") are summarized in the following chart and described in further detail below:

Prepetition Obligations	Interim Relief Requested (Due within 30 Days of Petition Date)	Total Relief Requested (inclusive of Interim Relief Requested)
Unpaid Compensation ⁴	\$738,000	\$738,000
Employee Expenses and Reimbursements	\$65,000	\$65,000
Withholding Obligations	\$503,000	\$503,000
Supplemental Workforce Obligations	\$20,000	\$20,000
Employee Incentive Compensation Plan	\$0	\$0
Total Employee Compensation Obligations	\$1,326,000	\$1,326,000

I. Unpaid Compensation

10. In the ordinary course of business, the Debtors incur and pay salaries, wages, commissions, and related obligations to Employees. The Salaried Employees are paid on a bi-monthly basis on the 15th and the last day of each month, and the Hourly Employees are paid every-other week. The Debtors' payroll obligations generally include wages, salaries, taxes, and payments on account of unused vacation and other paid time off. On average, the Debtors' gross

⁴ All Withholdings and Deductions (each as defined below) are included in Unpaid Compensation and will be withheld and remitted accordingly upon the grant of the relief requested herein by the Court.

payroll is approximately \$875,000 every pay cycle. Nearly all of the Debtors' payroll is paid by direct deposit through electronic transfers of funds to the Employees' bank accounts, although payments to certain Employees are made by check.

11. As of the Petition Date, the Debtors estimate owing approximately \$738,000 on account of prepetition payroll obligations, including accrued but unpaid wages and salaries (the "**Unpaid Compensation**"), approximately \$738,000 of which the Debtors estimate will come due within thirty days of the Petition Date. The Debtors do not believe that any Employees are owed Unpaid Compensation in an amount exceeding the \$13,650 cap imposed by section 507(a)(4) of the Bankruptcy Code on account of wages (the "**Wage Cap**").⁵ If it is determined that any Employee is owed Unpaid Compensation in excess of such statutory cap, the Debtors will only pay each such affected Employee wages and commissions up to the Wage Cap.

II. Employee Expenses and Reimbursements

12. In the ordinary course of business, the Debtors pay or reimburse Employees for reasonable and customary expenses incurred in the scope of their employment, including pursuant to the Corporate Credit Card Program (as defined below, and collectively, the "**Employee Expenses and Reimbursements**"). Employee Expenses and Reimbursements generally include travel expenses such as flights, car rentals, hotel rooms, and meal expenses, parking, company approved dues and subscriptions, and other necessary and pre-approved expenses. The Employees seeking reimbursement of business-related expenses are required to complete and submit an expense report spreadsheet to the Debtors' accounting department, and the Debtors

⁵ The Debtors estimate that 42 Employees may exceed the \$13,650 cap imposed by section 507(a)(4) of the Bankruptcy Code when payments on account of unused vacation and other paid time off are included in the section 507(a)(4) cap calculation in addition to wages, salary, and commissions. However, the Debtors are not seeking authority to pay any such Employee Leave Benefits (as defined below) above such statutory Wage Cap unless required by applicable law.

review, audit, and approve all such reimbursable expenses before reimbursing an Employee for any reimbursable expenses. The Debtors incur on average approximately \$53,400 of Employee Expenses and Reimbursements each month.

13. As of the Petition Date, the Debtors estimate owing approximately \$65,000 on account of Employee Expenses and Reimbursements, all of which the Debtors estimate will come due within thirty days of the Petition Date.

14. Corporate Credit Card Program – Approximately nine Employees utilize the Debtors’ corporate credit card program (the “**Corporate Credit Card Program**”) issued by American Express Company (“**American Express**” and the corporate credit cards, the “**AMEX Cards**”) and Synovus Bank (“**Synovus**” and the corporate credit cards, together with the AMEX Cards, the “**Corporate Cards**”). Employees use the Corporate Cards to incur reimbursable expenses in the ordinary course of business and to incur hotel, car rental and other travel expenses in connection with the Debtors’ operations. The Debtors incur on average approximately \$23,400 of aggregate reimbursable expenses through the Corporate Credit Card Program each month. The Debtors remit the requisite payments for the Corporate Credit Card Program directly to American Express or Synovus, following approval of an Employee’s submitted expense report. As of the Petition Date, the Debtors estimate that there are approximately \$35,000 in outstanding prepetition amounts owed on account of the Corporate Credit Card Program, all of which the Debtors estimate will come due within thirty days of the Petition Date. Pursuant to this Motion, the Debtors seek authority to continue the Corporate Credit Card Program in the ordinary course of business and to pay any outstanding prepetition amounts in connection therewith.

III. Withholding Obligations

15. For each applicable pay period, the Debtors deduct certain amounts from each Employee's gross pay, including 401(k) contributions and other pre- and after-tax deductions payable pursuant to certain of the employee benefit plans discussed herein, and where applicable, garnishments, child support, spousal support, public transportation deductions and the like (collectively, the "**Deductions**").⁶ The Debtors make approximately \$64,000 on average in payroll Deductions per payroll cycle for Salaried Employees and \$152,000 on average in Deductions per payroll cycle for Hourly Employees, and remitted such amounts to the appropriate third-party recipients. As of the Petition Date, the Debtors estimate they will owe, or be required to remit, approximately \$216,000 on account of prepetition Deductions, all of which they estimate will become due within thirty days of the Petition Date.

16. In addition to the Deductions, federal and state laws require the Debtors to withhold amounts from an Employee's gross pay related to federal, state, and local income taxes, including Social Security and Medicare taxes, for remittance to the appropriate federal, state, or local taxing authorities (collectively, the "**Withholdings**"). The Debtors must then match, from their own funds, amounts for Social Security and Medicare taxes and pay additional amounts for federal and state unemployment insurance based on a percentage of gross payroll (collectively, the "**Employer Payroll Taxes**" and, together with the Withholdings, the "**Payroll Taxes**", and together with the Withholdings and Deductions, the "**Withholding Obligations**"). The Debtors pay approximately \$126,000 on average in Payroll Taxes,⁷ including both the Employee and employer

⁶ Certain of the Deductions, particularly with respect to the Health Benefits Plans, FSA and HSA (each as defined below), are discussed further below in connection with the Employee Benefit Obligations.

⁷ Pursuant to the Coronavirus, Aid, Relief and Economic Security Act (the "**CARES Act**"), the employer's portion of Social Security taxes was deferred for a period beginning on March 27, 2020 and ending December 31, 2020. The total amount of Social Security taxes deferred by the Debtors under the CARES Act is \$1,417,787, of which fifty

portions, per payroll cycle for Salaried Employees and \$161,000 on average in Payroll Taxes, including both the Employee and employer portions, per payroll cycle for Hourly Employees. As of the Petition Date, the Debtors estimate they will owe, or be required to remit, approximately \$287,000 on account of prepetition Payroll Taxes, all of which they estimate will become due within thirty days of the Petition Date.

17. The Debtors may not have forwarded certain of the Withholding Obligations to the appropriate third-party recipients prior to the Petition Date. To the extent any prepetition Withholding Obligations have not been forwarded to the appropriate third-party recipients as of the Petition Date, the Debtors seek authority to forward all such amounts. The Debtors seek further authority to continue to forward Withholding Obligations to the applicable third-party recipients on a post-petition basis, whether or not such amounts relate to the prepetition period, in the ordinary course of business and consistent with past practice.

IV. Supplemental Workforce Obligations

18. In addition to their Employees, the Debtors rely on the Supplemental Workforce, which is comprised of two independent contractors. The Supplemental Workforce provides the Debtors with CNC Programmers, who provide lead programming expertise for the Debtors' machine shops. The Debtors retain the services of the Supplemental Workforce through PDS, a third party agency. The Debtors incur expenses of approximately \$15,000 per week on account of the Supplemental Workforce and remit such amounts to PDS pursuant to their contracts.

19. As of the Petition Date, the Debtors estimate owing approximately \$20,000 in the aggregate for unpaid prepetition services provided by the Supplemental Workforce and for various

percent will come due on December 31, 2021, and the remaining amount will come due on December 31, 2022. The Debtors seek approval to remit such payments as they come due, in the ordinary course.

fees and other costs owed to PDS, approximately all of which the Debtors estimate will come due within thirty days of the Petition Date. If these amounts go unpaid, the Supplemental Workforce may stop providing their services to the Debtors. Accordingly, the Debtors request authority to continue to retain and pay the Supplemental Workforce and PDS for service fees and costs as they become due in the ordinary course of business. For the avoidance of doubt, the Debtors do not seek authority to pay the Supplemental Workforce in excess of the statutory cap of \$13,650 per Employee imposed by section 507(a)(4) of the Bankruptcy Code.

V. Employee Incentive Compensation Plan

20. Approximately 16 Employees are eligible, based on their position, to participate in the Debtors' Employee Incentive Compensation Plan (the "**EICP**"). The EICP provides eligible Employees with an annual bonus award if the eligible Employee meets or exceeds certain key metrics during the previous calendar year. To be eligible to receive payment under the EICP, an Employee must be employed by the Debtors on the program payout date, which varies year to year but is typically paid in the first quarter of the following year. For the 2020 calendar year, no Employee was eligible to receive an annual bonus under the 2020 EICP. Accordingly, no amounts are owed on account of the 2020 EICP as of the Petition Date. The Debtors do not seek authority to make any payments pursuant to the EICP, but reserve all rights to seek authority pursuant to a separate motion to make such payments at a later time, as they may determine to be necessary.

EMPLOYEE BENEFIT OBLIGATIONS

21. In the ordinary course of business, the Debtors make various benefit plans available to their Employees. These benefit plans fall within the following categories:

- i. paid time off, including personal time off, sick leave, parental leave, and holidays (collectively, the "**Employee Leave Benefits**");

- ii. medical and prescription drug, vision, and dental benefits, life insurance, accidental death and dismemberment (“**AD&D**”) insurance, short and long term disability insurance, workers’ compensation, and flexible spending and health savings accounts (collectively, the “**Health and Welfare Benefits**”);
- iii. retirement savings plans, including a 401(k) plan (the “**Retirement Benefits**”);
- iv. non-Insider severance (the “**Non-Insider Severance Program**”); and
- v. an education assistance plan (the “**Education Assistance Plan**”) (each of (i) – (v), an “**Employee Benefit**” and collectively, the “**Employee Benefit Obligations**”).

22. As discussed further below, the Debtors also implemented a retention benefit plan with respect to certain Employees at their facility in Kent, Washington (the “**Kent Facility Retention Plan**”) in an effort to maintain the Employees upon the announcement of the facility’s planned closure. Although the Debtors maintain most Employee Benefit plans themselves, some of the Employee Benefit plans, such as certain of the Health and Welfare Benefits, are maintained by third parties.

23. The outstanding prepetition Employee Benefit Obligations are summarized in the chart below:

Prepetition Obligations	Interim Relief Requested (Due within 30 Days of Petition Date)	Total Relief Requested (inclusive of Interim Relief Requested)
Health Benefits	\$604,000	\$1,304,000
Welfare Benefits	\$85,500	\$142,000
Retirement Benefits	\$0	\$0
Non-Insider Severance Program	\$0	\$0
Education Assistance Plan	\$0	\$0

Prepetition Obligations	Interim Relief Requested (Due within 30 Days of Petition Date)	Total Relief Requested (inclusive of Interim Relief Requested)
Kent Facility Retention Plan	\$0	\$132,000
Total Employee Benefit Obligation	\$689,500	\$1,578,000

I. Employee Leave Benefits⁸

24. The Debtors provide and administer the Employee Leave Benefits, which include personal time off, parental leave, federal holidays, bereavement leave, jury duty, and military service. Eligible Employees either receive their full paid time off on January 1 of the upcoming year, or accrue paid time off on a paycheck to paycheck basis. Certain salaried employees can also sell one week of new paid time off each year, the value of which is divided by twenty-four and one twenty-fourth (1/24) is paid to such employee in each bi-monthly payroll cycle during the year. Certain eligible Employees may carry over accrued, unused paid time off from the previous year, up to one times their annual paid time off allotment. Upon termination, Employees may receive a cash payout for such accrued, unused paid time off, but may not receive a total cash payout for all unused paid time off that exceeds two times their maximum yearly allotment of paid time off. The Debtors request authority to continue providing the Employee Leave Benefits in the ordinary course of business and to pay any prepetition amounts that may be owing with respect to the Employee Leave Benefits; however, the Debtors do not seek to pay Employee Leave Benefits to any individual to the extent that the total Employee Compensation Obligations due to such individual would exceed the Wage Cap, unless such payments are for unpaid Employee Leave Benefits that are required to be paid under applicable law.

⁸ This is not a current cash payment obligation, as Employees are only entitled to cash payment for accrued and unused Employee Leave Benefits if they leave the Debtors' employment.

II. Health Benefits

25. Debtors sponsor several Health and Welfare Benefits plans to provide benefits to eligible Employees. Non-debtor affiliate Office Support Services, LLC (“OSS”) arranges and enters into the Health and Welfare Benefits plans for the Debtors, as well as for the other Glass entities. The Debtors pay their allocated share of such plans, prorated across all of the Glass entities based on the number of employees for each entity, directly to the applicable Health Benefits Provider (as defined below) or Welfare Benefits administrator. OSS leverages economies of scale to enter into the Health Benefits Plans (as defined below) for the Debtors and the non-debtor Glass entities at lower cost than would be required for each individual business unit to do so themselves. The Health and Welfare Benefits include: (a) medical and prescription drug, dental, and vision plans; (b) life insurance and AD&D insurance; (c) short-term and long-term disability benefits; and (d) flexible spending and health savings accounts.

26. Medical and Prescription Drug, Dental, and Vision Benefits. The Debtors offer the health benefits plans listed below (each, a “**Health Benefits Plan**”) to their Employees, which are, for the most part, self-insured by the Debtors, but administered through various insurers (each, a “**Health Benefits Provider**”) to Employees and their families. Employees’ medical and prescription drug, dental, and vision benefits are funded, in part or in full, through Deductions from Employees’ gross pay. The Health Benefits Providers offer improved benefits when using a doctor, dentist, or other healthcare provider within a network of preferred providers.

- *The Medical and Prescription Drug Plan:* the Debtors self-fund their medical and prescription drug plan, and utilize Aetna as the Health Benefits Provider to administer such plan.
- *The Dental Plan:* the Debtors self-fund their dental plan (together with the medical and prescription drug plan, the “**Self-Funded Plans**”), and utilize Guardian as the Health Benefits Provider to administer such plan.

- *The Vision Plan*: the Debtors provide Employees with the option to enroll in a vision insurance plan, and utilize Aetna as the Health Benefits Provider to administer such plan. Employees that enroll in the Debtors' vision plan pay the full cost of such plan, and Employees participating in the vision plan pay the premiums through Deductions remitted directly to Aetna.
- *Consolidated Omnibus Budget Reconciliation Act ("COBRA")*: Employees who are terminated, or covered family members who become ineligible for coverage due to divorce or age, have the right to continue health benefits for a limited period of time and under certain circumstances. The Debtors utilize Diversified Administrator ("DA") as the Health Benefits Provider to administer such benefits.

27. In the ordinary course of business, the Debtors pay fees to the Health Benefits Providers for the administrative services the Health Benefits Providers provide to Employees who subscribe to the Health Benefits Plans and for the stop-loss policy discussed below (the "**Health Benefits Fees**"). The Health Benefits Fees for each Health Benefits Provider vary as the number of Employees enrolled in the respective plans change and as the Health Benefits Provider changes their prices in the ordinary course. As of the Petition Date, the Debtors estimate owing approximately \$54,000 for the Health Benefits Fees, all of which the Debtors estimate will come due within thirty days of the Petition Date. The Debtors seek authority to pay all such Health Benefits Fees as they come due in the ordinary course of business.

28. The COBRA benefits are provided as required by law. As of the Petition Date, approximately sixteen of the Debtors' former employees are participating in COBRA for medical benefits, sixteen are participating in COBRA for dental benefits, and nine are participating in COBRA for vision benefits. Additionally, approximately seven dependents are participating in COBRA for medical benefits, fifteen are participating in COBRA for dental benefits, and seven are participating in COBRA for vision benefits. Terminated Employees utilizing COBRA benefits pay premiums directly to DA, which are remitted to the Debtors with respect to the Debtors' medical and prescription drug, and dental plans. DA remits payments directly to Aetna with respect to the Debtors' vision care.

29. Under the Self-Funded Plans, the Health Benefit Providers pay the covered Employee healthcare costs directly to the healthcare provider (other than any required deductible or similar payment) and then seek reimbursement from the Debtors (the “**Health Benefits Claims**”). The Debtors pay the medical Health Benefits Claims submitted to them by the Health Benefits Providers on a weekly basis, and they pay the dental Health Benefits Claims submitted to them by the Health Benefits Providers on a monthly basis, but providers do not always timely submit claims. The Debtors’ average monthly amount of Health Benefits Claims is approximately \$550,000, with variability depending on the number, timeliness, and type of Health Benefits Claims submitted. Accordingly, the Debtors estimate that \$1,250,000⁹ of Health Benefits Claims are outstanding as of the Petition Date, including unreimbursed amounts the Health Benefits Providers already paid to the healthcare providers, as well as amounts for medical services provided to Employees but not yet paid by the Health Benefits Providers to the healthcare providers, of which \$550,000 will become due within the first thirty days of the Petition Date. The Debtors seek authority to pay all such Health Benefits Claims as they come due in the ordinary course of business.

30. The Debtors maintain a stop-loss policy through Aetna to protect themselves against exposure to large medical and prescription drug Health Benefits Claims. Under the stop-loss policy, if the Debtors pay Aetna in excess of \$300,000 for any one participant (the “**Individual Stop-Loss Amount**”) for Health Benefits Claims throughout the year, the Debtors can make a claim against the stop-loss policy for the amount of the Health Benefits Claims in excess of the Individual Stop-Loss Amount for any one participant. Premiums related to the stop-loss policy

⁹ The Health Benefits Claims amount includes Deductions related to the Vision Plan premiums.

are incorporated into the Health Benefits Fees the Debtors pay to Aetna in connection with administering the medical program.

III. Welfare Benefits

31. The chart below outlines the welfare benefit programs available to Employees, including those the Debtors pay directly (each, a “**Benefit Provided by Debtors**”) and voluntary programs the Debtors fund through payroll deductions from participating Employees (each, a “**Voluntary Benefit**”):

<u>Type of Benefit</u>	<u>Provided by Debtors/Voluntary</u>
Flexible Spending and Health Saving Accounts	Voluntary Benefit
Basic Life Insurance	Benefit Provided by Debtors
Voluntary Life Insurance	Voluntary Benefit
AD&D	Benefit Provided by Debtors
Short-Term Disability Insurance	Benefit Provided by Debtors
Long-Term Disability Insurance	Benefit Provided by Debtors
Workers’ Compensation	Benefit Provided by Debtors

32. Flexible Spending and Health Savings Accounts. The Debtors provide the opportunity for eligible Employees to enroll in certain flexible spending accounts (each an “**FSA**” and together, the “**FSAs**”) and health savings accounts (each an “**HSA**” and together, the “**HSAs**”). During the annual enrollment period, eligible Employees may choose to designate an amount of their pre-tax wages or salary towards their FSA or HSA, which they can then use for eligible health care expenses incurred. PayFlex administers the FSAs and HSAs, and charges the Debtors a monthly fee of \$3 per participant per month for this service as it relates to the FSA and a monthly fee of \$4 per participant per month as it relates to the HSA (the “**Administration Fees**”). Approximately eighty-one Employees are enrolled in the FSAs, and approximately twenty-nine Employees are enrolled in the HSAs. The Debtors directly pay employee claims made against the FSAs and HSAs as those claims are made. The Debtors recoup their costs for those claims

through Deductions over the course of the year. Each month, the Debtors pay approximately \$26,000 under the FSA and HSA programs for the Administration Fees and claims. Accordingly, as of the Petition Date, the Debtors estimate that \$45,000 in prepetition claims and Administration Fees with respect to the FSA and HSA programs is outstanding, of which \$26,000 will become due within thirty days of the Petition Date.

33. Life Insurance, AD&D Insurance, and Disability Plans. The Debtors offer life insurance (the “**Life Insurance Plans**”), AD&D insurance (the “**AD&D Insurance Plans**”), and long-term and short-term disability insurance (the “**Disability Plans**”) to Employees through Lincoln Financial. The Debtors pay premiums and administrative fees under the Life Insurance Plans, the AD&D Insurance Plans, and the Disability Plans, after the coverage period, which generally equates to an average of \$41,000 on a monthly basis. As of the Petition Date, the Debtors estimate owing approximately \$41,000 on account of Life Insurance Plans, the AD&D Insurance Plans, and the Disability Plans, all of which the Debtors estimate will come due within thirty days of the Petition Date.

34. Workers’ Compensation. Under the laws of the states in which they operate, the Debtors are required to maintain workers’ compensation policies and programs, or participate in workers’ compensation programs administered by state governments, to provide their Employees with workers’ compensation coverage for claims arising from or related to their employment with the Debtors.

35. For Employees working at the Debtors’ facilities in Washington, the Debtors participate in a program administered by the state of Washington. The Debtors make quarterly payments pursuant to a tax levied on the total payroll expense at their Washington facilities, plus a flat fee that is not dependent on wages paid. The Debtors’ other Employees are covered under

a workers' compensation policy issued by Starr Indemnity and Liability ("**Starr**"). Provisions under the Starr policy include both workers' compensation and employers' liability coverage. Workers' compensation pays for lost wages, medical treatment, and indemnity for injuries an employee sustained while in the course of employment. Employers' liability covers liability arising out of the employees' work-related injuries that do not fall under the workers' compensation statute.

36. The Debtors' annual cost for workers' compensation coverage is approximately \$548,000. As of the Petition Date, the Debtors estimate owing approximately \$56,000 on account of the workers' compensation program, of which the Debtors estimate \$18,412 will come due within thirty days of the Petition Date.

37. It is critical that the Debtors be permitted to continue their workers' compensation program and to pay outstanding prepetition claims, taxes, charges, assessments, premiums, and third-party administrator fees in the ordinary course of business because alternative arrangements for workers' compensation coverage, would most certainly be more costly, and the failure to provide coverage may subject the Debtors and/or their officers to severe penalties. For the Debtors' Employees in Washington, alternative coverage is not even an option. To facilitate the ordinary course handling of workers' compensation claims, the Debtors further request authority, in their sole discretion, to lift the automatic stay of section 362 of the Bankruptcy Code to allow workers' compensation claimants to proceed with their claims under the applicable insurance policy or program and to allow the Debtors or their insurance providers and/or third-party administrators to negotiate, settle and/or litigate workers' compensation claims, and pay resulting amounts, whether such claims arose before or after the Petition Date.

IV. Retirement Benefits

38. The Debtors maintain a defined contribution plan meeting the requirements of section 401(k) of the Internal Revenue Code (the “**401(k) Savings Plan**”), which is managed by Bank of America Merrill Lynch for the benefit of all eligible Employees. Approximately three hundred twenty-three (323) Employees are active participants in the 401(k) Savings Plan. As part of the 401(k) Savings Plan, the Debtors historically matched 100% of an Employee’s 401(k) contributions up to 1% of the eligible Employee’s eligible compensation, and 50% of an Employee’s 401(k) contributions between 2% and 7% of the eligible Employee’s eligible compensation. Due to the COVID-19 pandemic, the Debtors suspended matching contributions beginning the first payroll in September 2020. The Debtors expect that the suspension of matching contributions will remain in place during these chapter 11 cases. The Debtors collect the Employee contributions through withholdings from participating Employees’ paychecks throughout the year.¹⁰ The Debtors make disbursements equal to the Employee contributions plus the matching obligation (if any) to a trust established under the 401(k) Savings Plan. As of the Petition Date, no amounts are owed on account of matching contributions pursuant to the 401(k) Savings Plan.

V. Non-Insider Severance Program

39. In their normal course of operations, the Debtors have an informal practice of paying severance to certain eligible Employees (the “**Non-Insider Severance Program**”). By this Motion, the Debtors do not seek authority to make severance payments to Insiders. Pursuant to the Non-Insider Severance Program, upon employment termination in covered circumstances, including reduction in force, position elimination, or an inability to perform assigned duties after

¹⁰ Such withholdings are described above as Deductions.

a Company-initiated transfer to a new position, the Debtors have historically provided Employees with a severance payment in installments consistent with such Employee's pre-termination payroll schedule or a lump sum amount (a) based on the Employee's length of service with the Debtors or (b) determined pursuant to a pre-negotiated agreement between the Employee and the Debtors. Payments under the Non-Insider Severance Program are not due and payable until employment termination. By this Motion, following approval of this Motion on a final basis, the Debtors seek authority to continue the Non-Insider Severance Program and honor only those obligations under the Non-Insider Severance Program that arise after the Petition Date for non-Insider Employees.

40. The Debtors believe that it is important to reassure their Employees that the Debtors intend to honor their obligations to Employees during these chapter 11 cases—both during and after their tenure with the Debtors. Although payments under the Non-Insider Severance Program are not due and payable until an Employee is terminated, having such severance programs in place will assuage Employees and motivate them to continue working for the Debtors during the course of these chapter 11 cases, which is required to achieve the Debtors' chapter 11 objectives. If Employees were to leave the Debtors' service during these chapter 11 cases—an outcome that would become increasingly likely if the Employees' benefits both during and after their tenure in the Debtors' service become threatened—the Debtors' business would suffer materially. As of the Petition Date, no amounts are owed on account of the Non-Insider Severance Program.

VI. Education Assistance Plan

41. Eligible Employees may also participate in the Debtors' Education Assistance Plan. Subject to certain limitations, full-time Employees may submit a tuition reimbursement application to the Debtors' human resources department and to their supervisor, and may receive a

reimbursement up to \$5,250 per year for approved education courses. Currently, the Debtors have no Employees participating in the Education Assistance Plan. The Education Assistance Plan historically has cost approximately \$25,000 per year and payments are made directly to the Employee. The Debtors seek authority to remit all such Education Assistance Plan Expenses as they come due in the ordinary course of business. As of the Petition Date, no amounts are owed on account of the Education Assistance Plan.

VII. Kent Facility Retention Plan

42. In March of 2020 the Debtors announced the planned closure of their facility in Kent, Washington, as of March 1, 2021 (the “**Kent Facility Closure Date**”). In order to ensure that the facility continued to operate prior to its closure so that the Debtors could continue to meet the needs of their customers, the Debtors offered the Employees at the Kent facility the opportunity to participate in the Kent Facility Retention Plan. For Hourly Employees that agreed to participate in the Kent Facility Retention Plan and met the plan’s requirements, upon the eventual termination of their employment such Employees received payment in the amount equal to two weeks base pay, plus one additional week of their base pay for every month that they worked past the Kent Facility Closure Date, to be paid pursuant to Debtors’ standard pay-roll schedule. Salaried Employees that agreed to the Kent Retention Plan were offered benefits as negotiated between the Debtors and such Employees, based on the Employee’s length of service with the Debtors, consistent with the above-described Non-Insider Severance Program. It is important that the Debtors continue payments under to the Kent Facility Retention Plan to demonstrate to current Employees that such obligations will be honored and motivate the current Employees to continue working for the Debtors during the course of these chapter 11 cases.

43. As of the Petition Date, eighteen Hourly Employees and two Salaried Employees are owed payments under the Kent Facility Retention Plan, and the Debtors estimate owing approximately \$132,000 on account of the Kent Facility Retention Plan, of which the Debtors estimate \$85,000 will come due within thirty days of the Petition Date. By this Motion, following approval of this Motion on a final basis, the Debtors seek authority to make payments under the Kent Facility Retention Plan in the ordinary course. For the avoidance of doubt, the Debtors do not seek authority to make any payments under the Kent Facility Retention Plan in excess of the statutory cap of \$13,650 per Employee imposed by section 507(a)(4) of the Bankruptcy Code.

RELIEF REQUESTED SHOULD BE GRANTED

I. Payment of Employee Obligations is Warranted Under Section 363(b) and Doctrine of Necessity

44. The Court may grant the relief requested herein pursuant to sections 363 and 105(a) of the Bankruptcy Code.

45. Section 363(b) of the Bankruptcy Code provides, in relevant part, that “[t]he [debtor], after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). To approve the use of assets outside the ordinary course of business pursuant to section 363(b) of the Bankruptcy Code, courts require only that the debtor “show that a sound business purpose justifies such actions.” *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999) (internal citations omitted); *see also In re Phoenix Steel Corp.*, 82 B.R. 334, 335–36 (Bankr. D. Del. 1987). Moreover, if “the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct.” *In re Johns-Manville Corp.*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (citation omitted); *see also In re Tower Air, Inc.*, 416 F.3d 229, 238 (3d Cir. 2005) (stating that

“[o]vercoming the presumptions of the business judgment rule on the merits is a near-Herculean task”).

46. In addition, the Court has the authority, pursuant to its equitable powers under section 105(a) of the Bankruptcy Code, to authorize the relief requested herein, because such relief is necessary for the Debtors to carry out their fiduciary duties under section 1107(a) of the Bankruptcy Code. Section 105(a) of the Bankruptcy Code empowers bankruptcy courts to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105; *see In re Ionosphere Clubs*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (applying section 105(a) to justify an order authorizing the payment of certain prepetition wages, salaries, medical benefits, and business expense claims to debtor’s employees). Section 1107(a) of the Bankruptcy Code “contains an implied duty of the debtor-in-possession” to act as a fiduciary to “protect and preserve the estate, including an operating business’ going-concern value,” on behalf of a debtor’s creditors and other parties in interest. *In re CEI Roofing, Inc.*, 315 B.R. 50, 59 (Bankr. N.D. Tex. 2004) (quoting *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002)); *see also Unofficial Comm. of Equity Holders v. McManigle (In re Penick Pharm., Inc.)*, 227 B.R. 229, 232–33 (Bankr. S.D.N.Y. 1998) (“[U]pon filing its petition, the Debtor became debtor in possession and, through its management . . . was burdened with the duties and responsibilities of a bankruptcy trustee.”). Courts consistently have permitted payment of prepetition obligations where necessary to preserve or enhance the value of a debtor’s estate for the benefit of all creditors. *See, e.g., In re Lehigh & New Eng. Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (holding that “if payment of a claim which arose prior to reorganization is essential to the continued operation of the . . . [business] during reorganization, payment may be authorized even if it is made out of [the] corpus”).

47. The Court may also authorize the payment of prepetition claims in appropriate circumstances under section 105(a) of the Bankruptcy Code and the doctrine of necessity when such payment is essential to the continued operation of a debtor's business. *See, e.g., In re Just for Feet, Inc.*, 242 B.R. 821, 824–25 (D. Del. 1999) (holding that section 105(a) of Bankruptcy Code provides a statutory basis for payment of prepetition claims under the doctrine of necessity and noting that “[t]he Supreme Court, the Third Circuit and the District of Delaware all recognize the court’s power to authorize payment of pre-petition claims when such payment is necessary for the debtor’s survival during chapter 11”); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191–92 (Bankr. D. Del. 1994) (confirming that the doctrine of necessity is standard for enabling a court to authorize payment of prepetition claims prior to confirmation of a reorganization plan).

48. This “doctrine of necessity” functions in a chapter 11 reorganization as a mechanism by which the Court can exercise its equitable power to allow payment of critical prepetition claims not explicitly authorized by the Bankruptcy Code. *See, e.g., Just for Feet, Inc.*, 242 B.R. 821, 824–25 (D. Del. 1999) (holding that section 105(a) of Bankruptcy Code provides statutory basis for payment of prepetition claims under the doctrine of necessity particularly when such payment is necessary for the debtor’s survival during chapter 11); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191–92 (Bankr. D. Del. 1994) (confirming that doctrine of necessity is standard for enabling a court to authorize payment of prepetition claims prior to confirmation of a reorganization plan).

49. The relief requested by this Motion represents a sound exercise of the Debtors’ business judgment, is necessary to avoid immediate and irreparable harm to the Debtors’ estates, and is justified under sections 105(a) and 363(b) of the Bankruptcy Code. Authorizing the Debtors to pay prepetition wages, employee benefits, and similar items will benefit the Debtors’

estates, and their creditors, by allowing the Debtors' business operations to continue without interruption. Indeed, without the relief requested herein being granted, the Debtors are at the risk of significant Employee attrition, as the Debtors' Employees may seek alternative opportunities, perhaps with the Debtors' competitors. Employee attrition would cause the Debtors to incur additional expenses to find appropriate and experienced replacements, severely disrupting the Debtors' operations at a critical juncture. Additionally, the loss of valuable Employees, who are the lifeblood of the Debtors' operations, would deplete the Debtors' workforce, thereby hindering the Debtors' ability to meet their customer obligations and likely diminishing the Debtors' ability to successfully carry out their chapter 11 strategy.

50. In addition to Employee attrition, failure to satisfy certain prepetition obligations will likely jeopardize Employee morale and loyalty at a time when Employee support is critical to the Debtors' businesses. Many of the Debtors' Employees rely exclusively on their compensation, benefits, and reimbursement of expenses to satisfy their daily living expenses. These Employees will be exposed to significant financial difficulties and other distractions if the Debtors are not permitted to honor their obligations for unpaid compensation, benefits and reimbursable expenses. Similarly, if the Court does not authorize the Debtors to honor their various obligations under the Health and Benefits plans, many Employees will lose access to health coverage at a time when the Debtors need their Employees to perform their jobs at peak efficiency, and while the Employees are faced with the ongoing health threat of the COVID-19 pandemic. The loss in morale and potential distraction of Employees worrying about paying their bills and their healthcare costs will harm the Debtors ability to operate and serve customers at their standard high levels, causing an erosion in the Debtor's value.

51. Similarly, the Supplemental Workforce is an important component of the Debtors' operations, and ensures that key machinery that is critical to the value of the Debtors' estates continues to operate. The Supplemental Workforce consists of two (2) individuals that provide specialized programming expertise that allows the Debtors' maintain and operate the machinery in their machine shops. Failure to timely pay the Supplemental Workforce Obligations would endanger the Debtors' prospects of a successful reorganization and would cause widespread negative effects throughout the Debtors' businesses. The Debtors would incur additional expenses to find qualified and experienced replacements in order to maintain their manufacturing capabilities, and the amount of time required to find such replacements could would be devastating to the Debtors' operations.

52. The relief requested by this Motion represents a sound exercise of the Debtors' business judgment, is necessary to avoid immediate and irreparable harm to the Debtors' estates, and is justified under sections 363(b) and 105(a) of the Bankruptcy Code. Authorizing the Debtors to pay or honor the Employee Obligations will benefit the Debtors' estates and their stakeholders by allowing the Debtors' business operations to continue without interruption.

II. Payment of Employee Obligations Would Not Prejudice Parties in Interest

53. The Debtors believe that the vast majority of the prepetition Employee Obligations constitute priority claims under sections 507(a)(4) or (5) of the Bankruptcy Code. As priority claims, the Employee Obligations are entitled to payment in full before any general unsecured claims asserted against the Debtors can be satisfied. Thus, the relief requested largely affects only the timing of the payment of the priority prepetition Employee Obligations and should not prejudice the rights of general unsecured creditors or other parties in interest.

III. Payment of Certain Employee Obligations Is Required by Law

54. The Debtors also seek authority to remit certain Withholding Obligations to the appropriate entities. These amounts principally represent Employee earnings that governments, Employees, and judicial authorities have designated for deduction from Employees' paychecks. Indeed, certain Deductions, including contributions to the Employee Benefit Obligations and child support and alimony payments, are not property of the Debtors' estates because they have been withheld from Employees' paychecks on another party's behalf. *See* 11 U.S.C. § 541(b); *see Begier v. IRS*, 496 U.S. 53, 66–67 (1990) (concluding that withholding taxes are property held by a debtor in trust for another and are therefore not property of debtor's estate). Further, federal and state laws require the Debtors and their officers to make certain tax payments that have been withheld from their Employees' paychecks. *See* 26 U.S.C. §§ 6672 and 7501(a); *see also City of Farrell v. Sharon Steel Corp.*, 41 F.3d 92, 95-97 (3d Cir. 1994) (finding that state law requiring a corporate debtor to withhold city income tax from its employees' wages created a trust relationship between debtor and the city for payment of withheld income taxes); *DuCharmes & Co., Inc. v. State of Mich. (In re DuCharmes & Co.)*, 852 F.2d 194, 196 (6th Cir. 1988) (noting that individual officers of a company may be held personally liable for failure to pay trust fund taxes). Because certain Withholding Obligations are not property of the Debtors' estates, the Debtors request that the Court authorize them to transmit the Withholding Obligations to the proper parties in the ordinary course of business.

IV. The Debtors Do Not Seek to Make Severance Payments Outside the Scope of Section 502(b)(7) and Section 503(c) of the Bankruptcy Code, as Applicable

55. By this Motion, the Debtors seek authority to continue the Non-Insider Severance Program and honor severance obligations that arise after the Petition Date exclusively for non-

Insider Employees, and to honor obligations due to terminated Employees under the Kent Facility Retention Plan.

56. Out of an abundance of caution and in an effort to provide comfort to the Employees given the uncertainty attendant to a company operating in chapter 11, the Debtors request authority to continue the Non-Insider Severance Program with respect to non-Insider Employees terminated postpetition in the ordinary course of business. Additionally, authorization to honor obligations due under the Kent Facility Retention Plan will demonstrate to current Employees that such obligations arising upon termination will be honored during the course of these chapter 11 cases, and motivate the current Employees to continue working for the Debtors. For the avoidance of doubt, the Debtors are not requesting authority to and will not make any payments that fall outside the limitations of section 503(c), to the extent applicable, and payments made under the Kent Facility Retention Plan will not be in excess of the statutory cap of \$13,650 per Employee imposed by section 507(a)(4) of the Bankruptcy Code.

57. Moreover, the Non-Insider Severance Program does not implicate section 503(c)(3) because it is within the ordinary course of the Debtors' business. 11 U.S.C. § 503(c)(3) (prohibiting certain payments "outside of the ordinary course of business"). If section 503(c) is not implicated, the Court may grant the requested relief if it finds that a non-insider severance program satisfies the requirements of section 363(b) of the Bankruptcy Code. *See In re Mesa Air Group, Inc.*, Ch. 11 Case No. 10-10018 (MG), 2010 WL 3810899, at *3 (Bankr. S.D.N.Y. Sept. 24, 2010) (noting that compensation plans within the ordinary course of business are governed by section 363 of the Bankruptcy Code, not section 503(c)). Further, courts have permitted postpetition payment of prepetition obligations, such as the Kent Facility Retention Plan obligations, "where the payment is necessary to permit the effectuation of the rehabilitative

purposes of the Bankruptcy Code.” *In re Sharon Steel Corp.*, 159 B.R. 730, 736 (Bankr. W.D. Penn. 1993); *see also In re Lehigh & New England Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (holding that a court may authorize payment of prepetition claims if such payment is essential to continued operation of the debtor); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (authorizing the payment of prepetition claims and explaining that the “ability of a Bankruptcy Court to authorize the payment of pre-petition debt when such payment is needed to facilitate the rehabilitation of the debtor is not a novel concept”). For the reasons stated, discretion to continue the Non-Insider Severance Plan and authorization to honor the Kent Facility Retention Plan —similar to all of the relief sought in this Motion—is critical and necessary to assuage Employee fears and motivate them to continue working for the Debtors, so that the Debtors can achieve their chapter 11 objectives. Accordingly, the requested relief should be approved.

58. For the foregoing reasons, payment of the prepetition Employee Compensation Obligations and Employee Benefit Obligations is necessary, appropriate, and in the best interests of the Debtors, their estates, and all other parties in interest in these cases. Accordingly, the Court should authorize the relief requested herein.

V. Cause Exists to Authorize the Debtors to Continue to Pay and/or Honor Any and All Workers’ Compensation Obligations and to Authorize Current and Former Employees to Proceed with Outstanding Workers’ Compensation Claims

59. It is imperative that the Debtors be permitted to continue to pay and/or honor any and all workers’ compensation obligations, including all prepetition premiums, claims (including claim settlements), losses, and expenses in connection with the workers’ compensation obligations, and to pay all costs and expenses associated with the workers’ compensation program, including such costs and expenses related to administration, servicing, processing, adjusting, paying, and settling claims and losses under these programs.

60. It is crucial for Employee morale and for the Debtors' operations that the Debtors be able to continue to (a) pay workers' compensation benefits and (b) honor the workers' compensation obligations under the workers' compensation program described herein.

61. Section 362(a) of the Bankruptcy Code operates to stay, among other things:

the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title.

11 U.S.C. § 362(a). Section 362 of the Bankruptcy Code, however, permits a debtor or other parties in interest to request a modification or termination of the automatic stay for "cause."

11 U.S.C. § 362(d)(1).

62. To the extent that any current or former Employees hold claims pursuant to the workers' compensation program, the Debtors seek authorization under section 362(d) of the Bankruptcy Code to permit such current or former Employees, in the Debtors' sole discretion, to proceed with such claims in the appropriate judicial or administrative fora. The Debtors believe that cause exists to grant them authority to modify the automatic stay, where the Debtors deem it appropriate to do so, because staying such claims could have a detrimental effect on the financial and medical well-being and morale of their Employees and lead to the departure of certain Employees. Such departures could cause a severe disruption in the Debtors' businesses, to the detriment of all parties in interest. To this end, the Debtors seek an order granting (a) relief from the automatic stay as it relates to current and former Employee claims under the workers' compensation program and (b) waiver of the corresponding notice requirements under Bankruptcy Rule 4001(d).

63. Pursuant to this Motion, the Debtors do not seek a waiver, termination or modification of the automatic stay with respect to any other claims.

**APPLICABLE FINANCIAL INSTITUTIONS SHOULD BE AUTHORIZED TO
RECEIVE, PROCESS, HONOR, AND PAY CHECKS ISSUED AND TRANSFERS
REQUESTED TO PAY EMPLOYEE OBLIGATIONS**

64. The Debtors further request that this Court authorize applicable financial institutions (the “**Banks**”) to receive, process, honor, and pay any and all checks issued, or to be issued, and electronic funds transfers requested, or to be requested by or on behalf of the Debtors relating to the Employee Obligations, to the extent that sufficient funds are on deposit and standing in the Debtors’ credit in the applicable bank accounts to cover such payment. The Debtors represent that these checks are drawn on identifiable disbursement accounts and can be readily identified as relating directly to the authorized payment of Employee Obligations. Accordingly, the Debtors believe that checks other than those relating to authorized payments will not be honored inadvertently. Any such financial institution may rely on the representations of such Debtors as to which checks are issued or wire transfers are made (or, as applicable, requested to be issued or made) and authorized to be paid in accordance with this Motion without any duty of further inquiry. The Debtors also seek authority, but not direction, to issue new post-petition checks or effect new post-petition electronic funds transfers in replacement of any checks or funds transfer requests on account of Employee Obligations dishonored or rejected as a result of the commencement of the Debtors’ chapter 11 cases.

BANKRUPTCY RULE 6003(b)

65. Bankruptcy Rule 6003(b) provides that, to the extent relief is necessary to avoid immediate and irreparable harm, a bankruptcy court may issue an order granting “a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition” before twenty-one days after filing of the petition. Fed. R. Bankr. P. 6003(b). As explained above and in the First Day Declaration, the relief requested herein is necessary for the Debtors’ transition into chapter 11, to

continue to operate their business in the ordinary course, and to maximize the value of the Debtors' estates for the benefit of all stakeholders. Accordingly, the Debtors submit that the relief requested herein is necessary to avoid immediate and irreparable harm, and, therefore, satisfies Bankruptcy Rule 6003.

BANKRUPTCY RULE 6004(a) AND (h)

66. To implement the foregoing successfully, the Debtors request that the Court find that notice of the Motion is adequate under Bankruptcy Rule 6004(a) under the circumstances, and waive the fourteen-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h). As explained above and in the First Day Declaration, the relief requested herein is necessary for the Debtors' transition into chapter 11 and to avoid immediate and irreparable harm to the Debtors. Accordingly, ample cause exists to justify finding that the notice requirements under Bankruptcy Rule 6004(a) have been satisfied and to grant a waiver of the fourteen-day stay imposed by Bankruptcy Rule 6004(h), to the extent those requirements apply.

RESERVATION OF RIGHTS

67. Nothing contained herein is intended or shall be construed as (a) an admission as to the validity of any claim against the Debtors; (b) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors; (c) a waiver of any claim or cause of action which may exist against any creditor or interest holder; or (d) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

NOTICE

68. Notice of this Motion will be provided to (i) Office of the United States Trustee for the District of Delaware; (ii) the holders of the thirty largest unsecured claims against the Debtors on a consolidated basis; (iii) counsel to the DIP Agent; (iv) the Internal Revenue Service; (v) the United States Attorney's Office for the District of Delaware; (vi) the Securities and Exchange Commission; and (vii) any party entitled to notice under Bankruptcy Rule 2002 or Local Rule 9013-1(m) (collectively, the "**Notice Parties**"). The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE the Debtors respectfully request entry of the Proposed Orders granting the relief requested herein, and such other and further relief as the Court may deem just and appropriate.

Dated: April 5, 2021
Wilmington, Delaware

/s/ Paul N. Heath
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*Proposed Attorneys for the Debtors
and Debtors in Possession*

Exhibit A

Proposed Interim Order

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

-----	X	
<i>In re</i>	:	Chapter 11
	:	
TECT AEROSPACE GROUP HOLDINGS, INC., <i>et al.</i>,	:	Case No. 21–____ (____)
	:	
Debtors.¹	:	Jointly Administered
	:	
	:	Re: D.I. ____
-----	X	

**INTERIM ORDER (I) AUTHORIZING DEBTORS
TO (A) PAY PREPETITION WAGES, SALARIES, EMPLOYEE
BENEFITS, AND OTHER COMPENSATION, (B) MAINTAIN EMPLOYEE
BENEFIT PROGRAMS AND PAY RELATED OBLIGATIONS, AND (C) PAY
PREPETITION EMPLOYEE EXPENSES AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”)² of TECT Aerospace Group Holdings, Inc. and its debtor affiliates in the above-captioned chapter 11 cases, as debtors and debtors in possession (collectively, the “**Debtors**”), for entry of an interim order (this “**Interim Order**”) (i) authorizing the Debtors to (a) pay the Employee Compensation Obligations and the Employee Benefit Obligations, related expenses, and fees and costs attendant to the foregoing, including amounts owed to third-party service providers and administrators and (b) maintain, continue to honor, and pay amounts with respect to the Debtors’ business practices, programs, and policies for their employees as such were in effect as of the commencement of these chapter 11 cases and as such may be modified or supplemented from time to time in the ordinary course of business, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: TECT Aerospace Group Holdings, Inc. (9338); TECT Aerospace Kansas Holdings, LLC (4241); TECT Aerospace Holdings, LLC (9112); TECT Aerospace Wellington Inc. (4768); TECT Aerospace, LLC (8650); TECT Hypervelocity, Inc. (8103); and Sun Country Holdings, LLC (6079). The Debtors’ mailing address is 300 W. Douglas, Suite 100, Wichita, KS 67202.

² Capitalized terms used but not otherwise defined herein have the meanings given to those terms in the Motion.

jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the “**Hearing**”); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis to the extent set forth herein.
2. The Debtors are authorized to authorized, but not directed, pursuant to sections 105(a), 363(b), and 507(a) of the Bankruptcy Code, to (a) pay Employee Compensation Obligations and (b) maintain, honor, and continue the Employee Benefit Programs in the ordinary course of business and consistent with the Debtors’ prepetition practices, in an aggregate amount not to exceed \$2,015,500; *provided, that*, the Debtors shall not make payments that exceed the Wage Cap to any individual on account of Employee Compensation Obligations.
3. Notwithstanding any other provision of this Interim Order, nothing in this Interim Order shall authorize the Debtors to make any payments that would violate or permit a violation

of section 503(c) of the Bankruptcy Code, including, for the avoidance of doubt, payment of any bonus or severance obligations to or on behalf of any “insider” (as defined by section 101(31) of the Bankruptcy Code).

4. To the extent the Debtors make any payments on account of prepetition claims incurred with respect to any self-insured Health and Welfare Benefits, such payments shall be made without regard to the current employment status of the Employee (or dependent), provided that such Employee (or dependent) was eligible for coverage on the date such claim was incurred.

5. The Debtors are authorized on an interim basis to continue the Corporate Credit Card Program, including as to the Corporate Cards issued by both American Express and Synovus, in the ordinary course of business and consistent with prepetition practices. The Debtors are authorized to continue use of the Corporate Cards and to pay any outstanding prepetition and postpetition obligations with respect to the Corporate Credit Card Program.

6. The Debtors are authorized, but not directed, to continue their workers’ compensation programs and to pay any outstanding prepetition claims, taxes, charges, assessments, premiums, and third-party administrator fees arising under the workers’ compensation policies and or programs in which they participate; *provided* that such payments shall not exceed \$18,500 prior to entry of the Final Order. In addition, the automatic stay of section 362 of the Bankruptcy Code is hereby lifted to allow workers’ compensation claimants to proceed with their claims under the applicable insurance policy or program and to allow the Debtors’ insurance providers and/or third-party administrators to negotiate, settle, and/or litigate workers’ compensation claims, and pay resulting amounts, whether such claims arose before or after the Petition Date.

7. Notwithstanding any other provision of this Interim Order, pending entry of a final order, nothing in this Interim Order shall authorize the Debtors to make any payments under the Non-Insider Severance Program or the Kent Facility Retention Plan.

8. Notwithstanding any other provision of this Interim Order, pending entry of a final order, nothing in this Interim Order shall authorize the Debtors to make any payment to, or on behalf of, any Employee or independent contractor on account of wages and other compensation obligations in excess of the statutory caps set forth in sections 507(a)(4) and (5) of the Bankruptcy Code, unless such amounts are above the statutory cap as a result of a cash payment for unpaid Employee Leave Benefits that are required under applicable law.

9. Each of the Banks at which the Debtors maintain their accounts relating to the payment of the Employee Obligations are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

10. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement,

contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

11. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

12. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and the Local Rules.

13. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

14. The Final Hearing to consider entry of an order granting the relief requested in the Motion on a final basis will be held on _____, **2021, at _____ (prevailing Eastern Time)** and any objections or responses to the Motion must be in writing and filed with the Court by no later than _____, **2021 at 4:00 p.m. (prevailing Eastern Time)**, and served on the following parties: (i) proposed counsel for the Debtors, Richards, Layton & Finger, P.A., Daniel J. DeFranceschi (defranceschi@rlf.com), Paul N. Heath (heath@rlf.com), and Amanda R. Steele (steele@rlf.com); (ii) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, DE 19801, Attn: Linda Casey (Linda.Casey@usdoj.gov); (iii) counsel for the DIP Agent: (a) Perkins Coie LLP, Alan D. Smith (ADSmith@perkinscoie.com), and (b) Young Conaway Stargatt & Taylor, LLP, Kenneth J. Enos (kenos@ycst.com); and (iv) counsel for any official committee of unsecured creditors.

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

16. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Interim Order.

Exhibit B

Proposed Final Order

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

<i>In re</i> TECT AEROSPACE GROUP HOLDINGS, INC., et al., <p style="text-align: center;">Debtors.¹ </p>	X : : : : : : : : X	Chapter 11 Case No. 21– ____ (____) Jointly Administered Re: D.I. ____
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**FINAL ORDER (I) AUTHORIZING DEBTORS
TO (A) PAY PREPETITION WAGES, SALARIES, EMPLOYEE
BENEFITS, AND OTHER COMPENSATION, (B) MAINTAIN EMPLOYEE
BENEFIT PROGRAMS AND PAY RELATED OBLIGATIONS, AND (C) PAY
PREPETITION EMPLOYEE EXPENSES AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”)² of TECT Aerospace Group Holdings, Inc. and its debtor affiliates in the above-captioned chapter 11 cases, as debtors and debtors in possession (collectively, the “**Debtors**”), for entry of a final order (this “**Final Order**”) (i) authorizing the Debtors to (a) pay the Employee Compensation Obligations and the Employee Benefit Obligations, related expenses, and fees and costs attendant to the foregoing, including amounts owed to third-party service providers and administrators and (b) maintain, continue to honor, and pay amounts with respect to the Debtors’ business practices, programs, and policies for their employees as such were in effect as of the commencement of these chapter 11 cases and as such may be modified or supplemented from time to time in the ordinary course of business, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: TECT Aerospace Group Holdings, Inc. (9338); TECT Aerospace Kansas Holdings, LLC (4241); TECT Aerospace Holdings, LLC (9112); TECT Aerospace Wellington Inc. (4768); TECT Aerospace, LLC (8650); TECT Hypervelocity, Inc. (8103); and Sun Country Holdings, LLC (6079). The Debtors’ mailing address is 300 W. Douglas, Suite 100, Wichita, KS 67202.

² Capitalized terms used but not otherwise defined herein have the meanings given to those terms in the Motion.

jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having held a hearing, if necessary, to consider the final relief requested in the Motion (the “**Hearing**”); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing, if any, establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted on a final basis to the extent set forth herein.
2. The Debtors are authorized to authorized, but not directed, pursuant to sections 105(a), 363(b), and 507(a) of the Bankruptcy Code, to (a) pay the Employee Compensation Obligations and the Employee Benefit Obligations, including obligations pursuant to the Kent Facility Retention Plan, related expenses, and fees and costs attendant to the foregoing, including amounts owed to third-party service providers, administrators, and taxing authorities, and (b) maintain, continue to honor, and pay on a postpetition basis, in their discretion, amounts with respect to the Debtors’ business practices, programs, and policies for their employees as such were in effect as of the Petition Date and as such may be modified or supplemented from time to time in the ordinary course of business and consistent with the Debtors’ prepetition practices, in an

aggregate amount not to exceed \$2,904,000; *provided, that*, the Debtors shall not make payments that exceed the Wage Cap to any individual on account of any prepetition Employee Compensation Obligations unless such payments are for unpaid Employee Leave Benefits that are required to be paid under applicable law.

3. Notwithstanding any other provision of this Final Order, nothing in this Final Order shall authorize the Debtors to make any payments that would violate or permit a violation of section 503(c) of the Bankruptcy Code, including, for the avoidance of doubt, payment of any bonus or severance obligations to or on behalf of any “insider” (as defined by section 101(31) of the Bankruptcy Code)

4. To the extent the Debtors make any payments on account of prepetition claims incurred with respect to any self-insured Health and Welfare Benefits, such payments shall be made without regard to the current employment status of the Employee (or dependent), provided that such Employee (or dependent) was eligible for coverage on the date such claim was incurred.

5. The Debtors are authorized on a final basis to continue the Corporate Credit Card Program, including as to the Corporate Cards issued by both American Express and Synovus, in the ordinary course of business and consistent with prepetition practices. The Debtors are authorized to continue use of the Corporate Cards and to pay any outstanding prepetition and postpetition obligations with respect to the Corporate Credit Card Program.

6. The Debtors are authorized, but not directed, to continue their workers’ compensation programs and to pay any outstanding prepetition claims, taxes, charges, assessments, premiums, and third-party administrator fees arising under the workers’ compensation policies and or programs in which they participate. In addition, the automatic stay of section 362 of the Bankruptcy Code is hereby lifted to allow workers’ compensation claimants

to proceed with their claims under the applicable insurance policy or program and to allow the Debtors' insurance providers and/or third-party administrators to negotiate, settle, and/or litigate workers' compensation claims, and pay resulting amounts, whether such claims arose before or after the Petition Date.

7. Each of the Banks at which the Debtors maintain their accounts relating to the payment of the Employee Obligations are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

8. Nothing contained in the Motion or this Final Order, nor any payment made pursuant to the authority granted by this Final Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

9. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and the Local Rules.

10. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be immediately effective and enforceable upon its entry.

11. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Final Order.

12. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Final Order.