

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:) Chapter 11
)
) Case No. 21-10670 (KBO)
TECT AEROSPACE GROUP HOLDINGS,)
INC., *et al.*,) Jointly Administered
)
Debtors.¹) Re: Docket Nos. 12 and 39
)
) Obj. Deadline: May 3, 2021, 12:00 p.m. (ET)
) Hearing Date: May 6, 2021, 10:00 a.m. (ET)
)

**OBJECTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS
TO MOTION OF DEBTORS FOR ENTRY OF INTERIM AND FINAL ORDERS
(I) AUTHORIZING THE DEBTORS TO (A) OBTAIN POST-PETITION FINANCING,
AND (B) USE CASH COLLATERAL; (II) GRANTING ADEQUATE PROTECTION
TO PREPETITION SECURED PARTIES; AND (III) GRANTING RELATED RELIEF**

The Official Committee of Unsecured Creditors (the “Committee”) of the above-captioned debtors and debtors in possession (collectively, the “Debtors”), by and through its undersigned proposed counsel, Kilpatrick Townsend & Stockton LLP and Womble Bond Dickinson (US) LLP, hereby files this objection (the “Objection”) to the *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Post-Petition Financing, and (B) Use Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; and (III) Granting Related Relief* [Dkt. No. 12] (the “DIP Motion,” and the DIP financing facility contemplated therein, the “DIP Facility”). In support of this Objection, the Committee respectfully states as follows:

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, Kansas 67202.



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PRELIMINARY STATEMENT²

1. By the DIP Motion, the Debtors seek various forms of relief that offer extraordinary protections and further the interests of The Boeing Company (“Boeing”), in its various capacities as prepetition lender, postpetition lender, and trade creditor, at the expense of the Debtors’ other creditors, particularly unsecured creditors. In fact, Boeing singlehandedly occupies all of the most influential creditor roles in these cases.³ And its choice to become the Debtors’ prepetition and postpetition secured lender was a tactical one, as the Debtors’ largest customer, to protect the Debtors’ ongoing operations and, thus, Boeing’s supply chain.

2. As set forth in the *Declaration of Shaun Martin in Support of Chapter 11 Petitions and First Day Pleadings* [Dkt. No. 13] (the “First Day Declaration”), Boeing assumed the entirety of the Debtors’ Prepetition Credit Agreement less than a month and a half before the Petition Date, when bankruptcy was looming, and it urged the Debtors to file these cases (collectively, the “Chapter 11 Cases”) so that it could extend additional credit with the benefits and protections of postpetition DIP lending. First Day Decl., ¶¶ 14, 26. Then Boeing structured the DIP Facility to extract as much advantage and control from these cases as possible, as well as absorb all of the Debtors’ unencumbered assets on account of its newly minted prepetition and postpetition secured debt.

3. The relief related to the DIP Facility goes far beyond reasonable requests for secured lender protections; it also seeks unusual and sweeping relief that would benefit and protect

² Capitalized terms used but not otherwise defined in the Preliminary Statement shall have the meanings ascribed to them below. Capitalized terms used but not otherwise defined in this Objection shall have the meanings ascribed to them in the Interim DIP Order, as defined herein.

³ Despite the use of plural defined terms, upon information and belief, Boeing is the one and only party that constitutes (a) the Prepetition Lenders, (b) the Prepetition Agent, (c) the DIP Lenders, (d) the DIP Agent, and (e) the DIP Secured Parties. See First Day Decl., ¶ 14; DIP Motion, ¶ 10; DIP Agreement, § 1.01 (definitions of “Administrative Agent,” “Boeing,” “Lenders”), signature pages. Such terms, which are defined as plural terms in the Interim DIP Order, may be used in their singular forms herein with the same meaning.

Boeing in its capacity as a *trade creditor* of the Debtors.⁴ For example, the DIP Facility, which establishes only a five-day notice period before most remedies may be exercised upon an event of default, allows Boeing to take over the Debtors' businesses entirely, ***without any notice period whatsoever***, upon a mere determination (by Boeing) that there is a "significant risk" of a breach of certain covenants that aim to ensure continued inventory production for Boeing. Under this provision, which, to the Committee's knowledge, is unprecedented for a DIP Facility, Boeing may enter the Debtors' facilities, coopt Debtor employees and assets, take Debtor inventory and supplies, and operate the Debtors' facilities for its own benefit over the interests of the Debtors' other customers. Or, Boeing may seek to install, on an expedited basis, a new Chief Restructuring Officer that would operate the Debtors as Boeing desires. In a separate provision of the DIP Agreement, which is made applicable by entry of the Interim DIP Order and, if approved, the proposed Final DIP Order,⁵ Boeing also (a) requires the Debtors to obtain accommodation agreements from each of their significant customers, in form and substance reasonably acceptable to Boeing, within 45 days of the Petition Date (May 21, 2021); and (b) reserves the right to withhold funding that would benefit any customer that refuses.⁶ Such relief is far beyond the pale of proper and reasonable protections for a DIP lender and will be value destructive for every other stakeholder in this case.

⁴ In addition to being the Debtors' most significant secured lender, Boeing also is the Debtors' largest prepetition trade creditor, and it holds approximately 53% of the Debtors' unsecured trade debt (approximately \$18.44 million out of approximately \$35 million in total trade debt). First Day Decl., ¶ 18.

⁵ The "proposed Final DIP Order" is the form of Final DIP Order proposed by the Debtors that would reflect the final nature of the relief granting the DIP Motion, and, upon information and belief, would contain the same substantive provisions as the Interim DIP Order.

⁶ This requirement established by Section 7.15 of the DIP Agreement was not mentioned in the DIP Motion or the Interim DIP Order, despite the fact that it is highly unusual and it could significantly prejudice the Debtors' business operations and, thus, their restructuring efforts.

4. But Boeing does not stop there. Boeing seeks expansive, plan-like releases and stipulations waiving any claims, defenses, and remedies that may be related to its position or its claims as a trade creditor. Such a request is particularly egregious in this case, where Boeing may have liability—and indeed may have been a proximate cause—for the Debtors’ insolvency. As described in the First Day Declaration, the Debtors experienced a sudden and unanticipated loss in revenues when the Boeing 737 MAX airplane was grounded by regulators worldwide following a series of plane crashes and production of the 737 MAX was consequently halted. *See* First Day Decl., ¶¶ 4, 19, 21. The impacts of these events on the Debtors’ businesses were severe, and ultimately made the Debtors unable to weather the business challenges later imposed by the COVID-19 pandemic, thus necessitating the Debtors’ bankruptcy filings. *Id.* ¶¶ 4, 19. Boeing’s attempt to use its extension of postpetition credit, less than half of which provides “new money,” to cleanse any potential liability for estate claims—claims that could provide a valuable source of recovery for the Debtors’ other creditors who are owed tens of millions of dollars (not including any rejection damage claims)—is wholly inappropriate and inequitable to the other parties in interest.

5. In addition to the highly unusual provisions that seek to protect Boeing’s interests as a trade creditor, the DIP Motion seeks relief that would unduly advantage Boeing in its position as a secured lender, as well. For example, Boeing, as the secured lender under both the Prepetition Credit Agreement and the DIP Facility, will use the DIP Facility to, among other things, effectuate a “creeping” roll-up of an estimated \$30.7 million in prepetition debt and possibly more if the Debtors collect receipts beyond what is projected in the Approved Budget (the “Roll-Up Loans”), and relend such “rolled-up” amounts to the Debtors with the same protections that are afforded to the “new money” portion of the DIP Facility (*i.e.*, the portion that exceeds the amount by which

the Prepetition Obligations are paid down) (the “New Money Loans”). The “creeping” roll-up will double the Debtors’ postpetition secured debt stack (assuming Boeing advances \$29.5 million of New Money Loans, which is by no means a certainty) and eliminate the risk of a cram-down of the Prepetition Obligations. Further, the liens securing the DIP Facility obligations (on account of both the New Money Loans *and* the Roll-Up Loans) and the Prepetition Obligations would encumber absolutely all of the Debtors’ property, including all previously unencumbered property, like (a) proceeds of Avoidance Actions (the “Avoidance Action Proceeds”); (b) the estates’ potential (and as yet uninvestigated) claims and causes of action against Boeing or any of its affiliates (collectively, the “Boeing Claims”) and any proceeds thereof (the “Boeing Claim Proceeds”); (c) any claims and causes of action that the estates may have against the Debtors’ current and former directors and officers (the “D&O Claims”) and any proceeds or property derived from the D&O Claims (the “D&O Claim Proceeds”); and (d) the assets of TECT Aerospace Group Holdings, Inc. (“TECT Parent”), a Debtor that was not subject to any of the Prepetition Obligations or the Prepetition Liens.

6. The proposed DIP Liens and Adequate Protection Liens should not encumber, and the superpriority claims should not have recourse to, the Avoidance Action Proceeds, Boeing Claims, Boeing Claim Proceeds, D&O Claims, D&O Claim Proceeds, and TECT Parent (collectively, the “Excluded Assets”). These assets should be preserved for the benefit of all creditors of the estate. Further, the Adequate Protection Liens and Adequate Protection Superpriority Claim should not *improve* Boeing’s prepetition secured position by granting recourse to the Excluded Assets because Boeing voluntarily granted priming liens to itself to protect its own interests, particularly when doing so strips unsecured creditors of their remaining sources of recovery. To that end, Boeing should not receive DIP Liens and a DIP Superpriority Claim on the

Roll-Up Loans—which are, in effect, just a pay-down of the Prepetition Obligations that already are entitled to adequate protection.

7. On top of all of these protections in favor of Boeing in its various and often conflicting capacities, Boeing also will, among other things, lock these Chapter 11 Cases into overly restrictive milestones and obtain section 506(c) and marshaling waivers. Further, the Interim DIP Order and the proposed Final DIP Order also inappropriately restrict the Committee's ability to discharge its fiduciary duties by, among other things, providing an inadequate Challenge Period during which the Committee must (a) investigate the Prepetition Lender's liens and claims *and also* causes of action and claims against Boeing in all of its capacities—including as Prepetition Lender, DIP Secured Party, and trade creditor; and (b) seek and obtain standing to commence a Challenge.⁷ These restrictions hinder the Committee from (x) validating Boeing's position, as the Prepetition Lender, that it has enforceable and valid liens on substantially all of the Debtors' assets and (y) asserting any claims or causes of action against the Prepetition Lender and DIP Secured Party, as well as potential claims against Boeing, its affiliates, current or future officers, employees, directors, agents and a host of other related parties that relate in any way to the complex and longstanding trade relationship between the Debtors and Boeing.

8. Unless the proposed Final DIP Order, whose one-sided terms unreasonably benefit Boeing at the expense of other parties in interest, is modified to address the issues and objections raised herein, entry of the Final DIP Order may deprive unsecured creditors of substantial value and effectively cede control of these Chapter 11 Cases to Boeing approximately only one month after the Petition Date. Thus, for the reasons set forth herein, the Court should condition approval of the DIP Motion on a final basis upon the Debtors substantially revising the proposed Final DIP

⁷ The Committee's professional fee budget related to all Challenge efforts is limited to \$50,000.

Order and the DIP Agreement to address the serious concerns discussed in this Objection, including: (a) the proposed encumbrance of the Excluded Assets; (b) the overreaching liens and superpriority claims granted in connection with the Roll-Up Loans; (c) the waivers of the Debtors' rights under the marshaling doctrine and section 506(c) of the Bankruptcy Code; (d) overbroad releases of Boeing and certain affiliated parties, particularly those releases in Boeing's capacity as a trade creditor; (e) terms that provide Boeing unreasonable control over the Debtors' operations, including (i) the "Operational Continuity Provision" that would allow Boeing to take over the Debtors' operations and (ii) the requirement that the Debtors obtain accommodation agreements with each of their significant customers; (f) the truncated Challenge Period and budget, and other terms limiting possible Committee Challenges; (g) unreasonable budget covenants; and (h) Case Milestones that must be adjusted.

9. The Committee believes that, as of the filing of this Objection, the parties have reached agreement on certain of the Committee's non-substantive issues, though many material issues remain outstanding. Nonetheless, out of an abundance of caution and to ensure all issues are preserved until a resolution may be finalized, this Objection details all of the Committee's issues with the proposed Final DIP Order. The Committee has also prepared a form of the proposed Final DIP Order (the "Committee's Proposed Order") that addresses many, but not all of the Committee's issues and, in the spirit of reaching consensus, would be acceptable to the Committee. The Committee's Proposed Order is attached hereto as Exhibit A. A redlined comparison showing the changes in the Committee's Proposed Order from the Interim DIP Order is attached hereto as Exhibit B, for the Court's convenience.

BACKGROUND

10. On April 6, 2021 (the “Petition Date”), the Debtors commenced 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.

11. On April 7, 2021, the Court entered its *Interim DIP Order Pursuant to Sections 105, 361, 362, 363, 364 and 507 of the Bankruptcy Code, Bankruptcy Rule 4001 and Local Rule 4001-2, (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Parties, (III) Scheduling Final Hearing and (IV) Granting Related Relief* (the “Interim DIP Order”) [Dkt. No. 39]. The deadline for filing objections to the DIP Motion was originally April 29, 2021 at 4:00 p.m. (prevailing Eastern Time). *See* Dkt. No. 41. To allow for further negotiations between the parties, the Debtors extended that objection deadline for the Committee to May 3, 2021 at 12:00 p.m. (prevailing Eastern Time). A hearing to approve the DIP Motion by entry of an order on a final basis (such order, the “Final DIP Order”) is scheduled for May 6, 2021 at 10:00 a.m. (prevailing Eastern Time).

12. On April 20, 2021, the United States Trustee for the District of Delaware appointed the Committee pursuant to section 1102(a)(1) of the Bankruptcy Code. *See* Dkt. No. 76 (providing notice of appointment). On April 21, 2021, the Committee selected Kilpatrick Townsend & Stockton LLP and, on April 22, 2021, Womble Bond Dickinson (US) LLP as its proposed co-counsel. On April 23, 2021, the Committee selected Province, Inc. as its proposed financial advisor.

13. Prior to filing the Objection, the Committee engaged in negotiations with the Debtors and Boeing in an attempt to resolve the Committee’s concerns with the Final DIP Order.

While the Committee hopes to continue such negotiations in efforts to reach a consensual resolution of all outstanding issues, the parties were not able to agree to a proposed form of Final DIP Order, which necessitated the filing of this Objection.

OBJECTION

14. Courts routinely recognize that “[d]ebtors in possession generally enjoy little negotiating power with a proposed lender, particularly when the lender has a prepetition lien on cash collateral.” *In re Defender Drug Stores, Inc.*, 145 B.R. 312, 317 (9th Cir. BAP 1992). As a result, courts are hesitant to approve financing terms that are considered harmful to an estate and its creditors. *See, e.g., In re Ames Dep’t Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) (noting that “the court’s discretion under section 364 is to be utilized on grounds that permit reasonable business judgment to be exercised so long as the financing agreement does not contain terms that leverage the bankruptcy process and powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-interest”).

15. While certain favorable terms may be permitted as a reasonable exercise of the debtor’s business judgment, bankruptcy courts have not approved financing arrangements that convert the bankruptcy process from one designed to benefit all creditors to one designed for the sole (or primary) benefit of the lender. *See, e.g., Ames*, 115 B.R. at 38 (holding that the terms of a postpetition financing facility must not “pervert the reorganizational process from one designed to accommodate all classes of creditors . . . to one specially crafted for the benefit” of one creditor) (citing *In re Tenney Vill. Co.*, 104 B.R. 562, 568 (Bankr. D.N.H. 1989)). Thus, as the Debtors noted in the DIP Motion, the Debtors’ reasonable business judgment in obtaining DIP financing should be honored only “so long as the financing agreement does not contain terms ... [whose]

purpose is not so much to benefit the estate as it is to benefit a party-in-interest.” DIP Motion, ¶ 18 (citing *Ames*, 115 B.R. at 40).

16. The proposed Final DIP Order therefore is not acceptable in its current form, as it includes a number of provisions that: (a) prejudice the rights and powers that the Bankruptcy Code confers on the Court, the Debtors, and the Committee; (b) unjustifiably benefit Boeing—who is simultaneously the DIP Lender, DIP Agent, Prepetition Agent, and Prepetition Lender—at the expense of the Debtors’ other creditors; and (c) are likely to give Boeing further undue control over these Chapter 11 Cases.

I. The DIP Liens, Adequate Protection Liens, and Superpriority Claims Must Be Pared Back to Keep the Excluded Assets Available for Unsecured Creditor Recoveries.

17. The Committee objects to the proposed DIP Liens and Adequate Protection Liens on, and DIP Superpriority Claim and Adequate Protection Superpriority Claim in, the Excluded Assets. The Excluded Assets are the type of assets that should be preserved for the benefit of all estate creditors. But the proposed Final DIP Order would secure absolutely all of the property of the Debtors’ estates to satisfy the DIP Liens, the Adequate Protection Liens and the superpriority claims. Interim DIP Order, ¶ 13 (the DIP Collateral includes “all ‘property of the estate’ (within the meaning of the Bankruptcy Code) . . . of any kind or nature whatsoever[.]”); *id.* ¶ 16(a) (Adequate Protection Liens are secured by the DIP Collateral). Here, the Debtors’ unsecured creditors are owed tens of millions of dollars (not including any rejection damage claims). If the Excluded Assets are not preserved as unencumbered assets not subject to Boeing’s superpriority claims, unsecured creditors may lose all possible sources of recovery at the outset of these Chapter 11 Cases.

18. The proposed liens and claims on the Avoidance Action Proceeds, in particular, are fundamentally at odds with the unique purposes served by Avoidance Actions in bankruptcy.

Avoidance Actions are distinct creatures of bankruptcy law designed to benefit and ensure equality of distribution among general unsecured creditors. *See, e.g., Official Comm. of Unsecured Creditors of Cybergenics Corp. v. Chinery (In re Cybergenics Corp.)*, 226 F.3d 237, 244 (3d Cir. 2000) (identifying underlying intent of avoidance powers to recover valuable assets for the benefit of all estate creditors), *rev'd en banc on other grounds*, 330 F.3d 548 (3d Cir. 2003); *In re Tribune Co.*, 464 B.R. 126, 171 (Bankr. D. Del. 2011) (noting “that case law permits all unsecured creditors to benefit from avoidance action recoveries”). For that reason, DIP financing orders in this District often exclude the proceeds of avoidance actions from the collateral securing DIP financing liens. *See, e.g., In re YogaWorks, Inc.*, No. 20-12599 (KBO) (Bankr. D. Del. Nov. 9, 2020), ¶ 3(a) [Dkt. No. 133] (excluding avoidance action proceeds from DIP collateral); *In re Emerge Energy Services LP*, No. 19-11563 (KBO) (Bankr. D. Del. Aug. 14, 2019), ¶ 13(a)(i) [Dkt. No. 209] (same).⁸

19. The Debtors have not provided any justification for the extraordinary grant of liens on Avoidance Action Proceeds, or for the potential payment of superpriority claims with the proceeds of Avoidance Actions. Indeed, there is no legal basis to grant such relief. Furthermore, the Committee believes that there may be substantial value associated with Avoidance Action Proceeds, including with respect to potential Avoidance Actions against certain entities owned or controlled by Glass Holdings, LLC (“Glass”), the Debtors’ corporate parent. Such proceeds should be preserved to maximize the value of the Debtors’ estates and fund potential recoveries for the Debtors’ unsecured creditors.

⁸ *See also In re Akorn, Inc.*, No. 20-11177 (KBO) (Bankr. D. Del. June 15, 2020) ¶ 7 [Dkt. No. 179] (excluding avoidance action proceeds, except for postpetition transfers under section 549 of the Bankruptcy Code); *In re Pronerve Holdings, LLC*, No. 15-10373 (KJC) (Bankr. D. Del. Mar. 20, 2015), ¶ 7 [Dkt. No. 115] (excluding avoidance action proceeds from DIP collateral); *In re Hipcricket, Inc.*, No. 15-10104 (LSS) (Bankr. D. Del. Feb. 11, 2015), ¶ 14 [Dkt. No. 117] (same); *In re LSP Energy Limited Partnership*, No. 12-10460 (MFW) (Bankr. D. Del. Feb. 27, 2012), ¶ 12(a) [Dkt. No. 79] (same).

20. With respect to the liens and claims on the Boeing Claims and Boeing Claim Proceeds, the Debtors have cited the grounding of the Boeing-manufactured 737 MAX airplane as one of the two significant events driving the Debtors to chapter 11 (the other being the COVID-19 pandemic). *Id.* ¶ 19. The Debtors may have certain viable claims and causes of action against Boeing or its affiliates, including business tort claims, which could be very valuable to the estates. As such, the Committee is currently or will soon be investigating potential estate claims and causes of action against Boeing. The DIP Facility should not strip unsecured creditors of those assets, which may be a primary source of recovery in these cases. Furthermore, it would be highly inequitable for Boeing, approximately one month after it required the Debtors to commence these cases as a condition to continue funding, to be able to control such causes of action or potentially reap the benefits of its own liability at the expense of other unsecured creditors.

21. The Committee also believes that there may be viable D&O Claims, and the D&O Claim Proceeds of any successful claims should be preserved as unsecured assets for the benefit of all estate creditors. As further described in the First Day Declaration, the Debtors engaged in significant business with their non-debtor corporate affiliates in the prepetition period, including leasing all of their real property and much of their manufacturing equipment from Glass-affiliated entities. Those affiliates, among other things, share a common corporate parent in Glass and, upon information and belief, overlapping board members. The Committee will be investigating the appropriateness of these business arrangements and any potential claims for breach of fiduciary duties. As such, it is critical to preserve any D&O Claim Proceeds as unencumbered assets so that they may provide a (potentially significant) source of recovery for all unsecured creditors, not just Boeing.

22. For these reasons, the Committee objects to making the Excluded Assets (a) part of the DIP Collateral package securing the DIP Liens and the Adequate Protection Liens or (b) available to satisfy the DIP Superpriority Claim or the Adequate Protection Superpriority Claim, including with respect to the New Money Loans and adequate protection for Diminution claims.

II. The Unencumbered Assets Other Than the Excluded Assets Should Be Used to Secure or Satisfy Only the New Money Portion of the DIP Facility and the Adequate Protection Claims to the Extent of Diminution.

23. Although the Committee does not object to the encumbrance of the Debtors' previously unencumbered assets, *other than* the Excluded Assets, as part of the DIP Collateral, such unencumbered assets and their proceeds should *not* be used to secure or satisfy obligations and claims relating to the Roll-Up Loans. As discussed above, the DIP Facility contemplates a "creeping roll-up" of the Prepetition Obligations whereby the Debtors' "receipts" are used to satisfy outstanding Prepetition Obligations. Interim DIP Order, ¶ 16(c). The amounts that are "rolled up" by such postpetition payments will then be deemed borrowed by the Debtors on a dollar-for-dollar basis under the DIP Facility. Despite the Roll-Up Loans being characterized as DIP borrowings, the economic reality of the Roll-Up Loans is that they are tantamount to the consensual use of Cash Collateral to repay Boeing's prepetition secured loans on a preferred basis outside of a plan of reorganization.

24. A debtor's use of cash collateral in bankruptcy entitles the secured party to adequate protection of the value bargained for *pre-bankruptcy*—nothing more. *See* 11 U.S.C. § 363(e); *Resolution Tr. Corp. v. Swedeland Dev. Grp., Inc. (In re Swedeland Dev. Grp., Inc.)*, 16 F.3d 552, 564 (3d Cir. 1994) ("[T]he whole purpose of adequate protection for a creditor is to insure that the creditor receives the value for which he bargained prebankruptcy."); *see also In re Emerge Energy Services LP*, No. 19-11563 (KBO) (Bankr. D. Del. Aug. 14, 2019), ¶¶ 12, 13(a)(i) [Dkt. No. 209]

(granting DIP liens and a DIP superpriority claim on unencumbered assets only for new money loans). Boeing, as the Prepetition Lender, was granted Adequate Protection Liens and an Adequate Protection Superpriority Claim on account of the Debtors' use of its Cash Collateral to fund the Roll-Up Loans. *See* Interim DIP Order, ¶ 14(a)-(b). There is no basis to grant additional, and unwarranted, DIP Liens and a DIP Superpriority Claim on account of the Roll-Up Loans, as well. To do so would increase the burden of the DIP Liens and the DIP Superpriority Claim on the estates by approximately \$30 million (or more if the Debtors' collections exceed budget) than what is warranted based on the actual function of the DIP Facility. Particularly in light of the fact that these cases were commenced for the benefit of Boeing as the Prepetition Lender, DIP Secured Party and largest customer, Boeing's efforts to scoop up all of the Debtors' unencumbered assets as security for the Roll-Up Loans is overreaching and inconsistent with the protections afforded to the use of cash collateral.

25. Indeed, extending the DIP Liens and the DIP Superpriority Claim to cover the Roll-Up Loans would essentially guarantee that unsecured creditors would be denied any recovery on account of the Debtors' unencumbered assets, given that the Debtors seek to encumber the entirety of their assets under the DIP Liens, including (a) all previously unencumbered assets, including all of the Excluded Assets; and (b) encumbered assets that become unencumbered as a result of a successful Challenge by the Committee (or any other party). Accordingly, the Committee objects to the DIP Lenders being granted, on account of the Roll-Up Loans, any DIP Liens or DIP Superpriority Claim on or with recourse to unencumbered assets. Indeed, the only claims that may be properly secured by the Debtors' unencumbered assets (not including the Excluded Assets) are those claims based on the New Money Loans and adequate protection for Diminution, if any.

III. The DIP Liens and DIP Superpriority Claim Should be Satisfied First From Encumbered Assets.

26. Even more important than what assets are subject to the proposed DIP liens and claims is that the DIP Lender be required to satisfy the DIP Obligations first from assets that were encumbered as of the Petition Date before seeking recourse to previously unencumbered assets (other than the Excluded Assets, which it should not be able to look to at all). As the Debtors' unencumbered assets may be the only source of recovery for unsecured creditors in these cases, the DIP lenders should be required to first look to previously encumbered assets in satisfying the DIP liens and claims. This "marshaling" mechanism will continue to protect the DIP Facility so that it can be repaid without overly prejudicing unsecured creditors, for whose benefit the DIP Facility is most definitely not being made. Absent this requirement, the first \$60 million of unencumbered assets could go to Boeing for making a defensive DIP loan—only approximately half of which is projected to be "new money"—for the purpose of securing the continuity of its own supply chain.

IV. The Plan-Like Release in Favor of Boeing in its Capacity as a Trade Creditor is Inappropriate for a DIP Order and Must be Stricken.

27. The Interim DIP Order and the proposed Final DIP Order grant Boeing, and various parties related to it (collectively, the "Releasees"), expansive releases *in every capacity* that are akin to what might be sought in a plan of reorganization (if not more expansive), but without meeting any of the standards for warranting a plan release. *See* Interim DIP Order, ¶ 18. As an initial matter, Boeing's attempt to extract broad releases of liability relating to its role as a trade creditor are wholly inappropriate for a DIP order. To the extent the Releasees are entitled to any releases in the Final DIP Order, such releases must be expressly limited to Boeing's role as the Prepetition Lender and DIP Secured Party—such limits are not established in the Interim DIP Order. *See id.* ¶ 18(a)-(b). Boeing's contributions to the Debtors' restructuring process on account

of the DIP Facility have been and will be in its roles as the Prepetition Lender and DIP Secured Party, *not* as a trade creditor. A release of an ordinary trade creditor would be unwarranted and highly inappropriate in any DIP order, but it is particularly problematic here because the estates may have valuable claims or causes of action against the Releasees arising out of, among other things, (a) a complex trade relationship that goes back approximately 20 years; and (b) actions and/or events leading to the Debtors' Chapter 11 Cases. There is no basis to waive potentially valuable claims at all, much less at the early stages of these cases. Put simply, if Boeing wants a release in its capacity as a trade creditor, that will, as for all other trade creditors, be considered in connection with confirmation of a chapter 11 plan. Thus, paragraphs 18(c) and 18(d) of the proposed Final DIP Order must be stricken in their entirety.

V. Certain Inappropriate Provisions Regarding Defaults and Remedies Under the DIP Agreement Must Be Stricken or Modified.

28. Several provisions regarding the triggering of Events of Default or remedies upon an Event of Default under the DIP Agreement, which are made applicable by way of the Interim DIP Order and the currently proposed Final DIP Order, are unreasonably burdensome and inappropriate for a DIP Facility. They should be modified or stricken.

29. The most egregious of such provisions is the remedy provided by Section 9.03 of the DIP Agreement (the "Operational Continuity Provision"). Under this provision, upon a breach of the covenants in Section 7.12 of the DIP Agreement, which aim to ensure continued production of Boeing's inventory, or *any* Event of Default that Boeing (as "Administrative Agent" under the DIP Agreement) determines creates a risk of breaching such covenants, Boeing may take over the management and operations of all of the Debtors' facilities and utilize all of the Debtors' assets and rights to ensure the continuing production of inventory for Boeing and full performance of the Boeing trade agreements. DIP Agreement, § 9.03(a). The Operational Continuity Provision

authorizes Boeing to take all inventory relating to Boeing, including finished goods, work-in-process goods, and raw materials. *Id.* Boeing may coopt the Debtors' workforce, use all of the Debtors' intellectual property, and even demand performance by the Debtors' contract counterparties, including Debtor affiliates. *Id.* Boeing may also request, on an expedited basis, that the Court replace the Debtors' Chief Restructuring Officer with someone who will take over the operational control of the Debtors' estates *for the express purpose* of "continuing production, fully performing the [Debtors'] obligations under the supply agreements and purchase orders with Boeing . . . , and otherwise complying with [the covenants under Section 7.12 of the DIP Agreement]." *Id.* § 9.03(b). Unlike other remedies under the DIP Agreement, Boeing may exercise its rights under the Operational Continuity Provision without regard to the requisite Remedies Notice Period.

30. The Operational Continuity Provision is highly unusual and its draconian measures have no place in an orderly bankruptcy process. This provision would allow Boeing to overthrow the debtors in possession and render itself the "lender in possession" by taking over the management, operations, and assets of the Debtors and operating the Debtors' businesses for its sole and exclusive benefit without regard to the Debtors' other customers, the interests of the estate, or other parties in interest. Such authority is value destructive to the estates. If Boeing were to exercise the Operational Continuity Provision, the sale value of the Debtors' facilities and assets (particularly its intellectual property) could plummet. Moreover, it is highly inequitable. The Operational Control Provision grants relief that is tantamount to appointing a receiver that has no fiduciary duties to anyone but itself (a) without Court approval, (b) without a notice or cure period, and (c) upon merely the vague "judgment of the Administrative Agent"—the same party that would directly benefit from taking control—that an Event of Default under *any* provision of

the DIP Agreement creates a “significant risk” of breach of the Section 7.12 covenants. The fact that Boeing is an atypical DIP lender is irrelevant and certainly not a panacea for this highly unusual relief. This Court should not set the precedent of approving such a provision that undermines the carefully balanced bankruptcy system. The Operational Continuity Provision should be stricken in its entirety.⁹

31. Another unusual and improper provision of the DIP Agreement is Section 7.15, which requires the Debtors to “use their commercially reasonable efforts” to obtain, within the first 45 days of these cases, commercial accommodation agreements with each of their significant customers, in form and substance acceptable to Boeing. DIP Agreement, § 7.15. If the Debtors do not secure such accommodation agreements with their customers by May 21, 2021, Boeing, as DIP Agent, may decline to provide funding that would benefit those customers. *Id.* This provision undermines the Debtors’ ability to administer their estates and run their businesses as debtors in possession. It may also be value destructive to the Debtors’ sale process, which a critical component of these Chapter 11 Cases.

32. There are several other provisions that should be modified in the Final DIP Order to protect the interests of the Debtors’ estates and their creditors. For example, the DIP Secured Parties should be barred from cutting off funding under the DIP Facility until after the conclusion of the Remedies Notice Period. *See* Interim DIP Order, ¶ 21(b). Furthermore, the Interim DIP Order provides for the exercise of remedies upon the Debtors’ violation of *any* provision of the

⁹ In connection with striking the Operational Continuity Provision, all portions of the proposed Final DIP Order authorizing the remedies provided by that provision should also be stricken, including, without limitation, the portion of paragraph 21(b) that states as follows: “In addition, notwithstanding the Remedies Notice Period, either or both of The Boeing Company and/or the DIP Agent, as applicable, may petition the Court upon such shortened notice period as the Court may allow in order to (y) prior to entry of the Final DIP Order, invoke such operational continuity provisions, and/or (z) request the appointment of a replacement Chief Restructuring Officer with operational control over the Debtors’ estates, in each case to ensure continued operation of the business of the Debtors in accordance with the Approved Budget.”

Interim DIP Order. *See, e.g.*, Interim DIP Order, ¶ 21(b), (c), (f), (g). The Final DIP Order should condition the exercise of remedies under the DIP Agreement upon a *material* violation of the Final DIP Order. The Final DIP Order also should clarify, for the avoidance of doubt, that the Debtors and the Committee shall be entitled to seek emergency relief from the exercise of remedies for any reason, and the Final DIP Order should strike the portion of paragraph 21(b) of the Interim DIP Order that states “and without any interference from the Debtors or any other party in interest,” which suggests otherwise. *See* Interim DIP Order, ¶ 21(b). Further, the Final DIP Order should permit foreclosure on the DIP Collateral, and any similar remedy, only upon an order of the Court authorizing such remedy, entered after notice and opportunity for hearing. *See* Interim DIP Order, ¶ 21(b).

33. Under these unreasonably aggressive provisions in the Interim DIP Order and the proposed Final DIP Order, Boeing could take advantage of even a *de minimis* violation of the Final DIP Order to seize complete control over these cases by (a) usurping the Debtors’ role as debtors in possession in charge of the management of their businesses, (b) halting funding without warning, and (c) foreclosing collateral without Court order or remedy. Even the specter of such recourse would chill the Debtors’ and the Committee’s ability to fully carry out their fiduciary duties, particularly where doing so would conflict with Boeing’s varying interests. These provisions must be stricken or modified to protect the estates.

VI. The Challenge Period and Related Terms Constrain the Committee’s Ability to Appropriately Discharge its Fiduciary Duties.

34. The DIP Facility substantially constrains the ability of the Committee to discharge its fiduciary duties to the unsecured creditors of the estates by providing an insufficient window and budget to assert challenges to the releases and stipulations in the Interim DIP Order and the proposed Final DIP Order. Specifically, the Interim DIP Order establishes a period of only 75 days

after entry of the Interim DIP Order (which was nearly two weeks before the Committee was even appointed) during which the Committee may assert Challenges (the “Challenge Period”).¹⁰ Interim DIP Order ¶ 19. Further, the Committee must secure standing to assert a Challenge prior to filing the Challenge proceeding. *Id.* Thus, within approximately two months after its formation, the Committee must (a) gather information from the Debtors and parties in interest relating to the Chapter 11 Cases, (b) examine the information and evidence relating to the Debtors’ stipulations and any potential Challenges, (c) file a motion to obtain standing to assert any Challenges, (d) obtain the requisite standing, and (e) prepare and file pleadings to commence a Challenge.

35. This timeframe is unworkable because the Challenge Period applies to a vast array of potential Challenges spanning not only Challenges to the validity of the liens and claims asserted by the Prepetition Lenders and the DIP Secured Parties (collectively, the “Lien Matters”), *but also* any claims or causes of action that may be asserted *against* the Prepetition Lenders or the DIP Secured Parties (*i.e.*, lender liability claims and claims related to a valuation of the Debtors’ assets) (collectively, the “CoA Matters”). Moreover, the Interim DIP Order would require the Committee to assert all Challenges relating to the trade relationship between Boeing and the Debtors (collectively, the “Trade Matters”) during the Challenge Period, as well, thus requiring a thorough investigation of a complex business relationship that goes back many years. Given that the Interim DIP Order (and the proposed Final DIP Order) includes sweeping plan-like releases of Boeing, its affiliates, and various related parties for potential claims and causes of action relating to Boeing’s prepetition lender status, postpetition lender status, *and* trade relationship with the Debtors, the Committee (which is the only estate fiduciary who has not granted such releases) must have

¹⁰ The Challenge Period as contemplated in the Interim DIP Order would run through and including June 21, 2021, which is the date 75 calendar days after entry of the Interim DIP Order. The Committee was formed on April 20, 2021.

sufficient time to investigate whether such releases are appropriate or whether there are viable claims or causes of action against the released parties.¹¹ *See* Interim DIP Order, ¶¶ 18, 19. The current Challenge Period is insufficient time for the Committee to fulfill its obligations in this regard.

36. The Committee also objects to the requirement that it obtain standing prior to the expiration of the Challenge Period if it wishes to pursue a Challenge. *See* Interim DIP Order, ¶ 19. The process by which the Committee may obtain standing to pursue a Challenge will likely take a reasonable amount of time. As such, and given the proposed case milestones and thin investigation budget for the Committee, the Committee should not be required to expend the time and expense necessary to obtain standing prior to commencing a Challenge.¹² Indeed, courts have previously approved financing agreements that grant standing to creditors' committees without the need for a standing motion. *See, e.g., In re YogaWorks, Inc.*, No. 20-12599 (KBO) (Bankr. D. Del. Nov. 9, 2020), ¶ 19(a) [Dkt. No. 133] ("The Committee shall have automatic standing to commence a Challenge as to the validity, extent, priority, perfection and enforceability of the Prepetition Liens.").¹³

37. In light of the complexity of these cases and the speed at which they are progressing, the Committee requests that the Final DIP Order be revised such that: (a) the Challenge Period

¹¹ The Committee also objects to the proposed investigation budget, which is currently set at \$50,000. Interim DIP Order, ¶ 20. This provision clearly seeks to shield Boeing, and the other released parties affiliated with it, by unduly limiting the resources available to the Committee to investigate potential claims against it. Therefore, the Committee requests that an additional \$25,000 be made available to the Committee for its analysis of Lien Matters, and that no spending cap be placed on the Committee's investigation into the CoA Matters and the Trade Matters.

¹² In the event the Committee, or any other party, is required to obtain standing, the Challenge Period should be automatically tolled upon the filing of a standing motion not only through the hearing on the standing motion, as provided in paragraph 19 of the Interim DIP Order, but through and including three business days after this Court enters a ruling on such motion.

¹³ *See also In re Phoenix Payment Sys., Inc.*, No. 14-11848, ¶ 20 (Bankr. D. Del. Sept. 3, 2014); *In re Am. Safety Razor, LLC*, No. 10-12351, ¶ 6 (Bankr. D. Del. Aug. 27, 2010); *see also In re Quebecor World (USA) Inc.*, No. 08-10152, ¶ 21 (Bankr. S.D.N.Y. Apr. 1, 2008); *In re Dana Corp.*, Case No. 06-10354, ¶ 25 (Bankr. S.D.N.Y. Mar. 29, 2006).

for the Lien Matters continues through and including the date that is 90 days from the formation of the Committee;¹⁴ (b) the Challenge Period for the CoA Matters continues through the later of (i) 120 days from the formation of the Committee¹⁵ and (ii) the hearing to confirm a chapter 11 plan; (c) all limitations on asserting a Challenge to the Trade Matters be removed entirely; (d) the investigation budget be increased to \$75,000 for Lien Matters only, and no cap be placed on the Committee's investigations into the CoA Matters or the Trade Matters; (e) the Committee be granted automatic standing to commence a Challenge or, alternatively, upon the filing of a standing motion, the Challenge Period be automatically tolled until three business days after this Court enters its ruling on such motion; (f) in the event a trustee is appointed in the Chapter 11 Cases or a Successor Case, the trustee shall have until the later of the expiration of the applicable Challenge Period or 30 days after its appointment to commence a Challenge; and (g) the Challenge Period may be further extended by Boeing's agreement or by order of the Court.

38. The most important modification of the Interim DIP Order to allow for a meaningful Challenge process, however, is preserving as unencumbered assets all Avoidance Action Proceeds, Boeing Claim Proceeds, and assets that become unencumbered as a result of a successful Challenge. The Challenge Period, and all efforts to assert a Challenge on behalf of estate creditors, will be effectively illusory if proceeds from the successful prosecution of a Challenge immediately become Boeing's DIP Collateral. Boeing cannot be allowed to chill or coopt the Committee's investigatory powers for Boeing's sole benefit. The Committee also requests that, to the extent the Committee is successful in prosecuting a Challenge of the

¹⁴ This would extend the last date of the Challenge Period for Lien Matters from June 21, 2021 (currently the last date of the Challenge Period) to July 19, 2021 (the requested last date upon extension).

¹⁵ This would extend the last date of the Challenge Period for CoA Matters from June 21, 2021 (currently the last date of the Challenge Period) to August 18, 2021 (the requested last date upon extension).

Prepetition Liens, the Roll-Up Loans are unwound dollar for dollar with respect to the value unencumbered as a result of that Challenge.

VII. The Overly Restrictive Budget Covenants Create an Unreasonable Risk of Default.

39. Under the Interim DIP Order and the proposed Final DIP Order, the Debtors must deliver to the DIP Agent a report each week that, among other things, shows any variance from the Approved Budget with respect to Cash Operating Disbursements and Net Cash Flow. Interim DIP Order, ¶ 4(d). The Debtors may deviate from the amounts set forth in the Approved Budget for Cash Operating Disbursements for any given week by no more than 10% (or up to \$50,000, whichever is greater) *or* for cumulative Net Cash Flow by no more than 10% (the “Permitted Variance”). Interim DIP Order, ¶ 4(d). The Permitted Variance, however, is extremely tight for this type of DIP financing. And, moreover, the Permitted Variance allows for a variance for only one metric—*either* Cash Operating Disbursements *or* Net Cash Flow.¹⁶ *Id.* Thus, it appears that any variance at all, even if less than 10% (or \$50,000 for Cash Operating Disbursements), of *both* metrics would violate the Permitted Variance requirement. The Permitted Variance should be clarified to allow for a variance of either or both metrics.

40. Further, weekly measurement of the Debtors’ variance from Cash Operating Disbursements provides little opportunity to smooth out the natural fluctuations between weeks. Operational costs can vary widely from week to week for reasons that are beyond the Debtors’ control, particularly during a chapter 11 case. The narrow margins provided by the Permitted Variance and the weekly measurement period, together, eliminate wiggle room for such fluctuations.

¹⁶ In addition, the definition of “Net Cash Flow,” as set forth in Article I of the DIP Agreement, is vague and should be clarified to ensure that it accounts for, and the Debtors get the benefit of, surpluses from prior periods.

41. These budget restrictions are problematic because any variance from the Approved Budget that exceeds the Permitted Variance causes an immediate Event of Default. As noted above, an Event of Default could trigger Boeing's rights to effectively take over these Chapter 11 Cases and terminate further DIP funding. The Permitted Variance should be increased to provide the Debtors flexibility to effectively manage their businesses through a sale without an unreasonable risk of defaulting under the DIP Agreement. In addition, and at a minimum, the measurement period for the Permitted Variance related to Cash Operating Disbursements must be expanded to smooth out the natural fluctuations in disbursements common to operating debtors.

VIII. The Waiver of Section 506(c) is Not Supported by the Record.

42. The Interim DIP Order provides that, subject to entry of the Final DIP Order, the Debtors will preemptively waive their rights under section 506(c) of the Bankruptcy Code with respect to the DIP Secured Parties and the Prepetition Lenders. *See* Interim DIP Order, ¶¶ I, 16(f).

43. Section 506(c) of the Bankruptcy Code provides that secured creditors shall share the burden of satisfying administrative expenses where funds are expended for the purpose of preserving and selling their collateral.¹⁷ Section 506(c) aims to preserve the fundamental fairness of the bankruptcy process for all parties in interest by ensuring that the cost of liquidating a secured lender's collateral is not paid from unsecured recoveries. *See, e.g., Precision Steel Shearing v. Fremont Fin. Corp. (In re Visual Indus., Inc.)*, 57 F.3d 321, 325 (3d Cir. 1995) ("section 506(c) is designed to prevent a windfall to the secured creditor").

44. The Debtors' unilateral waiver of section 506(c) of the Bankruptcy Code would eliminate the possibility of recovering costs imposed on the Debtors' estates for the exclusive

¹⁷ Specifically, section 506(c) provides: "The trustee may recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving, or disposing of, such property to the extent of any benefit to the holder of such claim, including the payment of all ad valorem property taxes with respect to the property." 11 U.S.C. § 506(c).

benefit of Boeing, and would instead impose those costs of the Debtors' reorganization on unsecured creditors. By waiving the estates' section 506(c) rights, the Debtors are agreeing to pay for any and all expenses associated with the preservation and disposition of the DIP Collateral securing the DIP Facility and the Prepetition Obligations. But that collateral would be preserved or liquidated for the exclusive benefit of Boeing, who is the party that directed the bankruptcy filings, is controlling the Chapter 11 Cases, and is in the position to reap the most benefit in these cases, with the unsecured creditors being relegated to only a speculative recovery, if any at all.

45. Not only is it inequitable, it is also premature to waive the estates' rights under section 506(c) before it is certain that all administrative expenses and section 503(b)(9) claims will be paid in full. A section 506(c) waiver is wholly inappropriate absent the payment of all administrative expenses. Indeed, in *In re Townsends, Inc.*, when the debtors proposed DIP financing that would pay most administrative claims but leave the 503(b)(9) claims behind, Judge Sontchi stated, "if it appears that the case is administratively insolvent, I would be inclined to . . . either convert or dismiss the case" *In re Townsends, Inc.*, Case No. 10-14092 (Bankr. D. Del. January 21, 2011) Tr. at 23:25-24:22. Here, the Debtors may be optimistic that the Approved Budget captures all of the expenses that will be incurred in the administration of these cases, but there can be no assurance at this early juncture that the Debtors' estates will have sufficient financing and assets to pay all of the administrative expenses of these cases in full. The Committee has not even had the opportunity to fully evaluate the sufficiency of the Approved Budget. If an Event of Default is called under the DIP Facility, the budgeted amounts that were incurred and not paid at such time could remain unpaid. Moreover, given that the outside maturity date for the DIP Facility (August 6, 2021) is approximately three months *before* the deadline to consummate a chapter 11 plan (November 19, 2021), the Debtors' ability to pay all administrative claims is by

no means a certainty. For these reasons, the Committee opposes the proposed section 506(c) waiver.

46. Courts in this District have routinely preserved debtors' section 506(c) rights under similar circumstances. *See, e.g., In re Sports Authority, Inc., et al.*, Case No. 16-10527 (MFW) (Bankr. D. Del. May 3, 2016) (Final Order Authorizing Debtors to Obtain Postpetition Financing) (Docket No. 1699) (preserving section 506(c) rights for the Debtors or any party with requisite standing); *In re Motor Coach Indus. Intl, Inc.*, Case No. 08-12136 (BLS) (Bankr. D. Del. Oct. 22, 2008) (Final Order Authorizing Debtors to Obtain Postpetition Financing) (Docket No. 244) (removing a section 506(c) waiver from the final postpetition financing order after the creditors' committee objected to its inclusion); *In re Mortgage Lenders Network USA, Inc.*, Hearing Transcript (Docket No. 346) at 20-21, Case No. 07-10146 (PJW) (Bankr. D. Del. Mar. 20, 2007) (recognizing that section 506(c) waivers require committee consent and stating, "if the Committee doesn't agree [to a waiver], it doesn't happen"); *In re NEC Holdings Corp.*, Case No. 10-11890 (PJW) Hearing Transcript (Docket No. 224) at 100 (Bankr. D. Del. July 13, 2010) (requiring that secured creditors pay the "freight" of the bankruptcy by ensuring an administratively solvent estate).

47. Thus, for the reasons stated above, the Court should preserve the Debtors' section 506(c) rights at this juncture.

IX. Certain Case Milestones Must Be Extended.

48. While the Committee is sensitive to the costs attendant with extending the Chapter 11 Cases, it is clear that certain of the Case Milestones must be extended because the Debtors already have missed one of them by several weeks. Specifically, the Case Milestone requiring the Debtors to file the Everett Sale Motion (the "Everett Motion Milestone") was

originally set for April 15, 2021, but the Debtors have not yet filed that motion. *See* Interim DIP Order, ¶ 33(i).

49. Other Case Milestones may prove to be similarly unrealistic as these cases progress. Several of the Case Milestones relate to the sale of the Debtors' assets, but the Debtors did not retain an investment banker until March 2020, shortly before the Petition Date, and efforts to sell the Debtors' assets did not commence in earnest until after the Petition Date. As such, the Final DIP Order should specifically authorize the Court to extend any Case Milestone upon an order for good cause shown. Absent such relief, the Debtors may be locked into unattainable Case Milestones without the ability to extend such milestones other than by obtaining relief from Boeing. Indeed, Boeing's approval is required to meet a number of the Case Milestones (particularly sale-related and Plan-related milestones) and its parochial interests in these Chapter 11 Cases may, in fact, lead to delay in attaining approval for such milestones. *See, e.g.*, Interim DIP Order, ¶ 33(i) (requiring the Everett Sale Motion, including the terms of any stalking horse bid, be "in form and substance reasonably acceptable" to Boeing), ¶ 33(m) (same for Kansas Sale Motion) ¶ 33(p) (same for Plan and Disclosure Statement). As such, it may be necessary for the Committee to seek appropriate relief from this Court regarding the proposed Case Milestones, one of which has already proved unworkable.

X. Other Objectionable Provisions.

50. The Committee also objects to the provisions of the Interim DIP Order and DIP Agreement referenced below and requests that the Final DIP Order reflect the proposed changes. The Committee notes that by objecting to these provisions in bullet point format, the Committee is by no means suggesting that these objections are either technical or minor in nature.

- Good Faith. The good faith finding should be subject to the Committee's challenge rights. *See* Interim DIP Order, ¶ J

- Termination Events. The Final DIP Order should require that (a) the DIP Lender must fund any undrawn New Money Loans upon the later of the Everett Sale and the Kansas Sale and (b) such New Money Loans shall remain in the possession and control of the Debtors' estates for the purposes of administering these Chapter 11 Cases through confirmation of a plan of liquidation or reorganization, at which point remaining estates funds will be distributed to creditors based on the priority scheme set forth in the Bankruptcy Code. *See* Interim DIP Order, ¶ 10. This will help ensure that the Debtors can pay for all of the budgeted administrative expense claims as well as the unknowable administrative expense claims that inevitably arise in cases of this size and complexity without unduly prejudicing Boeing or the Debtors' estates.
- Reporting. To allow the Committee to execute its fiduciary duties, the Committee must receive the notices, reporting, and other information that is provided to the DIP Secured Parties and/or the Debtors under the DIP Agreement. This includes, without limitation, (a) Approved Variance Reports and notices of an Event of Default or Termination Event; and (b) all amendments, consents, waivers, or modifications to the DIP Documents, including the Approved Budget and the Case Milestones, which must be provided to the Committee within one business day, regardless of materiality. *See* Interim DIP Order, ¶¶ 4(d), 12.
- Creeping "Roll-Up" With Collections and Receipts. The Interim DIP Order and DIP Agreement require that all "collections" and "receipts" be used to repay the Prepetition Obligations. However, neither "collections" nor "receipts" are defined in either the Interim DIP Order or the DIP Agreement. The Final DIP Order must clarify that "collections" and "receipts" do not include sales outside the ordinary course of business such as the sale of the Debtors' Everett or Kansas assets. *See* Interim DIP Order, ¶ 16(c); DIP Agreement, § 2.01(b).
- Section 552(b) Waiver. The Court should not permit a section 552(b) waiver before allowing parties in interest—especially the Committee—to properly examine the "equities of the case." If unencumbered assets are used to increase the value of the secured creditors' collateral, unsecured creditors should be able to argue that such value inures to them, and not to secured creditors. *See In re iGPS Co.*, No. 13-11459 (KG), 2013 WL 4777667, at *5 (Bankr. D. Del. July 1, 2013) (finding no waiver of the "equities of the case" exception with respect to creditors committee); Interim DIP Order, ¶ 16(f).
- Credit Bidding. The Committee objects to the administration of credit bidding rights in the Final DIP Order, as such matters should be addressed in the context of a sale procedures motion. *See* Interim DIP Order, ¶ 16(i). Nonetheless, to the extent credit bidding rights are addressed in the Final DIP Order, the credit bid provisions in paragraph 16(i) of the Interim DIP Order must be without prejudice to the Committee's right to object to any credit bid, and all credit bidding rights of Boeing as the Prepetition Lender must be subject to the Committee's right to assert a Challenge in accordance with paragraph 19 of the Interim DIP Order.

See Interim DIP Order, ¶ 19. Last, the Final DIP Order should make clear that nothing in that order shall affect the ability of the Court to limit, or otherwise affect the Committee's right to seek limits on, the rights of Boeing, whether as DIP Lender or Prepetition Lender, to credit bid "for cause" pursuant to section 363(k) of the Bankruptcy Code.

- Adequate Protection. Any grant of further adequate protection sought by any party must be subject to notice and a hearing, and subject to the Committee's right to contest such relief. See Interim DIP Order, ¶ 16(j).
- Professional Fees/Carve Out. The Approved Budget attached as Exhibit 1 to the Interim DIP Order, as it may be amended and approved by the Final DIP Order, is the only form of Approved Budget. The Approved Budget provides a cumulative amount for the payment of "Professional Fees," which total amount shall be equally available to satisfy the Professional Fees of all estate professionals, including the Committee's professionals, without regard to any budgets, calculations, or individual line items that are not expressly listed in the Approved Budget. See, e.g., Interim DIP Order, ¶ 17(b)(1). Similarly, the Final DIP Order should make clear that in the event the Carve Out is triggered, all estate professionals will share in the Carve Out *pro rata* and that no estate professional is limited to an individual line item that is not set forth in the Approved Budget attached to the Interim DIP Order or the Final DIP Order. See Interim DIP Order, ¶ 17(a). In addition, and for the avoidance of doubt, any amounts budgeted for Professional Fees under the Approved Budget are a carve-out under the DIP Facility and shall not be a cap or limit on administrative claims with regard to Professional Fees.
- Wind-Down Funds. The Interim DIP Order and proposed Final DIP Order provide that the DIP Facility will mature, and the DIP Lender's obligation to provide further DIP funding will terminate, upon the earlier of a number of events, including consummation of the Everett Sale and the Kansas Sale. Interim DIP Order, ¶ 9. Because funding will terminate at that time, if not earlier, paragraph 17(b)(vi) of the Interim DIP Order provides for a wind-down budget of \$500,000 to be taken from the proceeds of each of the Everett Sale and the Kansas Sale (for total Wind-Down Funds of \$1 million) to be used to fund "wind-down expenses expected to be incurred to wind down such location after consummation of such sale." Interim DIP Order, ¶ 17(b)(iv). The Final DIP Order should make clear that the Wind-Down Funds shall total *not less than* \$1 million, so that the Committee may have an opportunity to determine whether the proposed amount is reasonable.
- Restrictions on Challenges. The Interim DIP Order provides that "[t]he Prepetition Lenders stipulate and agree that each of the Prepetition Lenders will not raise as a defense in connection with any Challenge the ability of creditors to file derivative suits on behalf of limited liability companies." Interim DIP Order, ¶ 19. To constitute meaningful relief, each of (a) the Debtors and (b) Boeing, in each of its capacities as (i) DIP Lender, (ii) DIP Agent,

(iii) Prepetition Lender, and (iv) individually, must stipulate and agree to this relief, as well.

- Restrictions on Use of DIP Facility. The Final DIP Order must strike the restrictions on the use of the DIP Facility set forth in paragraph 20(b) of the Interim DIP Order, or make clear that such restrictions shall not bar payment of applicable fees or expenses of the Committee incurred in connection with the consideration or pursuit of any Challenge, or in connection with Committee's exercise of its fiduciary duties in these cases, including, among other things, by objecting to the DIP Motion, seeking to extend the Case Milestones, or challenging on any grounds a plan of reorganization or disclosure statement filed in the Chapter 11 Cases. Interim DIP Order, ¶ 20(b). The Final DIP Order must also not include the provision that prohibits the Debtors from paying any claim of a prepetition creditor if the Debtors have received a written objection to such payment from the DIP Agent. *See* Interim DIP Order, ¶ 20(c). Such a provision could undermine the Debtors' ability to pay certain creditors pursuant to an order of this Court.
- Limitation of Liability. The limits of liability of Boeing as the DIP Secured Parties and the Prepetition Lender should be, in each respect, confined to its respective capacity as such. *See* Interim DIP Order, ¶ 35. Further, the limit of liability in favor of Boeing as the Prepetition Lender must be subject to the Committee's right to assert a Challenge in accordance with paragraph 19 of the Interim DIP Order.
- Financial Information Provided to Committee. The DIP Agreement requires that any financial information and related documents that are delivered to the Committee must also be provided to Boeing as DIP Agent and DIP Lender. *See* DIP Agreement, § 7.02(a). There should be an exclusion for information provided to the Committee with respect to potential claims and causes of action against Boeing.
- Section 503(b)(9) Claims. So as to ensure administrative solvency, the DIP Lenders should fund a segregated account not subject to the control or liens of Boeing, whether as a DIP Secured Party or Prepetition Lender, with funds sufficient to pay all allowed claims arising under section 503(b)(9) of the Bankruptcy Code. This is especially important here, where the Approved Budget does not propose to pay section 503(b)(9) claims until the week of August 6, 2021, *the last week in the Approved Budget*.

RESERVATION OF RIGHTS

51. The Committee reserves its respective rights, claims, defenses, and remedies, including, without limitation, the right to amend, modify, or supplement this Objection, to seek discovery, and to raise additional objections during any further hearing on the DIP Motion.

CONCLUSION

WHEREFORE, the Committee respectfully requests that the Court (i) condition entry of an order approving the DIP Motion on a final basis on modification of the proposed Final DIP Order and DIP Agreement as requested in this Objection; and (ii) grant such other and further relief as the Court deems just and proper.

Dated: May 3, 2021
Wilmington, Delaware

Respectfully submitted,

/s/ Morgan L. Patterson

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*Proposed Co-Counsel to the Official
Committee of Unsecured Creditors*

EXHIBIT A

Committee's Proposed Order

**COMMITTEE'S PROPOSED ORDER
DRAFT/SUBJECT TO CHANGE**

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

<i>In re</i> TECT AEROSPACE GROUP HOLDINGS, INC., <i>et al.</i>, <p style="text-align: center;">Debtors.¹ </p>	X : : : : : : : X	Chapter 11 Case No. 21– 10670 (KBO) Jointly Administered Re: D.I. 12
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**FINAL ORDER PURSUANT TO SECTIONS
105, 361, 362, 363, 364 AND 507 OF THE BANKRUPTCY
CODE, BANKRUPTCY RULE 4001 AND LOCAL RULE 4001-2,
(I) AUTHORIZING DEBTORS TO (A) OBTAIN POSTPETITION
FINANCING AND (B) USE CASH COLLATERAL, (II) GRANTING
ADEQUATE PROTECTION TO PREPETITION SECURED
PARTIES, AND (III) GRANTING RELATED RELIEF**

This matter coming before the Court on the *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Post-petition Financing, and (B) Use Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; and (III) Granting Related Relief* [Docket No. 12] (the “Motion”),² filed by the above-captioned debtors and debtors in possession (collectively, the “Debtors”), seeking entry of (i) the Interim Order (as defined below) and (ii) a final order (this “Final Order”); and the Debtors having requested on the record at the final hearing on the Motion, if any, (the “Final Hearing”) that the Court enter this Final Order, *inter alia*:

- (a) authorizing TECT Aerospace, LLC, TECT Hypervelocity, Inc., TECT

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 Unless otherwise defined, capitalized terms used herein shall have the meanings ascribed to them in the Motion or the DIP Documents (defined below), as applicable.

Aerospace Wellington Inc., and Sun Country Holdings, LLC (collectively, “TECT” or “Borrowers”) and their affiliated Debtors to obtain secured postpetition financing on a superpriority basis (the “DIP Facility”, and the loans provided to TECT thereunder, the “DIP Loans”, and the DIP Loans on account new money postpetition financing in excess of the Debtors’ postpetition receipts, the “New Money Loans”) pursuant to the terms and conditions of that certain Superpriority Secured Debtor-in-Possession Credit Agreement filed as Exhibit B to the Motion (as the same may be amended, supplemented, restated or otherwise modified from time to time in accordance with this Final Order, the “DIP Agreement”), by and among (i) the Borrowers, (ii) the other Debtors, as guarantors, (iii) The Boeing Company, as administrative agent (the “DIP Agent”) and (iv) the lenders from time to time party thereto (each a “DIP Lender” and collectively, the “DIP Lenders” and collectively with the DIP Agent, the “DIP Secured Parties”);

(b) authorizing the Debtors to execute the DIP Agreement and the other documents, agreements and instruments delivered pursuant thereto or executed or filed in connection therewith, all as may be reasonably requested by the DIP Secured Parties (as the same may be amended, restated, supplemented or otherwise modified from time to time, and collectively with the DIP Agreement, the “DIP Documents”);

(c) authorizing the Debtors to consummate the transactions contemplated by the DIP Documents;

(d) granting to the DIP Secured Parties the DIP Liens (as defined below) on all of the DIP Collateral (as defined below) to secure the DIP Facility and all obligations owing and outstanding thereunder and under the DIP Documents, as applicable, and the Interim Order and this Final Order, as applicable (collectively, and including all “Secured Obligations” as defined in the DIP Agreement, the “DIP Obligations”), subject only to prior payment of the Carve-Out (as

defined in paragraph 17 below) and the Senior Third-Party Liens (as defined in paragraph 13(d)(ii));³

(e) granting allowed superpriority administrative expense claims to the DIP Secured Parties in connection with the DIP Facility;

(f) authorizing the Debtors to use Prepetition Collateral and Cash Collateral (each as defined below) (together with the DIP Facility, the “Postpetition Financing Arrangement”);

(g) authorizing the Debtors to grant adequate protection to the Prepetition Lenders (as defined below);

(h) scheduling a hearing (the “Final Hearing”), pursuant to Rule 4001(c)(2) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to consider entry of this Final Order; and

(i) granting such other and further relief as this Court deems necessary and just ((a) through (h) collectively, the “Requested Relief”), and the interim hearing on the Motion (the “Interim Hearing”) having been held on April 7, 2021 and the interim order approving this Motion [Docket No. 39] (the “Interim Order”) having been entered, and upon all of the pleadings filed with the Court and the evidence proffered or adduced and representations of counsel at the Interim Hearing and the Final Hearing, if any; and the Court having heard and resolved or overruled any and all objections to the Requested Relief; and it appearing that the Requested Relief is in the best interests of the Debtors, their estates and creditors; and upon the record herein; and after due

³ Nothing herein shall constitute a finding or ruling by this Court that any asserted Senior Third-Party Lien is valid, senior, enforceable, prior, perfected or non-avoidable. Moreover, nothing shall prejudice the rights of any party-in-interest, including, but not limited to the Debtors, the Prepetition Agent, the Prepetition Lenders, or the Creditors’ Committee, to challenge the validity, priority, enforceability, seniority, non-avoidability, perfection or extent of any alleged Senior Third-Party Lien.

deliberation thereon, and good and sufficient cause appearing therefor:

IT IS HEREBY FOUND AND DETERMINED THAT:⁴

A. Petition Date. On April 5, 2021 (the “Petition Date”), the Debtors commenced their chapter 11 cases (these “Chapter 11 Cases”) by filing voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Court”). The Debtors are operating their businesses and managing their affairs as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. As of the date hereof, no trustee or examiner has been appointed in any of these Chapter 11 Cases. On April 20, 2021, an official committee of unsecured creditors (the “Creditors’ Committee”) was appointed in these Chapter 11 Cases

B. Jurisdiction; Venue. The Court has jurisdiction over these Chapter 11 Cases, the parties and the Debtors’ property pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated as of February 21, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(D). The Court is a proper venue of these Chapter 11 Cases and the Motion under 28 U.S.C. §§ 1408 and 1409.

C. Notice. Notice of the Motion, the relief requested therein and the Final Hearing (the “Notice”) has been served by the Debtors pursuant to Bankruptcy Rules 2002 and 4001(b), (c), and (d) and in accordance with the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”) on the Notice Parties. The Notice constitutes good and sufficient notice of the Requested Relief, and no further notice of the Requested Relief and the relief granted by this Final Order is necessary or shall be required.

⁴ Findings of fact shall be construed as conclusions of law, and conclusions of law shall be construed as findings of fact, as applicable, pursuant to Bankruptcy Rule 7052.

D. Debtors' Acknowledgements and Stipulations. In requesting the Postpetition Financing Arrangement and in exchange for and as a material inducement to, the DIP Secured Parties to agree to provide the Postpetition Financing Arrangement, and to the Prepetition Lenders in exchange for the Diminution (as defined below), the Debtors acknowledge, represent, stipulate and agree, for themselves and their estates, subject to the challenge rights set forth in paragraph 19 herein, as follows (collectively, the "Debtors' Stipulations"):

(i) the Borrowers and certain of the Debtors as guarantors (in such capacity, the "Debtor Guarantors") and collectively with the Borrowers, the "Prepetition Obligors"), are parties to that certain Revolving Credit, Term Loan and Security Agreement, dated as of June 27, 2017 (as the same has been amended, restated, supplemented, modified or assigned from time to time, the "Prepetition Credit Agreement") with The Boeing Company (as successor in interest to PNC Bank, National Association) as lender and as agent (the "Prepetition Agent") and certain lender parties thereto (collectively with the Prepetition Agent, the "Prepetition Lenders");

(ii) to secure the "Obligations" (as defined in the Prepetition Credit Agreement, the "Prepetition Obligations"), the Prepetition Obligors granted to the Prepetition Agent, for the benefit of the Prepetition Lenders, liens upon and security interests in (the "Prepetition Liens") all of the Prepetition Obligors' property and assets (other than the "Excluded Property" (as defined in the Prepetition Credit Agreement)), as set forth in the Prepetition Credit Agreement (together with all other agreements, documents, notes, guarantees, subordination agreements, instruments, amendments and any other agreements delivered pursuant thereto or in connection therewith, each as amended, restated, supplemented or otherwise modified from time to time, the "Prepetition Loan

Documents”), and, in all instances, the proceeds and products thereof (collectively, the “Prepetition Collateral”);

(iii) as of the Petition Date: (A) the current outstanding principal balance of the Prepetition Obligations (exclusive of interest, fees, reimbursable expenses and other charges) is not less than \$43,166,460; (B) all of the Prepetition Obligations are absolutely and unconditionally owed by the Prepetition Obligors to the Prepetition Lenders; (C) the Prepetition Obligations constitute legal, valid and binding obligations of the Prepetition Obligors, enforceable in accordance with their terms (other than in respect of the stay of enforcement arising from section 362 of the Bankruptcy Code to the extent applicable); (D) no recoupments, offsets, defenses or counterclaims exist to the Prepetition Obligations; and (E) no portion of the Prepetition Obligations or any payments or other transfers made to the Prepetition Agent or any other Prepetition Lender or applied to the Prepetition Obligations prior to the Petition Date is subject to avoidance, subordination, recharacterization, recovery, attack, recoupment, offset, counterclaim, defense or Claim (as defined in the Bankruptcy Code) of any kind pursuant to the Bankruptcy Code or applicable non-bankruptcy law;

(iv) the Prepetition Liens constitute valid, binding, enforceable (other than in respect of the stay of enforcement arising from section 362 of the Bankruptcy Code) and perfected liens with priority over any and all other liens in the Prepetition Collateral (except for any Senior Third-Party Liens (as defined in paragraph 13(d)(ii))) and are not subject to any challenge or defense, including without limitation, respectively, avoidance, subordination, recharacterization, recovery, reduction, set-off, offset, attack, counterclaim, cross-claim or Claim (as defined in the Bankruptcy Code) of any kind pursuant to the

Bankruptcy Code or applicable non-bankruptcy law;

(v) the Debtors have waived, discharged and released any right they may have to challenge the Prepetition Obligations and the Prepetition Liens on the Prepetition Collateral and to assert any recoupments, offsets, defenses, claims, objections, challenges, causes of action and/or choses of action against any Prepetition Lender with respect to the Prepetition Loan Documents, the Prepetition Obligations, the Prepetition Liens or the Prepetition Collateral;

(vi) any payments made on account of the Prepetition Obligations before the Petition Date were (A) payments out of the Prepetition Collateral and/or (B) made in the ordinary course of business and in exchange for reasonably equivalent value and did not diminish any property otherwise available for distribution to unsecured creditors;

(vii) all of the Debtors' cash, including the cash in their deposit accounts and other accounts, wherever located, whether as original collateral or proceeds of other Prepetition Collateral, constitutes Cash Collateral (as defined below);

(viii) as of the Petition Date, the current outstanding principal balance of the general unsecured trade payables by the Loan Parties (as defined in the Prepetition Credit Agreement) to The Boeing Company (exclusive of interest, fees, reimbursable expenses and other charges) is not less than \$1,323,512 and to Boeing Distribution Services, Inc., is not less than \$115,550, all of which is absolutely and unconditionally owed by the Loan Parties to The Boeing Company or Boeing Distribution Services, Inc., as applicable; and

(ix) none of the DIP Secured Parties or the Prepetition Lenders is a control person or insider (as defined in section 101(31) of the Bankruptcy Code) of any Debtor.

E. Cash Collateral. For purposes of this Final Order, the term "Cash Collateral" shall

mean and include all “cash collateral,” as defined in section 363 of the Bankruptcy Code, in or on which the DIP Secured Parties or the Prepetition Lenders have a lien, security interest or any other interest (including, without limitation, any Adequate Protection Liens or security interests), whether existing on the Petition Date, arising pursuant to the Interim Order, this Final Order or otherwise, and shall include, without limitation:

(i) all cash proceeds arising from the collection, sale, lease or other disposition, use or conversion of any real or personal property, in or on which the DIP Secured Parties or the Prepetition Lenders have a lien or a replacement lien, whether as part of the DIP Collateral or the Prepetition Collateral, or pursuant to an order of the Court or applicable law or otherwise, and whether such property has been converted to cash, existed as of the commencement of these Chapter 11 Cases, or arose or was generated thereafter;

(ii) all of the respective deposits, refund claims and rights in retainers of the Debtors on which the DIP Secured Parties or the Prepetition Lenders hold a lien or replacement lien, whether as part of the DIP Collateral or Prepetition Collateral or pursuant to an order of the Court or applicable law or otherwise; and

(iii) the proceeds of any sale, transfer or other disposition of DIP Collateral or Prepetition Collateral.

F. Adequate Protection. The Prepetition Lenders are entitled, pursuant to sections 361, 363(e) and 364(c)(2), (c)(3) and (d) of the Bankruptcy Code, to adequate protection of their interests in the Prepetition Collateral, including the Cash Collateral, to the extent of any diminution in the value of the Prepetition Collateral occurring from and after the Petition Date resulting from (i) the incurrence of the DIP Obligations, (ii) the use of Prepetition Collateral (including Cash Collateral), (iii) the granting of the DIP Liens and the DIP Superpriority Claim, (iv) the

subordination of the Prepetition Obligations to the DIP Obligations and the Carve- Out, and (v) imposition of the automatic stay pursuant to section 362 of the Bankruptcy Code (the “Diminution”).

G. Purpose and Necessity of Financing. The Debtors require the Postpetition Financing Arrangement to (i) permit the continuation of their businesses and maximize and preserve their going concern value, (ii) satisfy payroll obligations and other working capital and general corporate purposes of the Debtors consistent with the terms set forth in the DIP Documents and the Approved Budget (as defined below), (iii) provide adequate protection to the Prepetition Lenders, (iv) pay fees and expenses related to the DIP Documents and these Chapter 11 Cases and (v) for such other purposes as set forth in, or otherwise permitted by, the DIP Documents (including the Approved Budget). If the Debtors do not obtain authorization to use the Prepetition Collateral (including Cash Collateral) and borrow under the DIP Agreement, they will suffer immediate and irreparable harm. The Debtors are unable to obtain adequate unsecured credit allowable only as an administrative expense under section 503 of the Bankruptcy Code, or other sufficient financing under sections 364(c) or (d) of the Bankruptcy Code, on more favorable terms than those set forth in the DIP Documents. A loan facility in the amount provided by the DIP Documents is not available to the Debtors without granting the superpriority claims, liens and security interests, pursuant to sections 364(c)(1), 364(c)(2), 364(c)(3) and 364(d) of the Bankruptcy Code, as provided in the Interim Order, this Final Order and the DIP Documents. After considering all alternatives, the Debtors have concluded, in the exercise of their sound business judgment, that the Postpetition Financing Arrangement, including without limitation, the DIP Facility, is the best financing available to them at this time.

H. Good and Sufficient Cause Shown. Good and sufficient cause has been shown for

entry of this Final Order. The ability of the Debtors to obtain sufficient working capital and liquidity under the DIP Documents and use of the Prepetition Collateral (including the Cash Collateral) is vital to the Debtors' estates and creditors. The liquidity to be provided under the DIP Documents and this Final Order will enable the Debtors to continue to operate their businesses in the ordinary course and preserve the value of the Debtors' businesses pending the sale of substantially all of their assets. Among other things, entry of this Final Order is necessary to maximize the value of the Debtors' assets and to avoid immediate and irreparable harm to the Debtors and their estates, and, accordingly, is in the best interests of the Debtors, their estates and their creditors.

I. Section 552(b) Waiver. In light of (i) the DIP Secured Parties' agreement to subordinate their liens and superpriority claims to the Carve-Out, and in exchange for and as a material inducement to the DIP Lenders to agree to provide the DIP Facility and (ii) the Prepetition Lenders' agreement to subordinate their liens and superpriority claims to the DIP Obligations, the Carve-Out and the DIP Liens, and to permit the use of the Prepetition Collateral (including Cash Collateral for payments made in accordance with the Approved Budget (as defined below) and the terms of this Final Order), each of the DIP Secured Parties and the Prepetition Lenders are entitled to a waiver of the exceptions provided in sections 552(b)(1) and (2) of the Bankruptcy Code.

J. Good Faith. The terms of the DIP Documents and the use of the Prepetition Collateral (including the Cash Collateral) pursuant to the Interim Order and this Final Order, including, without limitation, the interest rates and fees applicable, and intangible factors relevant thereto, are more favorable to the Debtors than those available from alternative sources. Based upon the record before the Court, the DIP Documents and the use of the Prepetition Collateral (including the Cash Collateral) pursuant to the Interim Order and this Final Order have been

negotiated in good faith and at arm's-length among the Debtors, the DIP Secured Parties and the Prepetition Lenders. Any DIP Loans and other financial accommodations made to the Debtors by the DIP Secured Parties pursuant to the DIP Documents and the Interim Order and this Final Order shall be deemed to have been extended by the DIP Secured Parties in good faith, as that term is used in section 364(e) of the Bankruptcy Code, and each of the DIP Secured Parties shall be entitled to all protections and benefits afforded thereby. The findings of this paragraph shall be non-binding and subject to the challenge rights set forth in paragraph 19 herein.

K. Fair Consideration and Reasonably Equivalent Value. All of the Debtors have received and will receive fair and reasonable consideration by virtue of their obtaining access to the DIP Loans, the use of the Prepetition Collateral (including the Cash Collateral) pursuant to the Interim Order and this Final Order and all other financial accommodations provided under the DIP Documents and the Interim Order and this Final Order. The terms of the DIP Documents and this Final Order are fair and reasonable, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties and are supported by reasonably equivalent value and fair consideration.

L. Entry of Final Order. This Court concludes that entry of this Final Order is in the best interests of the Debtors' respective estates and creditors as its implementation will, among other things, allow for access to the financing necessary for the continued flow of supplies and services to the Debtors necessary to sustain the operation of the Debtors' existing businesses and further enhance the Debtors' prospects for a successful sale of substantially all of their assets. Based upon the foregoing findings, acknowledgements and conclusions, and upon the record made before this Court at the Interim Hearing and the Final Hearing, if any, and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. Disposition. The relief requested by the Debtors in the Motion and otherwise on the record at the Interim Hearing and the Final Hearing, if any, is granted on the terms set forth in this Final Order. Any objection to the interim relief sought by the Debtors that has not previously been withdrawn or resolved is hereby overruled on its merits.

2. Authorization For DIP Financing. The Debtors are hereby authorized to incur DIP Obligations, subject to the terms of this Final Order, the Approved Budget and the DIP Documents, in an aggregate principal amount not to exceed \$60,200,000 (inclusive of any outstanding Interim Borrowings (as defined in the Interim Order)) (the “Maximum Commitment”). Available financing and advances under the DIP Agreement shall be made to fund, in accordance with the DIP Documents and the Approved Budget, working capital and general corporate requirements of the Debtors, adequate protection to the Prepetition Lenders, bankruptcy-related costs and expenses (including interest, fees and expenses in accordance with the Interim Order, this Final Order and the DIP Documents), and any other amounts required or allowed to be paid in accordance with this Final Order, but only as and to the extent authorized by the Approved Budget and the DIP Documents.

3. Authorization for Use of Cash Collateral. The Debtors are authorized to use Cash Collateral subject to and in accordance with the terms, conditions and limitations set forth in the Interim Order, this Final Order, the Approved Budget and the DIP Documents, without further approval by the Court.

4. Approved Budget.

(a) The Debtors have delivered to the DIP Agent a detailed budget that sets forth projected cash receipts and cash disbursements on a weekly basis for the time period from

and including the Petition Date through August 13, 2021 that has been approved by the Required DIP Lenders (defined below), and a copy of which is attached hereto as Exhibit 1 (as updated, amended, supplemented or otherwise modified in accordance herewith, the “Approved Budget”). The Approved Budget also sets forth, for each week, the amount of DIP Loans anticipated to be advanced or otherwise used for such week after giving effect to any budgeted inflows. The Debtors shall provide to the DIP Secured Parties and the Creditors’ Committee financial reporting in accordance with the terms of the DIP Documents. Funds borrowed under the DIP Agreement and Cash Collateral used under the Interim Order and this Final Order shall be used by the Debtors in accordance with the DIP Documents, including the Approved Budget, the Interim Order and this Final Order. The consent of the Required DIP Lenders to the Approved Budget shall not be construed as a commitment of the DIP Lenders to provide DIP Loans or of the DIP Secured Parties or Prepetition Lenders to permit the use of Cash Collateral (in each case, subject to funding of the Carve-Out) after the occurrence of a Termination Event (as defined below) under this Final Order, regardless of whether the aggregate funds shown on the Approved Budget have been expended.

(b) The Approved Budget and Approved Variance Report (as defined below) shall, including any and all updates, amendments, supplements and modifications made in accordance with this Final Order, at all times be in form and substance reasonably acceptable to the Required DIP Lenders and approved in writing by the DIP Agent prior to the implementation thereof. Notwithstanding anything herein to the contrary, any updates, amendments, supplements or modifications to the Approved Budget, must be consented to in writing by the DIP Lenders holding more than fifty percent (50%) of the DIP Loan commitments (the “Required DIP Lenders”) prior to the implementation thereof and shall not require further notice, hearing, or Court order.

(c) The DIP Secured Parties (i) may assume the Debtors will comply with the Approved Budget, (ii) shall have no duty to monitor such compliance, and (iii) shall not be obligated to pay (directly or indirectly from the DIP Collateral) any unpaid expenses incurred or authorized to be incurred pursuant to any Approved Budget other than to (i) permit the Debtors' use of Cash Collateral as expressly provided herein prior to the occurrence of a Termination Event and (ii) fund the Carve-Out as set forth in this Final Order. All advances and extensions of credit shall be based upon the terms and conditions of the DIP Documents, as the same may be amended from time to time with the consent of the DIP Lenders or Required DIP Lenders (as applicable in accordance with the DIP Documents and in accordance with this Final Order). Subject to the terms and conditions of this Final Order, the DIP Lenders shall have the right, but not the obligation, to extend credit independent of any Approved Budget restrictions on loan availability set forth in the DIP Documents, and all DIP Loans shall be entitled to the benefits and protections of the Interim Order and this Final Order, provided, however, that any credit extension beyond the Maximum Commitment shall be subject to further order of the Court. For the avoidance of doubt, no DIP Lender shall be obligated to extend credit outside the terms of the DIP Documents.

(d) On or before 11:59 p.m. Eastern Time on every Wednesday of each week, commencing after the end of the second full week following the Petition Date, the Debtors shall deliver to the DIP Agent a report (each, an "Approved Variance Report") that shows (i) then-current cash balance calculations and (ii) cash flow reconciliations showing actual payments versus budgeted items in the Approved Budget for prior periods ended (with (a) an explanation of any Cash Operating Disbursements (as defined in the DIP Credit Agreement) variance greater than 13%, and (b) an indication of any adverse variance that exceeds the Permitted Variance). As used herein, "Permitted Variance" means a permitted variance of (a) bi-weekly Cash Operating

Disbursements not to exceed the greater of 13% of the budgeted amounts and \$50,000, and/or (b) cumulative Net Cash Flow of 20% of the budgeted amounts (provided that failure by The Boeing Company to pay outstanding obligations shall not be considered), in each case with measurement beginning in week four (4) of these Chapter 11 Cases and continuing thereafter. The DIP Agent shall promptly deliver to the DIP Lenders a copy of each Approved Variance Report upon such agent's receipt. The Approved Variance Report shall be shared with the Creditors' Committee on a professionals' eyes only basis no later than Friday of each week.

5. Additional Events of Default. It shall be an Event of Default (as defined below) if the Debtors (i) until such time as all DIP Obligations are indefeasibly paid in full in cash, in any way prime or seek to prime (or otherwise cause to be subordinated in any way) the liens provided to the DIP Secured Parties by offering a subsequent lender or any party-in-interest a superior or *pari passu* lien or claim with respect to the DIP Collateral pursuant to section 364(d) of the Bankruptcy Code or otherwise, except with respect to the Carve-Out and the DIP Obligations as set forth in the DIP Documents, (ii) until such time as all DIP Obligations are indefeasibly paid in full in cash in any way or at any time seek allowance of any administrative expense claim against the Debtors of any kind or nature whatsoever, including, without limitation, claims for any administrative expenses of the kind specified in, or arising or ordered under sections 105, 326, 328, 330, 331, 503(a), 503(b), 507(a), 507(b), 546(c), 546(d), 552(b), 726, 1113 and 1114 of the Bankruptcy Code that is superior to or *pari passu* with the DIP Superpriority Claim (as defined below) provided herein, except with respect to the Carve-Out and the DIP Obligations as set forth in the DIP Documents, and (iii) unless otherwise consented to in writing by the Required DIP Lenders and the Required Prepetition Lenders (as applicable), and except for the assertion of a Challenge contemplated by Paragraph 19 of this Final Order, in any way seek to modify, alter or

impair in any manner the rights, remedies, powers, privileges, liens and priorities of the DIP Agent, the other DIP Secured Parties, the Prepetition Agent and the other Prepetition Lenders provided for in the Interim Order, this Final Order, the DIP Documents, or otherwise, unless and until the DIP Obligations have first been indefeasibly paid in full in cash and completely satisfied, the commitments thereunder are terminated in accordance with the DIP Documents and the Prepetition Obligations are indefeasibly paid in full in cash and completely satisfied.

6. Authority to Execute and Deliver Necessary Documents. Each of the Debtors is authorized to negotiate, prepare, enter into and deliver the DIP Documents, in each case including any amendments, supplements and modifications thereto in accordance with the terms thereof and in accordance with this Final Order. Each of the Debtors is further authorized to negotiate, prepare, enter into and deliver any other UCC financing statements, pledge and security agreements, mortgages or deeds of trust, or similar documents, instruments or agreements encumbering all of the DIP Collateral and securing all of the Debtors' obligations under the DIP Documents, each as may be reasonably requested by the DIP Agent.

7. Authority to Perform Obligations and Acts. Each of the Debtors is further authorized to (a) perform all of its obligations and acts contemplated by the DIP Documents and such other agreements as may be required by the DIP Documents to give effect to the terms of the financing provided for therein and in this Final Order, and (b) perform all acts required under the DIP Documents and this Final Order.

8. Valid and Binding Obligations. All obligations under the DIP Documents shall constitute valid and binding obligations of each of the Debtors, enforceable against each of them and each of their successors and assigns, in accordance with their terms and the terms of the Interim Order and this Final Order, and no obligation, payment, transfer or grant of a lien or security

interest under the DIP Documents shall be voidable or recoverable under the Bankruptcy Code or under any applicable law (including, without limitation, under section 502(d) of the Bankruptcy Code) or subject to any avoidance, reduction, set-off, offset, recharacterization, subordination (whether equitable, contractual or otherwise), counterclaim, cross-claim, defense or any other challenge under the Bankruptcy Code or any applicable law or regulation by any person or entity.

9. Termination of DIP Documents. Notwithstanding anything in this Final Order to the contrary, the DIP Lenders' commitments under the DIP Documents will terminate and the DIP Obligations will become due and payable (unless such obligations become due and payable earlier pursuant to the terms of the DIP Documents and this Final Order by way of acceleration or otherwise), and the Debtors' authority to use Cash Collateral in accordance with this Final Order will terminate, on the date that is the earliest to occur of (in each case, the "Maturity Date"): (i) August 6, 2021; (ii) [reserved]; (iii) the acceleration of the DIP Obligations upon five (5) business days' written notice from the DIP Agent to the Debtors and Creditors' Committee's counsel of an event of default under the DIP Agreement (an "Event of Default"); (iv) the date upon which any plan of reorganization or liquidation becomes effective in any of these Chapter 11 Cases; (v) entry of an order by the Bankruptcy Court in any of these Chapter 11 Cases (a) dismissing any of these Chapter 11 Cases or converting any of these Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code without the consent of the Required DIP Lenders or (b) appointing a chapter 11 trustee or an examiner with enlarged powers relating to the operation of the business of the Borrowers (powers beyond those set forth in sections 1106(a)(3) and (4) of the Bankruptcy Code), in each case without the consent of the DIP Agent and the Required DIP Lenders; (vi) the consummation of both the Everett Sale and the Kansas Sale (each as defined below) and (vii) the filing or support by any Debtor of a plan of reorganization or liquidation (a

“Plan”) while there are any outstanding DIP Obligations that is not otherwise reasonably acceptable to the DIP Agent and the Required DIP Lenders in their discretion; provided, that, a Plan that, upon its effective date, pays the DIP Obligations and the obligations under the Prepetition Credit Agreement in full in cash on the effective date of such Plan shall be deemed reasonably acceptable to such parties; provided, further, that, upon consummation of the later of the Everett Sale or the Kansas Sale, the DIP Lender shall immediately fund any undrawn New Money Loans under the DIP Facility and such New Money Loans shall remain in the possession and control of the Debtors’ estates for the purposes of administering these Chapter 11 Cases through confirmation of a plan of liquidation or reorganization, at which point remaining estates funds will be distributed to creditors based on the priority scheme set forth in the Bankruptcy Code.

10. Termination of Authority to Use Cash Collateral. Subject to paragraph 21(f), the Debtors’ ability to use Cash Collateral prior to the Maturity Date will terminate immediately upon the occurrence of any event described below (each a “Termination Event”):

(a) any Debtor fails to comply in any respect with any of the material terms or conditions of this Final Order, and such failure is not cured or waived during any applicable Remedies Notice Period;

(b) any Debtor seeks any modification or extension of the Interim Order or this Final Order without consent of the Required DIP Lenders;

(c) an application (other than the application for financing provided by a third party which seeks authority to pay all of the DIP Obligations and the Prepetition Obligations in full upon entry of the order approving such financing) is filed by any Debtor for the approval of (or an order is entered by the Court approving) any claim arising under section 507(b) of the Bankruptcy Code or otherwise, or any lien in any of these Chapter 11 Cases, which is *pari passu*

with or senior to the Prepetition Obligations, the Adequate Protection Liens or the Adequate Protection Superpriority Claim, excluding liens arising under the Interim Order or this Final Order or pursuant to any other financing agreement made with the prior written consent of the Required DIP Lenders;

(d) the commencement or support of any action by any Debtor or any party exercising the authority of the Debtor (other than an action pursuant to paragraph 19) against any of the DIP Lenders or the Prepetition Lenders, or their respective agents and employees, to subordinate or avoid any liens made in connection with the Prepetition Loan Documents or the DIP Documents or to avoid any obligations incurred in connection with the Prepetition Loan Documents or the DIP Documents;

(e) any order shall be entered granting relief from the stay arising under section 362 of the Bankruptcy Code to the holder or holders of any security interest, lien or right of setoff to permit foreclosure (or the granting of a deed in lieu of foreclosure or similar instrument), possession, set-off or any similar remedy with respect to any assets of the Debtors with an aggregate value of more than \$200,000;

(f) (i) any Debtor shall assert in any pleading filed in any court that any material provision of the Interim Order or this Final Order is not valid and binding for any reason, or (ii) any material provision of the Interim Order or this Final Order shall for any reason, or any other order of this Court approving the Debtors' use of Cash Collateral, without the prior written consent of the Required DIP Lenders, cease to be valid and binding;

(g) once filed, any Debtor withdraws or modifies the Everett Sale Motion or the Kansas Sale Motion (each as defined below) without the consent of the Required DIP Lenders;

(h) the Debtors fail to comply with any Case Milestone; or

- (i) the occurrence of the Maturity Date.

11. Authorization and Direction for Payment of DIP Financing Fees and Expenses.

Subject to the provisions of this paragraph 11, all fees paid or payable, and all reasonable costs and expenses reimbursed or reimbursable (including, without limitation, all fees, costs and expenses referred to in the DIP Documents and the DIP Agent's and the DIP Lenders' reasonable attorneys' fees and expenses of the DIP Agent or any DIP Lender), by the Debtors to the DIP Secured Parties are hereby approved, to the extent provided in the DIP Agreement. The Debtors are hereby authorized and directed to pay all such fees, costs and expenses in accordance with the terms of the DIP Documents and this Final Order, without any requirement that the Debtors, the DIP Agent, the DIP Lenders or their respective attorneys file any further application or other pleading, notice or document with the Court for approval or payment of such fees, costs or expenses. To the extent provided in the DIP Agreement, the Debtors shall pay all reasonable prepetition and postpetition out of pocket costs and expenses of the DIP Secured Parties (including all reasonable fees, expenses and disbursements of outside counsel, including local counsel) in connection with these Chapter 11 Cases and any Successor Case(s) (as defined below), including, without limitation, in connection with (a) the preparation, negotiation, execution and delivery of the DIP Documents, the Interim Order and this Final Order, and the funding of all DIP Loans under the DIP Facility, (b) the administration of the DIP Facility and any amendment or waiver of any provision of the DIP Documents, the Interim Order and this Final Order, (c) the administration of these Chapter 11 Cases and any Successor Case(s), and (d) the enforcement or protection of the DIP Secured Parties' rights and remedies under the DIP Documents, the Interim Order and this Final Order. Notwithstanding anything to the contrary herein, the payment of all such fees, costs and expenses of the DIP Secured Parties, whether incurred before or after the Petition Date,

including, without limitation, all fees referred to in the DIP Documents and all reasonable attorneys' fees and expenses, shall, (i) subject to paragraph 19, be deemed non-refundable and irrevocable, and (ii) not be subject to the Approved Budget. None of the DIP Secured Parties' attorneys' fees or disbursements shall be subject to the prior approval of this Court, and no recipient of any such payment shall be required to file with respect thereto any interim or final fee application with this Court. Prior to any conversion of these Chapter 11 Cases to chapter 7, any such fees, costs and expenses shall be paid by the Debtors within ten (10) days after delivery of an invoice (redacted for privilege) to the Debtors and without the need for application to or order of the Court. A copy of such invoice shall be provided by the DIP Agent to the U.S. Trustee, counsel for the Prepetition Agent and counsel for the Creditors' Committee on the same day as the Debtors' receipt of such invoice. Notwithstanding the foregoing, if (x) the Debtors, U.S. Trustee or the Creditors' Committee object to an invoice submitted by the DIP Secured Parties and (y) the parties cannot resolve such objection, in each case within the ten (10) day period following receipt of such invoice, the Debtors, the U.S. Trustee or such Creditors' Committee, as the case may be, shall file with the Court and serve on the DIP Agent and the DIP Secured Party submitting the fee request a fee objection (a "DIP Secured Party Fee Objection"). The Debtors shall promptly pay and/or the DIP Lenders are hereby authorized to make an advance under the DIP Agreement to timely pay, any submitted invoice after the expiration of the ten (10) day period if no DIP Secured Party Fee Objection is filed with the Court and served on the DIP Agent and DIP Lenders in such ten (10) day period. If a DIP Secured Party Fee Objection is timely filed and served, the Debtors shall promptly pay and/or the DIP Secured Parties are hereby authorized to make an advance under the DIP Agreement to timely pay, the undisputed amount of the invoices, and the Court shall have jurisdiction to determine the disputed portion of such invoice if the parties are unable to resolve

the DIP Secured Party Fee Objection.

12. Amendments, Consents, Waivers and Modifications. The Debtors, with the express written consent of the Required DIP Lenders in accordance with the terms and conditions of the DIP Documents, may enter into any amendments, consents, waivers or modifications to the DIP Documents without the need for further notice and hearing or any order of this Court, so long as such amendments, consents, waivers or modifications are non-material. A copy of any such amendment, consent, waiver or modification shall be provided by the Debtors to the DIP Lenders, U.S. Trustee and counsel for the Creditors' Committee within one business day of execution. Any material changes to the DIP Documents, including without limitation material changes to the Approved Budget, as well as any increases in the amount of the DIP Loans (except as provided in paragraph 4(c) of this Final Order), will require the consents of the Required DIP Lenders in addition to any express written consents required by the DIP Documents and Court approval after notice and a hearing, and increases in the amount of the DIP Loans shall require the consent of all DIP Lenders whose commitments are being increased.

13. DIP Secured Parties' Lien Priority.

(a) To secure the DIP Obligations, and solely with respect to the New Money Loans, the DIP Secured Parties are hereby granted pursuant to and in accordance with Sections 364(c)(2), 364(c)(3) and 364(d) of the Bankruptcy Code, valid, enforceable and fully perfected liens (the "DIP Liens") in and on all of the property, assets or interests in property or assets of each Debtor, and all "property of the estate" (within the meaning of the Bankruptcy Code) of each Debtor, of any kind or nature whatsoever, real or personal, tangible or intangible or mixed, now existing or hereafter acquired or created, including, without limitation, all of each Debtor's now owned or hereafter acquired right, title and interest in and to all cash, accounts, accounts

receivable, goods, inventory, property, plant and equipment, commercial tort claims, intellectual property, contract rights, tax refunds, prepaid expenses, deposits, general intangibles, real estate, leaseholds (provided, however, with respect to the Debtors' non-residential real property leases, no liens or encumbrances shall be granted or extend to such leases themselves under this Final Order, except as permitted in the applicable lease or pursuant to applicable law, but rather any liens granted shall extend only to the proceeds realized upon the sale, assignment, termination, or other disposition of such leases, books and records related to the foregoing, accessions and proceeds of the foregoing, wherever located, including insurance or other proceeds), all intercompany claims, all claims and causes of action of each Debtor or its respective estate (including, without limitation, all commercial tort claims of every kind and description, whether described in specificity in the DIP Documents or not) and any and all proceeds and property recovered therefrom, any and all proceeds arising from insurance policies, all intellectual property, and the equity interests of each direct subsidiary of each Debtor, which for the avoidance of doubt, shall include, without limiting the generality of the foregoing, all assets of each Debtor that constitute Prepetition Collateral, and all other property and assets including, without limitation, Cash Collateral, and all cash and non-cash proceeds, rents, products, substitutions, accessions, offspring and profits of any of the collateral described above (collectively, the "DIP Collateral"), subject only to prior payment of the Carve-Out, provided, however, that the DIP Collateral shall not include (i) any claims or causes of action under chapter 5 of the Bankruptcy Code ("Avoidance Actions"); (ii) any estate claims or causes of action against The Boeing Company, or any of its affiliates and predecessors in interest, and their respective former, current or future officers, employees, directors, agents, representatives, owners, members, partners, advisors, legal advisors, shareholders, managers, consultants, accountants and attorneys, in their respective capacities as

such (the “Boeing Claims”); (iii) any claims and causes of action that the Debtors’ estates may have against the Debtors’ current and former directors and officers (the “D&O Claims”); and (iv) any property and/or proceeds derived from the assets listed in subclauses (i) through (iii) of this paragraph (collectively, the “Excluded Assets”).

(b) The DIP Liens shall be effective immediately upon the entry of the Interim Order and this Final Order.

(c) The DIP Liens shall be and hereby are deemed fully perfected liens and security interests, effective and perfected upon the date of the Interim Order, without the necessity of execution by the Debtors of mortgages, security agreements, pledge agreements, financing agreements, financing statements, account control agreements or any other agreements, filings or instruments, such that no additional actions need be taken by the DIP Agent, the DIP Lenders or any other party (including, without limitation, any depository bank or securities intermediary) to perfect such interests.

(d) At all times prior to indefeasible payment in cash in full of the DIP Obligations, the priority of the DIP Liens will:

(i) Pursuant to sections 361, 362, 364(c)(2), 364(c)(3) and 364(d) of the Bankruptcy Code, be perfected first priority liens (subject to Senior Third-Party Liens, if any) on all DIP Collateral;

(ii) Pursuant to section 364(c)(3) of the Bankruptcy Code, be perfected junior liens on all DIP Collateral that was, as of the Petition Date, subject to valid, properly perfected, (before the Petition Date or in accordance with section 546(b) of the Bankruptcy Code), non-avoidable and senior in priority as a matter of law liens in existence at the time of the commencement of these Chapter 11 Cases (other than the liens in favor of the Prepetition Lenders,

which liens are “primed” pursuant to the liens described in subsection (iii) below) (“Senior Third-Party Liens”), with a priority immediately junior to any such Senior Third-Party Liens;

(iii) Pursuant to section 364(d) of the Bankruptcy Code, be perfected first priority, senior priming liens on all DIP Collateral that is subject to (a) the existing liens that secure the obligations of the applicable Debtors under or in connection with the Prepetition Credit Agreement and, (b) existing liens junior in priority to the liens granted in favor of the Prepetition Lenders, all of which existing liens (the “Primed Liens”) shall be primed by and made subject and subordinate to the perfected first priority senior liens granted to the DIP Secured Parties hereunder, which senior priming liens in favor of the DIP Secured Parties shall also prime any liens granted after the commencement of these Chapter 11 Cases to provide adequate protection in respect of any of the Primed Liens; and

(iv) Pursuant to the terms of the Interim Order and this Final Order, be subject to the Carve- Out and any senior liens, if any, permitted under the DIP Documents.

14. DIP Secured Parties’ Superpriority Claim. The DIP Secured Parties are hereby granted an allowed superpriority administrative expense claim solely with respect to the New Money Loans (the “DIP Superpriority Claim”) pursuant to section 364(c)(1) of the Bankruptcy Code in each of these Chapter 11 Cases and in any successor case(s) under the Bankruptcy Code (including any case or cases under chapter 7 of the Bankruptcy Code, the “Successor Case(s)”) for all DIP Obligations, which allowed DIP Superpriority Claim shall be payable from and have recourse to all pre- and postpetition property of the Debtors and all proceeds thereof excluding the Excluded Assets. The DIP Superpriority Claim shall be subject and subordinate in priority of payment only to prior payment of the Carve-Out.

15. Survival of DIP Liens, DIP Superpriority Claim, Adequate Protection Liens, and

Adequate Protection Superpriority Claim. The DIP Liens, DIP Superpriority Claim, Adequate Protection Liens and Adequate Protection Superpriority Claim and other rights and remedies granted under the Interim Order or this Final Order to the DIP Agent, the DIP Lenders, the Prepetition Agent and the Prepetition Lenders shall continue in these Chapter 11 Cases and any Successor Case(s), and shall be valid and enforceable against any trustee appointed in any or all of the Debtors' Chapter 11 Cases and upon the dismissal of any or all of the Debtors' Chapter 11 Cases, or in any Successor Case(s), and such liens and security interests shall maintain their first priority as provided in the Interim Order or this Final Order until all the DIP Obligations and the Prepetition Obligations have been indefeasibly paid in full in cash and the DIP Lenders' commitments have been terminated in accordance with the DIP Documents and this Final Order.

16. Adequate Protection for Prepetition Lenders. As adequate protection in respect of, and as consideration for any Diminution, the Prepetition Lenders are hereby granted (in each case subject only to the DIP Liens, the DIP Superpriority Claim, and prior payment of the Carve-Out) the following adequate protection:

(a) Adequate Protection Liens. To secure the Adequate Protection Superpriority Claim (as defined below), the Prepetition Agent, for itself and for the benefit of the other Prepetition Lenders, is hereby granted (effective and perfected by operation of law immediately upon entry of the Interim Order and without the necessity of execution by the Debtors of mortgages, security agreements, pledge agreements, financing statements, account control agreements and other agreements, filings or instruments) valid, perfected, postpetition security interests and liens (the "Adequate Protection Liens") in and on all of the DIP Collateral, with a priority subject and subordinate only to (i) the DIP Liens, (ii) the Senior Third-Party Liens and (iii) prior payment of the Carve-Out.

(b) Adequate Protection Superpriority Claim. As further adequate protection, the Prepetition Agent, for itself and for the benefit of the other Prepetition Lenders, is hereby granted a superpriority claim to the extent of any Diminution, which claim shall have the priority afforded to it under section 507(b) of the Bankruptcy Code (the “Adequate Protection Superpriority Claim”), provided however, such Adequate Protection Superpriority Claim shall (i) be subordinate and subject only to the DIP Superpriority Claim and prior payment of the Carve-Out, and (ii) shall be entitled to all protections and benefits of section 507(b) of the Bankruptcy Code.

(c) Limited Roll-Up / Adequate Protection Payments. As further adequate protection, subject to paragraph 19, the Debtors’ receipts shall be applied in satisfaction of Prepetition Obligations then outstanding as set forth in the DIP Agreement (the “Roll-Up Loans”), provided, that, the liens in respect of the Roll-Up Loans shall not attach to any of the Debtors’ unencumbered assets, including, but not limited to, any assets that may become unencumbered postpetition as a result of a successful Challenge. For the avoidance of doubt, and subject to paragraph 19, proceeds of sales outside the ordinary course, including from the Everett Sale Motion and the Kansas Sale Motion (each as defined below), shall first be applied to the DIP Loan prior to application to the Prepetition Obligations.

(d) Prepetition Lenders’ Fees and Expenses. Subject to paragraph 19, the Debtors shall pay the reasonable fees, charges and expenses (including attorneys’ fees and other professional expenses) of the Prepetition Lenders (in their capacities as such) who are also DIP Lenders in connection with these Chapter 11 Cases and any Successor Case(s), including, without limitation, in connection with (i) the preparation, negotiation, execution and delivery of the DIP Documents, the Interim Order and this Final Order, and the funding of all DIP Loans under the

DIP Facility, (ii) the administration of the DIP Facility and any amendment or waiver of any provision of the DIP Documents, the Interim Order and this Final Order, (iii) the administration of these Chapter 11 Cases and any Successor Case(s), and (iv) the enforcement or protection of the DIP Secured Parties' or the Prepetition Lenders' rights and remedies under DIP Documents, the Prepetition Credit Agreement, the Interim Order and this Final Order. The Debtors' obligations to make such payments shall include, in each instance, any of such fees, charges, expenses and other amounts which were incurred or accrued but unpaid as of the date hereof, including amounts incurred prior to the Petition Date. Prior to any conversion of these Chapter 11 Cases to chapter 7, all such fees, costs and expenses shall be paid by the Debtors within twelve (12) days after delivery of an invoice (redacted for privilege) to the Debtors and without the need for further application to or order of the Court. A copy of such invoice shall be provided by the Prepetition Lender to the U.S. Trustee, counsel for the DIP Agent and counsel for the Creditors' Committee at the same time as delivery to the Debtors. Notwithstanding the foregoing, if (x) the Debtors, the U.S. Trustee or the Creditors' Committee object to an invoice submitted by the Prepetition Lenders and (y) the parties cannot resolve such objection, in each case within the ten (10) day period following the objecting party's receipt of such invoice, the Debtors, the U.S. Trustee or such Creditors' Committee, as the case may be, shall file with the Court and serve on the Prepetition Lenders a fee objection (a "Prepetition Lenders Fee Objection"). The Debtors shall promptly pay and/or the DIP Lenders are hereby authorized to make an advance under the DIP Agreement to timely pay, any submitted invoice after the expiration of the ten (10) day period if no Prepetition Lenders Fee Objection has been filed with the Court and served on the DIP Agent in such ten (10) day period. If a Prepetition Lenders Fee Objection is timely filed and served, the Debtors shall promptly pay and/or the DIP Secured Parties are hereby authorized to make an advance under the DIP

Agreement to timely pay, the undisputed amount of the invoice, and the Court shall have jurisdiction to determine the disputed portion of such invoice if the parties are unable to resolve the Prepetition Lenders Fee Objection. In all events, the payments pursuant to this subsection (d) shall be subject to the rights reserved to third parties under paragraph 19.

(e) Reserved.

(f) 552(b) Waivers. The Prepetition Lenders' consent to use of Cash Collateral and Prepetition Collateral under the Interim Order and this Final Order and the Debtors' right to use Cash Collateral and Prepetition Collateral is granted as consideration for (among other things) the waiver of the exceptions provided in sections 552(b)(1) and (2) of the Bankruptcy Code, which exceptions are hereby waived.

(g) Access to Debtors' Management and Investment Banker. The Debtors shall cause their management team and their investment bankers (the "Investment Bankers") to be made available to provide periodic telephonic updates of such reports to the DIP Agent, the DIP Lenders and the Prepetition Lenders from time to time, as reasonably requested by the DIP Agent, at reasonable times to be mutually agreed; provided that in the event the DIP Lenders and/or Prepetition Lenders are a stalking horse bidder, a qualified bidder, or otherwise actively involved in bidding on assets of the Debtors' estates, either the DIP Lenders and Prepetition Lenders will no longer be entitled to such information respecting sale efforts, or the Debtors, the Creditors' Committee, the DIP Lenders and Prepetition Lenders shall make arrangements to share such information only with representatives of the DIP Lenders and/or Prepetition Lenders who are not involved in the bidding process and are on the other side from the sale team of an ethical wall for such purpose.

(h) Reporting. As and when required under the terms of the DIP Agreement,

the Debtors shall provide to the DIP Agent and each DIP Lender all of the financial information, operational information and related reports, documents and analyses required under the terms of the DIP Agreement. Weekly Approved Variance Reports shall be made available to the Creditors' Committee in accordance with Paragraph 4(d) above.

(i) Credit Bidding Rights. The Debtors and the DIP Secured Parties agree that in any sale of the DIP Collateral or Prepetition Collateral other than a sale in the ordinary course of business, the DIP Lenders and the Prepetition Lenders shall have the right, subject to Paragraph 19 below, to credit bid the DIP Obligations and Prepetition Obligations (as applicable) in accordance with section 363(k) of the Bankruptcy Code, provided that any such credit bid of the Prepetition Lenders that does not also contain a credit bid of the DIP Obligation must contain a cash component satisfactory to satisfy in full the DIP Obligations unless the DIP Lenders agree otherwise. Nothing herein precludes the Creditors' Committee or other party in interest from opposing such credit bidding rights in accordance with section 363(k). The Debtors agree that any motion filed by the Debtors seeking approval of bid procedures will contain a request for approval of the right of the DIP Lenders and the Prepetition Lenders to credit bid the DIP Obligations and Prepetition Obligations (as applicable) and the DIP Lenders consent to the Prepetition Lenders being granted the right to credit bid in accordance with this subsection (i).

(j) Further Adequate Protection. Nothing in this Final Order shall, or shall be deemed to, limit, abridge or otherwise affect the rights of the Prepetition Lenders to request at any time that the Court provide additional or further protection of their interests in the Prepetition Collateral (including the Cash Collateral) or to seek further or additional adequate protection in the event the adequate protection provided herein proves to be inadequate, subject to the Debtors' rights to contest any such request. No such further adequate protection may be granted absent

notice and a hearing, and any such further adequate protection may be contested by the Creditors' Committee or any other party in interest.

17. Carve-Out.

(a) The DIP Liens, the DIP Superpriority Claim, the Adequate Protection Liens, the Adequate Protection Superpriority Claim and the Prepetition Liens shall be subject and subordinate to the prior payment of: (i) all fees required to be paid to (A) the clerk of the Bankruptcy Court and (B) the Office of the United States Trustee under section 1930(a) of Title 28 of the United States Code, plus interest required to be paid on any past due amount at the statutory rate (collectively, the "UST Carve-Out"); (ii) all reasonable fees and expenses, up to \$50,000, incurred by a trustee under section 726(b) of the Bankruptcy Code (the "Chapter 7 Trustee Carve-Out"); (iii) **[\$800,000]** (the "Carve-Out Funded Healthcare Costs") of the accrued but unpaid claims of the Debtors' current and former employees under the Debtors' existing health insurance policies that accrued after the Petition Date but have not yet been reported (the "Administrative Healthcare Claims"); (iv) to the extent allowed at any time (whether by interim order, procedural order or otherwise), all unpaid fees and expenses (the "Allowed Professional Fees") of persons or firms retained by the Debtors pursuant to sections 327, 328, or 363 of the Bankruptcy Code (the "Debtor Professionals") or by the Creditors' Committee pursuant to sections 328 or 1103 of the Bankruptcy Code (the "Committee Professionals" and, together with the Debtor Professionals, the "Professional Persons"), that are incurred or earned at any time before or on the first Business Day following delivery by the DIP Agent of a Carve-Out Trigger Notice (as defined below), whether allowed prior to or after delivery of a Carve-Out Trigger Notice, in each case, to the extent set forth in the Approved Budget (the "Professional Fee Carve-Out"); and (v) Allowed Professional Fees of Professional Persons other than Investment Bankers in an aggregate amount

not to exceed \$250,000, plus Allowed Professional Fees of Investment Bankers, in each case incurred after the first Business Day following delivery by the DIP Agent of the Carve-Out Trigger Notice, to the extent allowed at any time (the “Post-Trigger Carve-Out” and with the UST Carve-Out, the Chapter 7 Carve-Out, the Carve-Out Funded Healthcare Costs and the Professional Fee Carve-Out, the “Carve-Out”). “Carve-Out Trigger Notice” shall mean a written notice delivered by e-mail by the DIP Agent to lead restructuring counsel to the Debtors, the U.S. Trustee and counsel to the Creditors’ Committee, stating that (a) the Carve-Out has been invoked, which notice may be delivered following the occurrence and during the continuation of an Event of Default under the DIP Agreement; (b) the DIP Loans have been accelerated and (c) the DIP Lenders do not intend to fund further advances under the DIP Loans, or consent to further use of Cash Collateral, except to the extent necessary to fund any portion of the Carve-Out required to be funded pursuant to this Order but not yet funded. Thereafter, if the DIP Lenders fund further advances under the DIP Loans (other than amounts required to be funded in accordance with this Final Order), or the DIP Lenders or the Prepetition Lenders consent to the use of Cash Collateral for the Debtors to operate in the ordinary course of business as going concerns, the Carve-Out Trigger Notice shall be deemed automatically revoked. If a Carve-Out Trigger Notice is revoked, the Carve-Out will operate as if the Carve-Out Trigger Notice was never delivered. While the Carve-Out shall include the fees of any Investment Bankers earned in conjunction with the consummation of a transaction or transactions as set forth in their respective engagement letters with the applicable Debtors, such amounts may be paid out of the collateral of the Prepetition Lenders and the DIP Lenders only to the extent such fees were (a) actually earned pursuant to the terms of the respective engagement letters with the Debtors in effect as of the date of the DIP Loan Documents (or as amended with the consent of the Required DIP Lenders), (b) approved by the

Bankruptcy Court, and (c) earned in connection with transactions consented to by the Required DIP Lenders, or, to the extent such transaction occurs in connection with a Plan, the class of creditors consisting exclusively of the Prepetition Lenders has voted to accept the treatment provided in such Plan .

(b) Reserve Accounts.

(i) The Debtors shall establish a segregated trust account not subject to the control of the Prepetition Agent, the Prepetition Lenders and/or the DIP Secured Parties (the “Professional Fee Reserve Account”) for the sole purpose of paying unpaid Allowed Professional Fees to the extent set forth in the Approved Budget calculated on an accrual and not a cash-flow basis (the “Budgeted Professional Fees”), provided that the Debtors’ obligations to pay Allowed Professional Fees shall not be limited or deemed limited to funds held in the Professional Fee Reserve Account. The Debtors shall, on a weekly basis commencing at the end of the first full calendar week following the Petition Date, transfer from the DIP Facility (by drawing from the DIP Facility) or from cash on hand, the Budgeted Professional Fees for the preceding calendar week into the Professional Fee Reserve Account. The Professional Fee Reserve Account (including any and all funds held therein) shall not be property of the Debtors’ estates but shall be held in trust exclusively for the benefit of Professional Persons. Notwithstanding the foregoing, in accordance with section 17(b)(iii) of this Order, the DIP Secured Parties shall retain a residual interest in the Professional Fee Reserve Account (and any funds therein) to the extent such funds are not used to pay Allowed Professional Fees under the terms of this Order.

(ii) Within two (2) business days after a Carve-Out Trigger Notice is given by the DIP Agent (the “Termination Declaration Date”), an amount equal to the sum of (A) the difference between the amount of the Professional Fee Carve-Out (which amount, for the

avoidance of doubt, shall be limited to the amount incurred in accordance with the Approved Budget) and the amount in the Professional Fee Reserve Account *plus* (B) the Post-Trigger Carve-Out, shall be funded by the DIP Lenders, the Debtors from the DIP Facility (by drawing on the DIP Facility) or from cash on hand, into the Professional Fee Reserve.

(iii) In the event that, as determined by a final order of the Court, Allowed Professional Fees are less than the amount in the Professional Fee Reserve, then the excess shall be paid to the DIP Agent for application to the DIP Loans.

(iv) Within two (2) business days after the Termination Declaration Date, an amount equal to the sum of (A) the UST Carve-Out plus (B) the Chapter 7 Trustee Carve-Out, shall be funded into a separate segregated account (the “Carve-Out Reserve Account”). All funds in the Carve-Out Reserve Account shall be used to pay the UST Carve-Out and the Chapter 7 Trustee Carve-Out.

(v) Within two (2) business days after the earlier of the Termination Declaration Date and the Maturity Date, an amount equal to the Carve-Out Funded Healthcare Costs shall be funded into a separate segregated account (the “Healthcare Escrow”). All funds in the Healthcare Escrow shall be used to pay Administrative Healthcare Claims. The DIP Secured Parties shall retain a residual interest in the Healthcare Escrow (and any funds therein) to the extent such funds are not used to pay Administrative Healthcare Claims.

(vi) The Carve-Out shall be effective upon entry of the Interim Order and shall not be rendered ineffective as a result of the occurrence, or non-occurrence, of any event or circumstance thereafter.

(vii) Upon the consummation of a sale of the Everett Assets and the Kansas Assets, in each case, consented to by the Required DIP Lenders, the Debtors shall be

authorized and directed (without the requirement to have received a Carve-Out Trigger Notice) to transfer from the proceeds of such sale(s) no less than \$500,000 for Everett and \$500,000 for Kansas (the “Wind-Down Funds”) for the amount of wind-down expenses expected to be incurred to wind down the estates after consummation of such sale. The Wind-Down Funds are not intended to be part of the Carve-Out and will only be required to be funded out of the proceeds of such sale in connection with a sale approved by the Required DIP Lenders and the Prepetition Lenders constituting the “Required Lenders” under the Prepetition Credit Agreement (the “Required Prepetition Lenders”).

18. Release. The release, discharge, waivers, settlements, compromises and agreements set forth in this paragraph 18 and the stipulations set forth in paragraph D of this Final Order shall, except as set forth in this paragraph 18, be deemed effective upon entry of the Interim Order, subject only to the rights set forth in paragraph 19 below.

(a) The Debtors forever and irrevocably release, discharge and acquit each of the DIP Secured Parties in their capacities as such, their affiliates and predecessors in interest, and their respective former, current or future officers, employees, directors, agents, representatives, owners, members, partners, advisors, legal advisors, shareholders, managers, consultants, accountants and attorneys (each in their respective capacities as such) (collectively, the “DIP Lender Releasees”), of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, of every type at any time arising prior to the Petition Date, and all claims and causes of action under chapter 5 of the Bankruptcy Code.

(b) Upon entry of this Final Order, the Debtors forever and irrevocably release, discharge and acquit each of the Prepetition Lenders in their capacities as such, and their respective affiliates and predecessors in interest, and their respective former, current or future officers,

employees, directors, agents, representatives, owners, members, partners, advisors, legal advisors, shareholders, managers, consultants, accountants and attorneys (each in their respective capacities as such) (collectively, the “Prepetition Lender Releasees” and, collectively with the DIP Lender Releasees, the “Releasees”), of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, of every type at any time arising prior to the Petition Date, and all claims and causes of action under chapter 5 of the Bankruptcy Code.

(c) For the avoidance of doubt, this Final Order shall in no way release, discharge or acquit any of the Releasees of or from any claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness or obligations, of any type relating in any way, directly or indirectly, to the trade relationship between the Debtors and The Boeing Company.

19. Reservation of Certain Third Party Rights and Bar of Challenges and Claims. The releases set forth in paragraph 18(a) above and the stipulations set forth in paragraph D of this Final Order shall be binding upon the Debtors upon entry of the Interim Order and the releases set forth in paragraph 18(b) above shall be binding on the Debtors upon entry of this Final Order. In addition, the releases contained in paragraphs 18(a) and (b), the stipulations at paragraph D and the findings set forth in paragraph J shall be binding upon each other party in interest, including the Creditors’ Committee, unless a party in interest having standing, *first*, commences, with respect to challenges respecting claims or causes of action against any of the Releasees, in their respective capacities as such (collectively, the “CoA Matters”), no later than 120 days after the formation of the Creditors’ Committee, and with respect to all other matters described in this paragraph 19 as subject to a Challenge (including without limitation the validity, perfection or priority of the

Prepetition Obligations or the liens or superpriority claims asserted by the Prepetition Lenders and the DIP Secured Parties in their respective capacities as such) (collectively, the “Lien Matters”), no later than 90 days after the formation of the Creditors’ Committee (in each case, the “Challenge Period,” and the date that is the next calendar day after the termination of the Challenge Period in the event that either (i) no Challenge (as defined below) is raised during the Challenge Period or (ii) with respect only to those parties who timely file a Challenge and only for the matters specifically set forth in such Challenge, such Challenge is fully and finally adjudicated, shall be referred to as the “Challenge Period Termination Date”), (A) a contested matter, adversary proceeding, or other action or claim (as defined in the Bankruptcy Code) challenging or otherwise objecting to the releases set forth in paragraph 18 above, the stipulations set forth in paragraph D or the findings set forth in paragraph J of this Final Order or (B) a contested matter, adversary proceeding, or other action or claim (as defined in the Bankruptcy Code) against any Releasee relating to any pre-Petition Date act, omission or aspect of the relationship between such Releasee and the Debtors that is subject to the releases granted by paragraph 18 of this Final Order ((A) and (B) being, collectively, the “Challenges” and, each individually, a “Challenge”), and, *second*, obtains a final, non-appealable order in favor of such party in interest sustaining any such Challenge in any such timely-filed contested matter, adversary proceeding or other action; provided, that, any trustee that is appointed in these Chapter 11 Cases or any Successor Case prior to the expiration of the Challenge Period shall have until the later of the expiration of the Challenge Period or 30 days after such trustee’s appointment to commence a Challenge. The Challenge Period may be extended upon stipulation of the Creditors’ Committee, the Debtors, and the Prepetition Agent or upon order of the Court for cause shown. Upon the Challenge Period Termination Date and for all purposes in these Chapter 11 Cases and any Successor Case(s), (i) any

and all such Challenges by any party in interest shall be deemed to be forever released, waived and barred and (ii) the releases in paragraph 18 above, the stipulations contained in paragraph D and the findings set forth in paragraph J of this Final Order shall be binding on all parties in interest, including the Creditors' Committee. Notwithstanding the foregoing, to the extent a motion seeking standing to commence a Challenge is filed prior to the expiration of the Challenge Period and the Challenge Period expires before such motion is ruled upon by this Court, the Challenge Period shall be extended to the first hearing date available after the filing of such motion within the requisite notice period provided under the applicable Local Rules and the Bankruptcy Rules, provided, that, if the Court grants a party in interest standing at such hearing, the Challenge Period will be further extend by an additional (3) business days solely for the party granted such standing. The Creditors' Committee shall have automatic standing to commence any Challenge. The Prepetition Lenders, Prepetition Agent, DIP Lenders, DIP Agent, and the Debtors stipulate and agree that the Prepetition Agent, each of the Prepetition Lenders, the DIP Agent, and each of the DIP Lenders will not raise as a defense in connection with any Challenge the ability of creditors to file derivative suits on behalf of limited liability companies. Notwithstanding any provision of this Order, this Court may fashion any appropriate remedy following a successful Challenge.

20. Restrictions on Use of Funds. Notwithstanding anything in the Interim Order, this Final Order or the DIP Documents to the contrary, without the express written consent of the DIP Agent and the Prepetition Agent, no proceeds of the DIP Facility, any DIP Collateral or Prepetition Collateral (including, without limitation, Cash Collateral) or any portion of the Carve-Out may be used to pay any claims for services rendered by any professionals retained by the Debtors, any creditor or party in interest, the Creditors' Committee, any trustee appointed under these Chapter 11 Cases or any Successor Case(s) or any other party to (a) request authorization to obtain

postpetition loans or other financial accommodations pursuant to section 364 of the Bankruptcy Code or otherwise, other than from the DIP Secured Parties, unless the proceeds of such loans or accommodations are or will be sufficient, and will be used, to indefeasibly pay in full in cash all DIP Obligations, or (b) investigate (except as set forth in this paragraph below), assert, join, commence, support or prosecute any Challenge or other action or claim, counter-claim, proceeding, application, motion, objection, defense, or other adversary proceeding or contested matter seeking any order, judgment, determination or similar relief against, or adverse to the interests of the DIP Secured Parties or any other Releasee, in each case solely in the capacities in which they are Releasees, with respect to any transaction, occurrence, omission or action including, without limitation, (i) any actions under chapter 5 of the Bankruptcy Code, (ii) any action relating to any act, omission or aspect of the relationship between or among any of the Releasees, in their respective capacities as such, on the one hand, and any of the Debtors, on the other, (iii) any action with respect to the validity and extent of the DIP Obligations, the Prepetition Obligations or the validity, extent and priority of the DIP Liens, the Prepetition Liens or the Adequate Protection Liens, (iv) any action seeking to invalidate, set aside, avoid or subordinate, in whole or in part, the DIP Obligations, the DIP Liens, the Prepetition Obligations, the Prepetition Liens, the Adequate Protection Superpriority Claim or the Adequate Protection Liens or (v) any action that has the effect of preventing, hindering or delaying (whether directly or indirectly) any DIP Secured Party in respect of the enforcement of the DIP Liens, and/or (c) use or seek to use Cash Collateral or sell or otherwise dispose of DIP Collateral, unless otherwise permitted hereby or by the DIP Documents, without the express written consent of the applicable DIP Secured Parties. Notwithstanding the foregoing, (x) any such limitations described in this paragraph shall not apply to the Creditors' Committee's investigation of the CoA Matters (or, for the avoidance of

doubt, any claims or causes of action relating to or arising out of the trade relationship between The Boeing Company and the Debtors) and (y) up to \$75,000 (the “Investigation Amount”) in the aggregate of the DIP Facility, DIP Collateral, Cash Collateral and Carve-Out may be used by the Creditors’ Committee during the Challenge Period to investigate the Lien Matters against the Releasees, in each case provided that: (I) the foregoing limitations shall not prevent the Creditors’ Committee from being heard on whether an Event of Default has occurred and is continuing; and (II) notwithstanding the foregoing subclauses (a) and (b), the Carve-Out, the proceeds of the DIP Facility, and any Cash Collateral may be used for the allowed fees and expenses incurred by the Creditors’ Committee and its professionals, other than those fees and expenses incurred subject to the Investigation Amount, in furtherance of its duties as set forth under section 1103 of the Bankruptcy Code, including, but not limited to, any objection filed to the DIP Motion, any objection filed to any sale motion, disclosure statement or plan of reorganization or liquidation filed in these Chapter 11 Cases, and any objection or other pleading contesting whether the DIP Secured Parties or Prepetition Secured Parties have the right to the exercise of remedies, including the prosecution of any such motions and objections.

21. Remedies and Stay Modification. The provisions of this paragraph 21 are each subject to the Carve-Out.

(a) The automatic stay provisions of section 362 of the Bankruptcy Code are, to the extent applicable, vacated and modified without further application or motion to, or order from, the Court, to the extent necessary so as to permit the following, and neither section 105 of the Bankruptcy Code nor any other provision of the Bankruptcy Code or applicable law shall be utilized to prohibit the exercise, enjoyment and enforcement of any of such rights, benefits, privileges and remedies regardless of any change in circumstances (whether or not foreseeable),

whether or not an Event of Default (as defined in the DIP Agreement) under the DIP Documents or a material default by any of the Debtors of any of their obligations under the Interim Order or this Final Order has occurred: (i) the right to require all cash, checks or other collections or proceeds from DIP Collateral received by any of the Debtors to be deposited in accordance with the requirements of the DIP Documents or written instructions of the DIP Agent, and to apply any amounts so deposited and other amounts paid to or received by the DIP Secured Parties under the DIP Documents in accordance with any requirements of the DIP Documents; (ii) the right to file or record any financing statements, mortgages or other instruments or other documents to evidence the security interests in and liens upon the DIP Collateral; (iii) the right to charge and collect any interest, fees, costs and other expenses accruing at any time under the DIP Documents as provided therein; and (iv) the right to give the Debtors any notice provided for in any of the DIP Documents or this Final Order.

(b) Subject to paragraph 21(f) below, the automatic stay provisions of section 362 of the Bankruptcy Code are vacated and modified without the need for further Court order to permit the DIP Secured Parties, upon the occurrence and during the continuance of an Event of Default under the DIP Agreement or the Debtors' violation of any material provision of the Interim Order or this Final Order, and without any interference from the Debtors, to (i) (A) cease making DIP Loans and/or suspend or terminate the commitments under the DIP Documents, and (B) declare all DIP Obligations immediately due and payable, and (ii) subject to five (5) business days' prior written notice (which may be delivered by electronic mail, and which shall be subject to Bankruptcy Rule 9006(a)(1)(C)) (the "Remedies Notice Period") to the Debtors, their counsel, counsel to the Creditors' Committee and the U.S. Trustee, to exercise all rights and remedies provided for in the DIP Documents, this Final Order or under other applicable bankruptcy

and non-bankruptcy law including, without limitation, the right to (A) take any actions reasonably calculated to preserve or safeguard the DIP Collateral or to prepare the DIP Collateral for sale; (B) foreclose or otherwise enforce the DIP Liens on any or all of the DIP Collateral; (C) set off any amounts held as Cash Collateral (including, without limitation, in any Cash Collateral account held for the benefit of the DIP Secured Parties); and/or (D) exercise any other default-related rights and remedies under the DIP Documents as amended by the Final Order, this Final Order or applicable law.

(c) Notwithstanding anything herein to the contrary, immediately upon the occurrence of a Termination Event or a default by any of the Debtors of any of their material obligations under this Final Order, the DIP Lender may charge interest at the default rate set forth in the DIP Documents, regardless of any notice thereof and without being subject to the Remedies Notice Period.

(d) The automatic stay of section 362(a) of the Bankruptcy Code, to the extent applicable, shall be deemed terminated without the necessity of any further action by the Court in the event that any party in interest has not obtained an order providing otherwise from this Court prior to the expiration of the Remedies Notice Period.

(e) If the DIP Secured Parties are entitled, and have elected in accordance with the provisions hereof, to enforce their liens or security interests or exercise any other default-related remedies following expiration of the Remedies Notice Period, the Debtors shall cooperate with the DIP Secured Parties in connection with such enforcement by, among other things, in accordance with applicable non-bankruptcy law, (A) providing at all reasonable times access to the DIP Collateral and the Debtors' premises to representatives or agents of the DIP Secured Parties (including any collateral liquidator or consultant), (B) providing the DIP Secured Parties

and their representatives or agents, at all reasonable times, access to the Debtors' books and records and any information or documents requested by the DIP Secured Parties or their representatives or agents, (C) performing all other obligations set forth in the DIP Documents and (D) taking reasonable steps to safeguard and protect the DIP Collateral, and the Debtors shall not otherwise interfere with or actively encourage others to interfere with the DIP Secured Parties' enforcement of rights.

(f) Upon the occurrence and during the continuance of an Event of Default under the DIP Documents, a violation of the material terms of this Final Order or any other Termination Event, and including during the pendency of any applicable Remedies Notice Period, the DIP Secured Parties shall have no further obligation to provide financing under the DIP Documents, except to the extent necessary to allow the Debtors to (y) fund any payroll obligations scheduled to be paid in the five (5) business days after the initiation of a Remedies Notice Period and (z) fund payments to ordinary course unaffiliated trade vendors and ordinary course unaffiliated service providers who shipped goods or provided services postpetition prior to the commencement of the Remedies Notice Period. Upon (i) initiation of a Remedies Notice Period or (ii) the occurrence of a Maturity Date, the DIP Secured Parties and the Prepetition Lenders shall have no further obligation to permit the continued use of Cash Collateral, except to the extent necessary to allow the Debtors to fund any payroll obligations scheduled to be paid in the five (5) business days after the initiation of a Remedies Notice Period. Once the Debtors' right to use Cash Collateral is no longer permitted by this Final Order, the Debtors shall be prohibited from using any Cash Collateral under this Final Order until such time (if any) as the Prepetition Lenders and the DIP Secured Parties have consented to further use of Cash Collateral except to the extent necessary to allow the Debtors to fund any payroll obligations scheduled to be paid in the five (5)

business days after the Debtors are no longer permitted to use Cash Collateral pursuant to this Final Order.

(g) Upon the occurrence and during the continuance of an Event of Default under the DIP Documents, a violation of the terms of this Final Order, or any other Termination Event, the DIP Secured Parties on behalf of the Prepetition Lenders may at all times continue to collect and sweep cash as provided herein or as provided in the DIP Documents, provided that sufficient funds are (or have been) set aside to fund the Carve-Out and payment of all accrued but unpaid expenses set forth in the Approved Budget through the date of the commencement of the Remedies Notice Period.

(h) This Court shall retain exclusive jurisdiction to hear and resolve any disputes and enter any orders pursuant to the provisions of this Final Order and relating to the application, re-imposition or continuance of the automatic stay of section 362(a) of the Bankruptcy Code or other injunctive relief requested.

22. [Reserved]

23. No Marshaling. The DIP Secured Parties (and after payment in full of the DIP Obligations, the Prepetition Lenders) shall not be subject to the equitable doctrine of “marshaling” or any other similar doctrine with respect to any of the DIP Collateral or the Prepetition Collateral. Without limiting the generality of the immediately preceding sentence, no party (other than the DIP Secured Parties and after payment in full of the DIP Obligations, the Prepetition Lenders) shall be entitled, directly or indirectly, to direct the exercise of remedies or seek (whether by order of this Court or otherwise) to marshal or otherwise control the disposition of the DIP Collateral or the Prepetition Collateral (as applicable) after an Event of Default under the DIP Documents, provided, however, that notwithstanding anything to the contrary in the Interim Order or this Final

Order, the DIP Agent and the Prepetition Agent, as applicable, shall satisfy any liens or claims on account of the New Money Loans and all claims for Diminution, if any, first from assets other than assets that were unencumbered as of the Petition Date.

24. Additional Perfection Measures.

(a) If the DIP Agent, in its sole discretion, requests that the Debtors execute additional DIP Loan documentation or chooses to take any action to obtain consents from any landlord, licensor or other party in interest, to file mortgages, financing statements, notices of lien or similar instruments, or to otherwise record or perfect such security interests and liens, the DIP Agent is hereby authorized, but not directed to, take such action or to request that Debtors take such action on its behalf (and Debtors are hereby authorized to take such action) and:

(i) any such documents or instruments shall be deemed to have been recorded and filed as of the Petition Date; and

(ii) no defect in any such act shall affect or impair the validity, perfection and enforceability of the liens granted hereunder.

(b) In lieu of obtaining such consents or filing any mortgages, financing statements, notices of lien or similar instruments, each of the DIP Agent and the Prepetition Agent may, in its respective sole discretion, choose to file a true and complete copy of the Interim Order or this Final Order in any place at which any such instruments would or could be filed, together with a description of the DIP Collateral, and such filing by the DIP Agent or Prepetition Agent shall have the same effect as if such mortgages, deeds of trust, financing statements, notices of lien or similar instruments had been filed or recorded on the Petition Date.

(c) Notwithstanding anything to the contrary in the Interim Order or this Final Order, (a) nothing in the Interim Order or this Final Order grants liens (including the DIP Liens

and the Adequate Protection Liens) on the Excluded Assets and (b) the claims granted to the DIP Secured Parties and the Prepetition Secured Parties pursuant to the terms of the Interim Order and this Final Order (including the DIP Superpriority Claim and the Adequate Protection Superpriority Claim) shall not have recourse to, or be payable from the Excluded Assets.

25. Application of Collateral Proceeds. To the extent required by the Interim Order, this Final Order and the DIP Documents, subject to an order of the Court to the contrary, after (a) an Event of Default, (b) the receipt by the Debtors of written notice that the DIP Lenders will no longer fund the Debtors through the proceeds of the DIP Loans or by consenting to the Debtors' use of Cash Collateral, and (c) the expiration of the Remedies Notice Period, the Debtors are hereby authorized and directed to remit to the DIP Agent, subject to the payment of the Carve-Out, one hundred percent (100%) of all collections on, and proceeds of, the DIP Collateral until the DIP Obligations are paid in full, and the automatic stay provisions of section 362 of the Bankruptcy Code are hereby modified to permit the DIP Lender to retain and apply all collections, remittances and proceeds of the DIP Collateral in accordance with the DIP Documents. In furtherance of the foregoing, (a) all cash, securities, investment property and other items of any Debtor deposited with any bank or other financial institution shall be subject to a perfected, first priority security interest in favor of the DIP Secured Parties, (b) upon the occurrence and during the continuance of a Termination Event and the expiration of the Remedies Notice Period, each bank or other financial institution with an account of any Debtor is hereby authorized to (i) comply at all times with any instructions originated by the DIP Agent (or its nominee) to such bank or financial institution directing the disposition of cash, securities, investment property and other items from time to time credited to such account, without further consent of any Debtor, including, without limitation, any instruction to send to the DIP Agent (or its nominee) by wire transfer (to

such account as the DIP Agent (or its nominee) shall specify, or in such other manner as the DIP Agent (or its nominee) shall direct) all such cash, securities, investment property and other items held by it, and, (ii) waive any right of set off, banker's lien or other similar lien, security interest or encumbrance that is or may be invoked against the DIP Agent (or its nominee) and (c) any deposit account or securities account control agreement executed and delivered by any bank or other financial institution or any Debtor and the Prepetition Agent prior to the Petition Date in connection with the Prepetition Loan Documents shall establish co-control in favor of the DIP Agent of any and all accounts subject thereto and any and all cash, securities, investment property and other items of any Debtor deposited therein to secure the DIP Obligations (provided that primary control rights shall vest in the DIP Agent), and all rights thereunder in favor of the Prepetition Agent shall inure also to the benefit of, and shall be exercisable exclusively by, the DIP Agent, until all of the DIP Obligations have been paid in full in cash, at which time all rights shall automatically revert to the Prepetition Agent, solely to the extent such deposit account or securities account control agreement relates to Cash Collateral.

26. Lenders Not Responsible Persons. In (a) making the decision to make the DIP Loans and consent to the use of Cash Collateral, (b) extending other financial accommodations to the Debtors under the DIP Documents, and (c) making the decision to collect the indebtedness and obligations of the Debtors, neither the DIP Agent nor any other DIP Secured Party nor any Prepetition Lender shall be considered to owe any fiduciary obligation to the Debtors or any other party with respect to their exercise of any consent or other rights afforded them under the DIP Documents, the Interim Order or this Final Order.

27. Successors and Assigns. The DIP Documents and the provisions of the Interim Order and this Final Order shall be binding upon the Debtors and the DIP Agent, the other DIP

Secured Parties, the Prepetition Lenders and each of their respective successors and assigns, and shall inure to the benefit of the Debtors, the DIP Agent, the other DIP Secured Parties, the Prepetition Agent and the other Prepetition Lenders and each of their respective successors and assigns including, without limitation, any trustee, examiner with expanded powers, responsible officer, estate administrator or representative, or similar person appointed or elected in a case for any Debtor under any chapter of the Bankruptcy Code, including any Successor Case. The terms and provisions of the Interim Order and this Final Order shall also be binding on all of the Debtors' creditors, equity holders and all other parties in interest, including, but not limited to a trustee appointed or elected under chapter 7 or chapter 11 of the Bankruptcy Code.

28. Binding Nature of Agreement. Each of the DIP Documents to which any of the Debtors are or will become a party shall constitute legal, valid and binding obligations of the Debtors party thereto, enforceable in accordance with their terms.

29. Subsequent Reversal or Modification. This Final Order is entered pursuant to section 364 of the Bankruptcy Code, and Bankruptcy Rules 4001(b) and (c), granting the DIP Secured Parties all protections and benefits afforded by section 364(e) of the Bankruptcy Code.

30. Collateral Rights. Subject to any order of the Bankruptcy Court entered without the objection of the DIP Agent authorizing the Debtors to make payments to prepetition creditors, if any party who holds a lien or security interest in DIP Collateral or Prepetition Collateral that is junior or otherwise subordinate to the DIP Liens, the Adequate Protection Liens or the Prepetition Liens in such DIP Collateral receives or is paid the proceeds of such DIP Collateral or Prepetition Collateral, or receives any other payment with respect thereto from any other source prior to the indefeasible payment in full in cash and the complete satisfaction of (a) all DIP Obligations under the DIP Documents and termination of the commitments thereunder in accordance with the DIP

Documents and, as applicable (b) the Prepetition Obligations under the Prepetition Loan Documents, such junior or subordinate lienholder shall be deemed to have received, and shall hold, the proceeds of any such DIP Collateral or Prepetition Collateral, as applicable, in trust for the DIP Secured Parties or Prepetition Lenders, as applicable, and shall immediately turn over such proceeds to the DIP Agent or Prepetition Agent, as applicable, for application to repay the DIP Obligations and, as applicable, the Prepetition Obligations, in accordance with the DIP Documents, the Prepetition Loan Documents, the Interim Order and this Final Order until the DIP Obligations and the Prepetition Obligations, as applicable, are indefeasibly paid in full in cash.

31. No Waiver. This Final Order shall not be construed in any way as a waiver or relinquishment of any rights that the DIP Secured Parties may have to bring or be heard on any matter brought before this Court.

32. Case Milestones. The Debtors agree to adhere to the following milestones with respect to the Chapter 11 Cases, provided that any milestone may be modified with the consent of the DIP Agent ("Case Milestones") or upon order of the Court for cause shown:

<i>Case Milestones</i>	(a) [No later than ten (10) days after the Petition Date, the Debtors will have filed a motion (the " <u>Everett Sale Motion</u> "), in form and substance reasonably acceptable to the DIP Agent, for approval of sale and bidding procedures (the " <u>Everett Bidding Procedures</u> ") relating to the sale of the Debtors' Everett, Washington assets (the " <u>Everett Assets</u> "), including the designation of a stalking horse purchaser (the " <u>Everett Stalking Horse</u> ") for such assets. The Everett Sale Motion will, among other things, (i) establish a bidding and sale process for the Everett Assets, including scheduling an auction to be held approximately forty-five (45) days after the Petition Date (the " <u>Everett Auction Date</u> "), and (ii) seek approval of the sale of the Everett Assets to the Everett Stalking
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	<p>Horse or such other successful bidder or bidders as determined at the Auction.]</p> <p>(b) [No later than thirty-five (35) days after the Petition Date, the Court will have entered an order approving the Everett Bidding Procedures.]</p> <p>(c) No later than five (5) business days after the Everett Auction Date, the Court will have entered an order approving the sale of the Everett Assets to the Everett Stalking Horse or such other successful bidder or bidders as determined at the Auction, if held (the “<u>Everett Sale Order</u>”).</p> <p>(d) No later than three (3) business days after entry of the Everett Sale Order, the closing of the sale of the Everett Assets shall have occurred.</p> <p>(e) No later than sixty (60) days after the Petition Date, the Debtors will have filed a motion (the “<u>Kansas Sale Motion</u>”), in form and substance reasonably acceptable to the DIP Agent, for approval of sale and bidding procedures (the “<u>Kansas Bidding Procedures</u>”) relating to the sale of the Debtors’ Kansas assets (the “<u>Kansas Assets</u>”).</p> <p>(f) No later than one hundred five (105) days after the Petition Date, the Court will have entered an order approving the sale of the Kansas Assets (the “<u>Kansas Sale Order</u>”).</p> <p>(g) No later than three (3) business days after entry of the Kansas Sale Order, the closing of the sale of the Kansas Assets shall have occurred.</p> <p>(h) No later than one hundred five (105) days after the Petition Date, the Debtors will have filed a chapter 11 plan (“<u>Plan</u>”) and accompanying disclosure statement (“<u>Disclosure Statement</u>”), in each case, in form and substance reasonably acceptable to the DIP Agent.</p> <p>(i) The Bankruptcy Court will have entered an order approving the Disclosure Statement on or before the date which is forty-five (45) days after its</p>
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	<p>filing, and will have entered an order confirming the Plan no later than ninety (90) days after its filing.</p> <p>(j) The effective date of the Plan shall have occurred on or prior to the date which is thirty (30) days after entry of the order confirming the Plan.</p>
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For the avoidance of doubt, failure to comply with the Case Milestones or the other provisions of this paragraph 32 shall be a Termination Event for purposes of this Final Order.

33. Dismissal and Conversion. If an order dismissing or converting any of these Chapter 11 Cases under sections 305 or 1112 of the Bankruptcy Code or otherwise, or appointing a chapter 11 trustee or a responsible officer or examiner with expanded powers, is at any time entered, such order shall provide that (a) the DIP Liens, the DIP Superpriority Claim, the Adequate Protection Liens and the Adequate Protection Superpriority Claim granted hereunder and in the DIP Documents shall continue in full force and effect, remain binding on all parties in interest, and maintain their priorities as provided in this Final Order and the DIP Documents and (b) this Court shall retain jurisdiction, notwithstanding such dismissal, for purposes of enforcing the DIP Liens, the DIP Superpriority Claim, the Adequate Protection Liens and the Adequate Protection Superpriority Claim. Any motion by the Debtors to dismiss any of these Chapter 11 Cases shall be filed on no less than 21 days' notice unless the DIP Agent specifically consents to a shorter notice period.

34. Limits on Lenders' Liability. Subject to Paragraph 19, nothing in the Interim Order, this Final Order or in any of the DIP Documents or any other documents related to this transaction shall in any way be construed or interpreted to impose or allow the imposition upon the DIP Agent,

any other DIP Secured Party, the Prepetition Agent or any other Prepetition Lender, in their respective capacities as such, of any liability for any claims arising from any and all activities by the Debtors or any of their subsidiaries or affiliates in the operation of their businesses or in connection with their restructuring efforts.

35. Priority of Terms. To the extent of any conflict between or among (a) the express terms or provisions of any of the DIP Documents, the Motion, the Requested Relief or any other agreements, on the one hand, and (b) the terms and provisions of this Final Order, on the other hand, unless such term or provision herein is phrased in terms of “as defined in” “as set forth in” or “as more fully described in” the DIP Documents (or words of similar import), the terms and provisions of this Final Order shall govern.

36. No Third Party Beneficiary. Except as explicitly set forth herein, no rights are created hereunder for the benefit of any third party, any creditor or any direct, indirect or incidental beneficiary.

37. Survival. Except as otherwise provided herein, (a) the protections afforded under this Final Order, and any actions taken pursuant thereto, shall survive the entry of an order (i) to the fullest extent permitted by applicable law, dismissing any of these Chapter 11 Cases or (ii) converting any of these Chapter 11 Cases to a case pursuant to chapter 7 of the Bankruptcy Code, and (b) the DIP Liens, the Adequate Protection Liens, the DIP Superpriority Claim and the Adequate Protection Superpriority Claim shall continue in these Chapter 11 Cases, any such Successor Case(s) or, to the fullest extent permitted by applicable law, after any such dismissal. Except as otherwise provided herein, the DIP Liens, the Adequate Protection Liens, the DIP Superpriority Claim and the Adequate Protection Superpriority Claim shall maintain their priorities as provided in this Final Order and the DIP Documents, and not be modified, altered or

impaired in any way by any other financing, extension of credit, incurrence of indebtedness (except with respect to any additional financing to be provided by the DIP Secured Parties in accordance with the DIP Agreement and this Final Order), or any conversion of any of these Chapter 11 Cases into a case pursuant to chapter 7 of the Bankruptcy Code or, to the fullest extent permitted by applicable law, dismissal of any of these Chapter 11 Cases, or by any other act or omission until: (i) all DIP Obligations are indefeasibly paid in full in cash and completely satisfied, and the commitments under the DIP Documents are terminated in accordance therewith, and (ii) the Prepetition Obligations have been or are deemed to have been satisfied in accordance with the Bankruptcy Code.

38. Immediate Binding Effect; Entry of Final Order. This Final Order shall not be stayed and shall be valid and fully effective immediately upon entry, notwithstanding the possible application of Bankruptcy Rules 6004(h), 7062 and 9014, or otherwise, and the Clerk of the Court is hereby directed to enter this Final Order on the Court's docket in these Chapter 11 Cases.

39. Proofs of Claim. Neither the DIP Secured Parties nor the Prepetition Lenders shall be required to file proofs of claim in any of these Chapter 11 Cases or Successor Cases for any claim allowed herein. The Debtors' Stipulations shall be deemed to constitute a timely filed proof of claim for the Prepetition Lenders upon approval of the Interim Order, and the Prepetition Agent shall be treated under section 502(a) of the Bankruptcy Code as if it had filed a proof of claim on behalf of the Prepetition Lenders. Notwithstanding any order entered by the Court in relation to the establishment of a bar date in any of these Chapter 11 Cases or Successor Cases to the contrary, the Prepetition Agent is hereby authorized and entitled, in its sole discretion, but not required, to file (and amend and/or supplement as it sees fit) a proof of claim and/or aggregate proofs of claim in each of these Chapter 11 Cases or Successor Cases for any claim allowed herein.

40. DIP Agreement. Notwithstanding anything to the contrary in the DIP Documents, the Interim Order, or this Final Order, the following provisions of the DIP Agreement shall not be applicable to the Debtors and will be deemed stricken in their entirety: (a) Section 7.15 (Accommodation Agreements); and (b) Section 9.03 (Additional Remedies Upon Specified Events of Default).

41. Headings. The headings of the various paragraphs in this Final Order are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

42. Retention of Jurisdiction. This Court shall retain jurisdiction over all matters pertaining to the implementation, interpretation and enforcement of this Final Order.

EXHIBIT B

**Redline Comparison of
Committee's Proposed Order to Interim DIP Order**

COMMITTEE'S PROPOSED ORDER
DRAFT/SUBJECT TO CHANGE

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

<i>In re</i> TECT AEROSPACE GROUP HOLDINGS, INC., <i>et al.</i>, <p style="text-align: center;">Debtors.¹</p>	X : : : : : : X	Chapter 11 Case No. 21– 10670 (KBO) Jointly Administered Re: D.I. 12
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**INTERIM-FINAL ORDER PURSUANT TO SECTIONS
105, 361, 362, 363, 364 AND 507 OF THE BANKRUPTCY
CODE, BANKRUPTCY RULE 4001 AND LOCAL RULE 4001-2,
(I) AUTHORIZING DEBTORS TO (A) OBTAIN POSTPETITION
FINANCING AND (B) USE CASH COLLATERAL, (II) GRANTING
ADEQUATE PROTECTION TO PREPETITION SECURED
PARTIES, ~~(III) SCHEDULING FINAL HEARING AND (IV)~~(III) GRANTING RELATED
RELIEF**

This matter coming before the Court on the *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Post-petition Financing, and (B) Use Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; and (III) Granting Related Relief* [Docket No. 12] (the “Motion”),² filed by the above-captioned debtors and debtors in possession (collectively, the “Debtors”), seeking entry of (i) ~~an interim order (this “the~~ Interim Order²² (as defined below) and (ii) a final order (~~the this~~ “Final Order”); and the Debtors² having requested on the record at the ~~interim-final~~ hearing on the Motion~~, if any,~~ (the “~~Interim-Final Hearing~~”) that the Court enter this ~~Interim-Final~~ Order, *inter alia*:

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 Unless otherwise defined, capitalized terms used herein shall have the meanings ascribed to them in the Motion or the DIP Documents (defined below), as applicable.

(a) authorizing TECT Aerospace, LLC, TECT Hypervelocity, Inc., TECT Aerospace Wellington Inc., and Sun Country Holdings, LLC (collectively, “TECT” or “Borrowers”) and their affiliated Debtors to obtain secured postpetition financing on a superpriority basis (the “DIP Facility”, and the loans provided to TECT thereunder, the “DIP Loans”, and the DIP Loans on account new money postpetition financing in excess of the Debtors’ postpetition receipts, the “New Money Loans”) pursuant to the terms and conditions of that certain Superpriority Secured Debtor-in-Possession Credit Agreement filed as Exhibit B to the Motion (as the same may be amended, supplemented, restated or otherwise modified from time to time in accordance with this Final Order, the “DIP Agreement”), by and among (i) the Borrowers, (ii) the other Debtors, as guarantors, (iii) The Boeing Company, as administrative agent (the “DIP Agent”) and (iv) the lenders from time to time party thereto (each a “DIP Lender” and collectively, the “DIP Lenders” and collectively with the DIP Agent, the “DIP Secured Parties”);

(b) authorizing the Debtors to execute the DIP Agreement and the other documents, agreements and instruments delivered pursuant thereto or executed or filed in connection therewith, all as may be reasonably requested by the DIP Secured Parties (as the same may be amended, restated, supplemented or otherwise modified from time to time, and collectively with the DIP Agreement, the “DIP Documents”);

(c) authorizing the Debtors to consummate the transactions contemplated by the DIP Documents;

(d) granting to the DIP Secured Parties the DIP Liens (as defined below) on all of the DIP Collateral (as defined below) to secure the DIP Facility and all obligations owing and outstanding thereunder and under the DIP Documents, as applicable, and ~~this~~ the Interim Order and ~~any~~ this Final Order, as applicable (collectively, and including all “Secured Obligations” as

defined in the DIP Agreement, the “DIP Obligations”), subject only to prior payment of the Carve-Out (as defined in paragraph 17 below) and the Senior Third-Party Liens (as defined in paragraph 13(d)(ii));³

(e) granting allowed superpriority administrative expense claims to the DIP Secured Parties in connection with the DIP Facility;

(f) authorizing the Debtors to use Prepetition Collateral and Cash Collateral (each as defined below) (together with the DIP Facility, the “Postpetition Financing Arrangement”);

(g) authorizing the Debtors to grant adequate protection to the Prepetition Lenders (as defined below);

(h) scheduling a hearing (the “Final Hearing”), pursuant to Rule 4001(c)(2) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to consider entry of ~~the~~ this Final Order; and

(i) granting such other and further relief as this Court deems necessary and just ((a) through (h) collectively, the “Requested Relief”), and the interim hearing on the Motion (the “Interim Hearing”) having been held on April 7, 2021 and the interim order approving this Motion [Docket No. 39] (the “Interim Order”) having been entered, and upon all of the pleadings filed with the Court and the evidence proffered or adduced and representations of counsel at the Interim Hearing and the Final Hearing, if any; and the Court having heard and resolved or overruled any and all objections to the Requested Relief; and it appearing that the Requested Relief is in the best

³ Nothing herein shall constitute a finding or ruling by this Court that any asserted Senior Third-Party Lien is valid, senior, enforceable, prior, perfected or non-avoidable. Moreover, nothing shall prejudice the rights of any party-in-interest, including, but not limited to the Debtors, the Prepetition Agent, the Prepetition Lenders, or ~~a~~ the Creditors’ Committee (~~if appointed~~), to challenge the validity, priority, enforceability, seniority, non-avoidability, perfection or extent of any alleged Senior Third-Party Lien.

interests of the Debtors, their estates and creditors; and upon the record herein; and after due deliberation thereon, and good and sufficient cause appearing therefor:

IT IS HEREBY FOUND AND DETERMINED THAT:⁴

A. Petition Date. On April 5, 2021 (the “Petition Date”), the Debtors commenced their chapter 11 cases (these “Chapter 11 Cases”) by filing voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Court”). The Debtors are operating their businesses and managing their affairs as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. As of the date hereof, no trustee, ~~or~~ examiner ~~or~~ has been appointed in any of these Chapter 11 Cases. On April 20, 2021, an official committee of unsecured creditors (~~a~~ the “Creditors’ Committee”) ~~has been~~ was appointed in ~~any of~~ these Chapter 11 Cases.

B. Jurisdiction; Venue. The Court has jurisdiction over these Chapter 11 Cases, the parties and the Debtors’ property pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated as of February 21, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(D). The Court is a proper venue of these Chapter 11 Cases and the Motion under 28 U.S.C. §§ 1408 and 1409.

C. Notice. Notice of the Motion, the relief requested therein and the ~~Interim~~ Final Hearing (the “Notice”) has been served by the Debtors pursuant to Bankruptcy Rules 2002 and 4001(b), (c), and (d) and in accordance with the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”) on the Notice Parties. The Notice constitutes good and sufficient notice of the Requested Relief, and no

⁴ Findings of fact shall be construed as conclusions of law, and conclusions of law shall be construed as findings of fact, as applicable, pursuant to Bankruptcy Rule 7052.

[further notice of the Requested Relief and the relief granted by this Final Order is necessary or shall be required.](#)

D. Debtors' Acknowledgements and Stipulations. In requesting the Postpetition Financing Arrangement and in exchange for and as a material inducement to, the DIP Secured Parties to agree to provide the Postpetition Financing Arrangement, and to the Prepetition Lenders in exchange for the Diminution (as defined below), the Debtors acknowledge, represent, stipulate and agree, for themselves and their estates, subject to the challenge rights set forth in paragraph 19 herein, as follows (collectively, the "Debtors' Stipulations"):

(i) the Borrowers and certain of the Debtors as guarantors (in such capacity, the "Debtor Guarantors") and collectively with the Borrowers, the "Prepetition Obligors"), are parties to that certain Revolving Credit, Term Loan and Security Agreement, dated as of June 27, 2017 (as the same has been amended, restated, supplemented, modified or assigned from time to time, the "Prepetition Credit Agreement") with The Boeing Company (as successor in interest to PNC Bank, National Association) as lender and as agent (the "Prepetition Agent") and certain lender parties thereto (collectively with the Prepetition Agent, the "Prepetition Lenders");

(ii) to secure the "Obligations" (as defined in the Prepetition Credit Agreement, the "Prepetition Obligations"), the Prepetition Obligors granted to the Prepetition Agent, for the benefit of the Prepetition Lenders, liens upon and security interests in (the "Prepetition Liens") all of the Prepetition Obligors' property and assets (other than the "Excluded Property" (as defined in the Prepetition Credit Agreement)), as set forth in the Prepetition Credit Agreement (together with all other agreements, documents, notes, guarantees, subordination agreements, instruments, amendments and any other agreements

delivered pursuant thereto or in connection therewith, each as amended, restated, supplemented or otherwise modified from time to time, the “Prepetition Loan Documents”), and, in all instances, the proceeds and products thereof (collectively, the “Prepetition Collateral”);

(iii) as of the Petition Date: (A) the current outstanding principal balance of the Prepetition Obligations (exclusive of interest, fees, reimbursable expenses and other charges) is not less than \$43,166,460; (B) all of the Prepetition Obligations are absolutely and unconditionally owed by the Prepetition Obligors to the Prepetition Lenders; (C) the Prepetition Obligations constitute legal, valid and binding obligations of the Prepetition Obligors, enforceable in accordance with their terms (other than in respect of the stay of enforcement arising from section 362 of the Bankruptcy Code to the extent applicable); (D) no recoupments, offsets, defenses or counterclaims exist to the Prepetition Obligations; and (E) no portion of the Prepetition Obligations or any payments or other transfers made to the Prepetition Agent or any other Prepetition Lender or applied to the Prepetition Obligations prior to the Petition Date is subject to avoidance, subordination, recharacterization, recovery, attack, recoupment, offset, counterclaim, defense or Claim (as defined in the Bankruptcy Code) of any kind pursuant to the Bankruptcy Code or applicable non-bankruptcy law;

(iv) the Prepetition Liens constitute valid, binding, enforceable (other than in respect of the stay of enforcement arising from section 362 of the Bankruptcy Code) and perfected liens with priority over any and all other liens in the Prepetition Collateral (except for any Senior Third-Party Liens (as defined in paragraph 13(d)(ii))) and are not subject to any challenge or defense, including without limitation, respectively, avoidance,

subordination, recharacterization, recovery, reduction, set-off, offset, attack, counterclaim, cross-claim or Claim (as defined in the Bankruptcy Code) of any kind pursuant to the Bankruptcy Code or applicable non-bankruptcy law;

(v) the Debtors have waived, discharged and released any right they may have to challenge the Prepetition Obligations and the Prepetition Liens on the Prepetition Collateral and to assert any recoupments, offsets, defenses, claims, objections, challenges, causes of action and/or choses of action against any Prepetition Lender with respect to the Prepetition Loan Documents, the Prepetition Obligations, the Prepetition Liens or the Prepetition Collateral;

(vi) any payments made on account of the Prepetition Obligations before the Petition Date were (A) payments out of the Prepetition Collateral and/or (B) made in the ordinary course of business and in exchange for reasonably equivalent value and did not diminish any property otherwise available for distribution to unsecured creditors;

(vii) all of the Debtors' cash, including the cash in their deposit accounts and other accounts, wherever located, whether as original collateral or proceeds of other Prepetition Collateral, constitutes Cash Collateral (as defined below);

(viii) as of the Petition Date, the current outstanding principal balance of the general unsecured trade payables by the Loan Parties (as defined in the Prepetition Credit Agreement) to The Boeing Company (exclusive of interest, fees, reimbursable expenses and other charges) is not less than \$1,323,512 and to Boeing Distribution Services, Inc., is not less than \$115,550, all of which is absolutely and unconditionally owed by the Loan Parties to The Boeing Company or Boeing Distribution Services, Inc., as applicable, ~~without setoff, defense, or reduction for any reason~~; and

(ix) none of the DIP Secured Parties or the Prepetition Lenders is a control person or insider (as defined in section 101(31) of the Bankruptcy Code) of any Debtor.

E. Cash Collateral. For purposes of this ~~Interim~~-Final Order, the term “Cash Collateral” shall mean and include all “cash collateral,” as defined in section 363 of the Bankruptcy Code, in or on which the DIP Secured Parties or the Prepetition Lenders have a lien, security interest or any other interest (including, without limitation, any Adequate Protection Liens or security interests), whether existing on the Petition Date, arising pursuant to ~~this~~-the Interim Order, this Final Order or otherwise, and shall include, without limitation:

(i) all cash proceeds arising from the collection, sale, lease or other disposition, use or conversion of any real or personal property, in or on which the DIP Secured Parties or the Prepetition Lenders have a lien or a replacement lien, whether as part of the DIP Collateral or the Prepetition Collateral, or pursuant to an order of the Court or applicable law or otherwise, and whether such property has been converted to cash, existed as of the commencement of these Chapter 11 Cases, or arose or was generated thereafter;

(ii) all of the respective deposits, refund claims and rights in retainers of the Debtors on which the DIP Secured Parties or the Prepetition Lenders hold a lien or replacement lien, whether as part of the DIP Collateral or Prepetition Collateral or pursuant to an order of the Court or applicable law or otherwise; and

(iii) the proceeds of any sale, transfer or other disposition of DIP Collateral or Prepetition Collateral.

F. Adequate Protection. The Prepetition Lenders are entitled, pursuant to sections 361, 363(e) and 364(c)(2), (c)(3) and (d) of the Bankruptcy Code, to adequate protection of their interests in the Prepetition Collateral, including the Cash Collateral, to the extent of any diminution

in the value of the Prepetition Collateral occurring from and after the Petition Date ~~(the “Diminution”)~~ resulting from (i) the incurrence of the DIP Obligations, (ii) the use of Prepetition Collateral (including Cash Collateral), (iii) the granting of the DIP Liens and the DIP Superpriority Claim, (iv) the subordination of the Prepetition Obligations to the DIP Obligations and the Carve-Out, and (v) imposition of the automatic stay pursuant to section 362 of the Bankruptcy Code (the “Diminution”).

G. Purpose and Necessity of Financing. The Debtors require the Postpetition Financing Arrangement to (i) permit the continuation of their businesses and maximize and preserve their going concern value, (ii) satisfy payroll obligations and other working capital and general corporate purposes of the Debtors consistent with the terms set forth in the DIP Documents and the Approved Budget (as defined below), (iii) provide adequate protection to the Prepetition Lenders, (iv) pay fees and expenses related to the DIP Documents and these Chapter 11 Cases and (v) for such other purposes as set forth in, or otherwise permitted by, the DIP Documents (including the Approved Budget). If the Debtors do not obtain authorization to use the Prepetition Collateral (including Cash Collateral) and borrow under the DIP Agreement, they will suffer immediate and irreparable harm. The Debtors are unable to obtain adequate unsecured credit allowable only as an administrative expense under section 503 of the Bankruptcy Code, or other sufficient financing under sections 364(c) or (d) of the Bankruptcy Code, on more favorable terms than those set forth in the DIP Documents. A loan facility in the amount provided by the DIP Documents is not available to the Debtors without granting the superpriority claims, liens and security interests, pursuant to sections 364(c)(1), 364(c)(2), 364(c)(3) and 364(d) of the Bankruptcy Code, as provided in ~~this~~ the Interim Order, this Final Order and the DIP Documents. After considering all alternatives, the Debtors have concluded, in the exercise of their sound business judgment, that the

Postpetition Financing Arrangement, including without limitation, the DIP Facility, is the best financing available to them at this time.

H. Good and Sufficient Cause Shown. Good and sufficient cause has been shown for entry of this ~~Interim-Final~~ Order. The ability of the Debtors to obtain sufficient working capital and liquidity under the DIP Documents and use of the Prepetition Collateral (including the Cash Collateral) is vital to the Debtors' estates and creditors. The liquidity to be provided under the DIP Documents and this ~~Interim-Final~~ Order will enable the Debtors to continue to operate their businesses in the ordinary course and preserve the value of the Debtors' businesses pending the sale of substantially all of their assets. Among other things, entry of this ~~Interim-Final~~ Order is necessary to maximize the value of the Debtors' assets and to avoid immediate and irreparable harm to the Debtors and their estates, and, accordingly, is in the best interests of the Debtors, their estates and their creditors.

I. ~~Sections 506(e) and Section 552(b) Waivers~~ Waiver. In light of (i) the DIP Secured Parties' agreement to subordinate their liens and superpriority claims to the Carve-Out, and in exchange for and as a material inducement to the DIP Lenders to agree to provide the DIP Facility and (ii) the Prepetition Lenders' agreement to subordinate their liens and superpriority claims to the DIP Obligations, the Carve-Out and the DIP Liens, and to permit the use of the Prepetition Collateral (including Cash Collateral for payments made in accordance with the Approved Budget (as defined below) and the terms of this ~~Interim Order~~), ~~upon entry of the~~ Final Order), each of the DIP Secured Parties ~~and the Prepetition Lenders are entitled to a waiver of the provisions of section 506(e)~~, and the Prepetition Lenders are entitled to a waiver of the exceptions provided in sections 552(b)(1) and (2) of the Bankruptcy Code.

J. Good Faith. The terms of the DIP Documents and the use of the Prepetition

Collateral (including the Cash Collateral) pursuant to ~~this-the~~ Interim Order and this Final Order, including, without limitation, the interest rates and fees applicable, and intangible factors relevant thereto, are more favorable to the Debtors than those available from alternative sources. Based upon the record before the Court, the DIP Documents and the use of the Prepetition Collateral (including the Cash Collateral) pursuant to ~~this-the~~ Interim Order and this Final Order have been negotiated in good faith and at arm's-length among the Debtors, the DIP Secured Parties and the Prepetition Lenders. Any DIP Loans and other financial accommodations made to the Debtors by the DIP Secured Parties pursuant to the DIP Documents and ~~this-the~~ Interim Order and this Final Order shall be deemed to have been extended by the DIP Secured Parties in good faith, as that term is used in section 364(e) of the Bankruptcy Code, and each of the DIP Secured Parties shall be entitled to all protections and benefits afforded thereby. The findings of this paragraph shall be non-binding and subject to the challenge rights set forth in paragraph 19 herein.

K. Fair Consideration and Reasonably Equivalent Value. All of the Debtors have received and will receive fair and reasonable consideration by virtue of their obtaining access to the DIP Loans, the use of the Prepetition Collateral (including the Cash Collateral) pursuant to ~~this-the~~ Interim Order and this Final Order and all other financial accommodations provided under the DIP Documents and ~~this-the~~ Interim Order and this Final Order. The terms of the DIP Documents and this ~~Interim-Final~~ Order are fair and reasonable, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties and are supported by reasonably equivalent value and fair consideration.

L. ~~Immediate Entry of Interim Order. The Debtors have requested immediate entry of this Interim Order pursuant to Bankruptcy Rule 4001(c)(2) and Local Rule 4001-2(b). The permission granted herein to enter into the DIP Documents, to obtain funds thereunder and to use~~

~~the Prepetition Collateral (including the Cash Collateral) pursuant to this Interim Order is necessary to avoid immediate and irreparable harm to the Debtors~~Final Order. This Court concludes that entry of this ~~Interim~~Final Order is in the best interests of the Debtors' respective estates and creditors as its implementation will, among other things, allow for access to the financing necessary for the continued flow of supplies and services to the Debtors necessary to sustain the operation of the Debtors' existing businesses and further enhance the Debtors' prospects for a successful sale of substantially all of their assets. Based upon the foregoing findings, acknowledgements and conclusions, and upon the record made before this Court at the Interim Hearing and the Final Hearing, if any, and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. Disposition. The relief requested by the Debtors in the Motion and otherwise on the record at the Interim Hearing and the Final Hearing, if any, is granted on the terms set forth in this ~~Interim~~Final Order. Any objection to the interim relief sought by the Debtors that has not previously been withdrawn or resolved is hereby overruled on its merits.

2. Authorization For DIP Financing. The Debtors are hereby authorized, ~~on an interim basis,~~ to incur DIP Obligations ~~immediately during the period prior to entry of the Final Order,~~ subject to the terms of this ~~Interim~~Final Order, the Approved Budget and the DIP Documents, in an aggregate principal amount not to exceed ~~22,000,000 ("Interim Borrowings"), with the maximum principal amount that may be borrowed following entry of the Final Order not to exceed~~ \$60,200,000 (inclusive of any outstanding Interim Borrowings (as defined in the Interim Order)) (the "Maximum Commitment"). Available financing and advances under the DIP Agreement shall, ~~on an interim basis,~~ be made to fund, in accordance with the DIP Documents and the Approved Budget, working capital and general corporate requirements of the Debtors, adequate protection

to the Prepetition Lenders, bankruptcy-related costs and expenses (including interest, fees and expenses in accordance with ~~this-the~~ Interim Order, this Final Order and the DIP Documents), and any other amounts required or allowed to be paid in accordance with this ~~Interim-Final~~ Order, but only as and to the extent authorized by the Approved Budget and the DIP Documents.

3. Authorization for Use of Cash Collateral. The Debtors are authorized to use Cash Collateral subject to and in accordance with the terms, conditions and limitations set forth in ~~this~~ the Interim Order, this Final Order, the Approved Budget and the DIP Documents, without further approval by the Court.

4. Approved Budget.

(a) The Debtors have delivered to the DIP Agent a detailed budget that sets forth projected cash receipts and cash disbursements on a weekly basis for the time period from and including the Petition Date through August 13, 2021 that has been approved by the Required DIP Lenders (defined below), and a copy of which is attached hereto as Exhibit 1 (as updated, amended, supplemented or otherwise modified in accordance herewith, the “Approved Budget”). The Approved Budget also sets forth, for each week, the amount of DIP Loans anticipated to be advanced or otherwise used for such week after giving effect to any budgeted inflows. The Debtors shall provide to the DIP Secured Parties and the Creditors’ Committee financial reporting in accordance with the terms of the DIP Documents. Funds borrowed under the DIP Agreement and Cash Collateral used under ~~this-the~~ Interim Order and this Final Order shall be used by the Debtors in accordance with the DIP Documents, including the Approved Budget, the Interim Order and this ~~Interim-Final~~ Order. The consent of the Required DIP Lenders to the Approved Budget shall not be construed as a commitment of the DIP Lenders to provide DIP Loans or of the DIP Secured Parties or Prepetition Lenders to permit the use of Cash Collateral (in each case, subject to funding

of the Carve-Out) after the occurrence of a Termination Event (as defined below) under this ~~Interim~~-Final Order, regardless of whether the aggregate funds shown on the Approved Budget have been expended.

(b) The Approved Budget and Approved Variance Report (as defined below) shall, including any and all updates, amendments, supplements and modifications made in accordance with this Final Order, at all times be in form and substance reasonably acceptable to the Required DIP Lenders and approved in writing by the DIP Agent prior to the implementation thereof. Notwithstanding anything herein to the contrary, any updates, amendments, supplements or modifications to the Approved Budget, must be consented to in writing by the DIP Lenders holding more than fifty percent (50%) of the DIP Loan commitments (the “Required DIP Lenders”) prior to the implementation thereof and shall not require further notice, hearing, or Court order.

(c) The DIP Secured Parties (i) may assume the Debtors will comply with the Approved Budget, (ii) shall have no duty to monitor such compliance, and (iii) shall not be obligated to pay (directly or indirectly from the DIP Collateral) any unpaid expenses incurred or authorized to be incurred pursuant to any Approved Budget other than to (i) permit the Debtors’ use of Cash Collateral as expressly provided herein prior to the occurrence of a Termination Event and (ii) fund the Carve-Out as set forth in this Final Order. All advances and extensions of credit shall be based upon the terms and conditions of the DIP Documents, as the same may be amended from time to time with the consent of the DIP Lenders or Required DIP Lenders (as applicable in accordance with the DIP Documents and in accordance with this Final Order). Subject to the terms and conditions of this ~~Interim~~-Final Order, the DIP Lenders shall have the right, but not the obligation, to extend credit independent of any Approved Budget restrictions on loan availability

set forth in the DIP Documents, and all DIP Loans shall be entitled to the benefits and protections of ~~this the~~ Interim Order and this Final Order, provided, however, that any credit extension beyond the Maximum Commitment shall be subject to further order of the Court. For the avoidance of doubt, no DIP Lender shall be obligated to extend credit outside the terms of the DIP Documents.

(d) On or before 11:59 p.m. Eastern Time on every Wednesday of each week, commencing after the end of the second full week following the Petition Date, the Debtors shall deliver to the DIP Agent a report (each, an “Approved Variance Report”) that shows (i) then-current cash balance calculations and (ii) cash flow reconciliations showing actual payments versus budgeted items in the Approved Budget for prior periods ended (with (a) an explanation of any Cash Operating Disbursements (as defined in the DIP Credit Agreement) variance greater than ~~10~~13%, and (b) an indication of any adverse variance that exceeds the Permitted Variance). As used herein, “Permitted Variance” means a permitted ~~negative~~-variance of (a) ~~bi~~-weekly Cash Operating Disbursements not to exceed the greater of ~~10~~13% of the budgeted amounts and \$50,000, and/or (b) cumulative Net Cash Flow of ~~10~~20% of the budgeted amounts (provided that failure by The Boeing Company to pay outstanding obligations shall not be considered), in each case with measurement beginning in week ~~two (2)~~four (4) of these Chapter 11 Cases and continuing thereafter. The DIP Agent shall promptly deliver to the DIP Lenders, ~~a~~ a copy of each Approved Variance Report upon such agent’s receipt. The Approved Variance Report shall be shared with the Creditors’ Committee on a professionals’ eyes only basis no later than Friday of each week.

5. Additional Events of Default. It shall be an Event of Default (as defined below) if the Debtors (i) until such time as all DIP Obligations are indefeasibly paid in full in cash, in any way prime or seek to prime (or otherwise cause to be subordinated in any way) the liens provided to the DIP Secured Parties by offering a subsequent lender or any party-in-interest a superior or

pari passu lien or claim with respect to the DIP Collateral pursuant to section 364(d) of the Bankruptcy Code or otherwise, except with respect to the Carve-Out and the DIP Obligations as set forth in the DIP Documents, (ii) until such time as all DIP Obligations are indefeasibly paid in full in cash in any way or at any time seek allowance of any administrative expense claim against the Debtors of any kind or nature whatsoever, including, without limitation, claims for any administrative expenses of the kind specified in, or arising or ordered under sections 105, 326, 328, 330, 331, 503(a), 503(b), ~~506(e)~~, 507(a), 507(b), 546(c), 546(d), 552(b), 726, 1113 and 1114 of the Bankruptcy Code that is superior to or *pari passu* with the DIP Superpriority Claim (as defined below) provided herein, except with respect to the Carve-Out and the DIP Obligations as set forth in the DIP Documents, and (iii) unless otherwise consented to in writing by the Required DIP Lenders and the Required Prepetition Lenders (as applicable), and except for the assertion of a Challenge contemplated by Paragraph 19 of this Final Order, in any way seek to modify, alter or impair in any manner the rights, remedies, powers, privileges, liens and priorities of the DIP Agent, the other DIP Secured Parties, the Prepetition Agent and the other Prepetition Lenders provided for in ~~this the~~ Interim Order, this Final Order, the DIP Documents, or otherwise, unless and until the DIP Obligations have first been indefeasibly paid in full in cash and completely satisfied, the commitments thereunder are terminated in accordance with the DIP Documents and the Prepetition Obligations are indefeasibly paid in full in cash and completely satisfied.

6. Authority to Execute and Deliver Necessary Documents. Each of the Debtors is authorized to negotiate, prepare, enter into and deliver the DIP Documents, in each case including any amendments, supplements and modifications thereto in accordance with the terms thereof and in accordance with this Final Order. Each of the Debtors is further authorized to negotiate, prepare, enter into and deliver any other UCC financing statements, pledge and security agreements,

mortgages or deeds of trust, or similar documents, instruments or agreements encumbering all of the DIP Collateral and securing all of the Debtors' obligations under the DIP Documents, each as may be reasonably requested by the DIP Agent.

7. Authority to Perform Obligations and Acts. Each of the Debtors is further authorized to (a) perform all of its obligations and acts contemplated by the DIP Documents and such other agreements as may be required by the DIP Documents to give effect to the terms of the financing provided for therein and in this ~~Interim-Final~~ Order, and (b) perform all acts required under the DIP Documents and this ~~Interim-Final~~ Order.

8. Valid and Binding Obligations. All obligations under the DIP Documents shall constitute valid and binding obligations of each of the Debtors, enforceable against each of them and each of their successors and assigns, in accordance with their terms and the terms of ~~this-the~~ Interim Order and this Final Order, and no obligation, payment, transfer or grant of a lien or security interest under the DIP Documents shall be voidable or recoverable under the Bankruptcy Code or under any applicable law (including, without limitation, under section 502(d) of the Bankruptcy Code) or subject to any avoidance, reduction, set-off, offset, recharacterization, subordination (whether equitable, contractual or otherwise), counterclaim, cross-claim, defense or any other challenge under the Bankruptcy Code or any applicable law or regulation by any person or entity.

9. Termination of DIP Documents. Notwithstanding anything in this ~~Interim-Final~~ Order to the contrary, the DIP Lenders' commitments under the DIP Documents will terminate and the DIP Obligations will become due and payable (unless such obligations become due and payable earlier pursuant to the terms of the DIP Documents and this ~~Interim-Final~~ Order by way of acceleration or otherwise), and the Debtors' authority to use Cash Collateral in accordance with

this ~~Interim~~-Final Order will terminate, on the date that is the earliest to occur of (in each case, the “Maturity Date”): (i) August 6, 2021; (ii) ~~the date which is thirty (35) days following the entry of this Interim Order if the Court has not entered the Final Order on or prior to such date~~[reserved]; (iii) the acceleration of the DIP Obligations upon five (5) business days’ written notice from the DIP Agent to the Debtors and Creditors’ Committee’s counsel of an event of default under the DIP Agreement (an “Event of Default”); (iv) the date upon which any plan of reorganization or liquidation becomes effective in any of these Chapter 11 Cases; (v) entry of an order by the Bankruptcy Court in any of these Chapter 11 Cases (a) dismissing any of these Chapter 11 Cases or converting any of these Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code without the consent of the Required DIP Lenders or (b) appointing a chapter 11 trustee or an examiner with enlarged powers relating to the operation of the business of the Borrowers (powers beyond those set forth in sections 1106(a)(3) and (4) of the Bankruptcy Code), in each case without the consent of the DIP Agent and the Required DIP Lenders; (vi) the consummation of both the Everett Sale and the Kansas Sale (each as defined below) and (vii) the filing or support by any Debtor of a plan of reorganization or liquidation (a “Plan”) while there are any outstanding DIP Obligations that is not otherwise reasonably acceptable to the DIP Agent and the Required DIP Lenders in their ~~sole~~-discretion; provided, that, a Plan that, upon its effective date, pays the DIP Obligations and the obligations under the Prepetition Credit Agreement in full in cash on the effective date of such Plan shall be deemed reasonably acceptable to such parties; provided, further, that, upon consummation of the later of the Everett Sale or the Kansas Sale, the DIP Lender shall immediately fund any undrawn New Money Loans under the DIP Facility and such New Money Loans shall remain in the possession and control of the Debtors’ estates for the purposes of administering these Chapter 11 Cases through confirmation of a plan of liquidation or

[reorganization, at which point remaining estates funds will be distributed to creditors based on the priority scheme set forth in the Bankruptcy Code.](#)

10. Termination of Authority to Use Cash Collateral. Subject to paragraph 21(f), the Debtors' ability to use Cash Collateral prior to the Maturity Date will terminate immediately upon the occurrence of any event described below (each a "Termination Event"):

(a) any Debtor fails to comply in any ~~material~~ respect with any of the [material](#) terms or conditions of this ~~Interim-Final~~ Order, and such failure is not cured [or waived](#) during any applicable Remedies Notice Period;

(b) any Debtor seeks any modification or extension of ~~this-the~~ Interim Order, [or this Final Order](#) without consent of the Required DIP Lenders;

(c) an application (other than the application for financing provided by a third party which seeks authority to pay all of the DIP Obligations and the Prepetition Obligations in full upon entry of the order approving such financing) is filed by any Debtor for the approval of (or an order is entered by the Court approving) any claim arising under section 507(b) of the Bankruptcy Code or otherwise, or any lien in any of these Chapter 11 Cases, which is *pari passu* with or senior to the Prepetition Obligations, the Adequate Protection Liens or the Adequate Protection Superpriority Claim, excluding liens arising under ~~this-the~~ Interim [Order or this Final](#) Order or pursuant to any other financing agreement made with the prior written consent of the Required DIP Lenders;

(d) the commencement or support of any action by any Debtor or any party exercising the authority of the Debtor (other than an action pursuant to paragraph 19) against any of the DIP Lenders or the Prepetition Lenders, or their respective agents and employees, to subordinate or avoid any liens made in connection with the Prepetition Loan Documents or the

DIP Documents or to avoid any obligations incurred in connection with the Prepetition Loan Documents or the DIP Documents;

(e) any order shall be entered granting relief from the stay arising under section 362 of the Bankruptcy Code to the holder or holders of any security interest, lien or right of setoff to permit foreclosure (or the granting of a deed in lieu of foreclosure or similar instrument), possession, set-off or any similar remedy with respect to any assets of the Debtors with an aggregate value of more than \$200,000;

(f) (i) any Debtor shall assert in any pleading filed in any court that any material provision of ~~this-the~~ Interim Order or this Final Order is not valid and binding for any reason, or (ii) any material provision of ~~this-the~~ Interim Order or this Final Order shall for any reason, or any other order of this Court approving the Debtors' use of Cash Collateral, without the prior written consent of the Required DIP Lenders, cease to be valid and binding;

(g) once filed, any Debtor withdraws or modifies the Everett Sale Motion or the Kansas Sale Motion (each as defined below) without the consent of the Required DIP Lenders;

(h) the Debtors fail to comply with any Case Milestone; or

(i) the occurrence of the Maturity Date.

11. Authorization and Direction for Payment of DIP Financing Fees and Expenses.

Subject to the provisions of this paragraph 11, all fees paid or payable, and all reasonable costs and expenses reimbursed or reimbursable (including, without limitation, all fees, costs and expenses referred to in the DIP Documents and the DIP Agent's and the DIP Lenders' reasonable attorneys' fees and expenses of the DIP Agent or any DIP Lender), by the Debtors to the DIP Secured Parties are hereby approved, to the extent provided in the DIP Agreement. The Debtors are hereby authorized and directed to pay all such fees, costs and expenses in accordance with the

terms of the DIP Documents and this ~~Interim~~-Final Order, without any requirement that the Debtors, the DIP Agent, the DIP Lenders or their respective attorneys file any further application or other pleading, notice or document with the Court for approval or payment of such fees, costs or expenses. To the extent provided in the DIP Agreement, the Debtors shall pay all reasonable prepetition and postpetition out of pocket costs and expenses of the DIP Secured Parties (including all reasonable fees, expenses and disbursements of outside counsel, including local counsel) in connection with these Chapter 11 Cases and any Successor Case(s) (as defined below), including, without limitation, in connection with (a) the preparation, negotiation, execution and delivery of the DIP Documents, ~~this-the~~ Interim Order and ~~any-this~~ Final Order, and the funding of all DIP Loans under the DIP Facility, (b) the administration of the DIP Facility and any amendment or waiver of any provision of the DIP Documents, ~~this-the~~ Interim Order and ~~any-this~~ Final Order, (c) the administration of these Chapter 11 Cases and any Successor Case(s), and (d) the enforcement or protection of the DIP Secured Parties' rights and remedies under the DIP Documents, ~~this-the~~ Interim Order and ~~any-this~~ Final Order. Notwithstanding anything to the contrary herein, the payment of all such fees, costs and expenses of the DIP Secured Parties, whether incurred before or after the Petition Date, including, without limitation, all fees referred to in the DIP Documents and all reasonable attorneys' fees and expenses, shall, (i) subject to paragraph 19, be deemed non-refundable and irrevocable, and (ii) not be subject to the Approved Budget. None of the DIP Secured Parties' attorneys' fees or disbursements shall be subject to the prior approval of this Court, and no recipient of any such payment shall be required to file with respect thereto any interim or final fee application with this Court. Prior to any conversion of these Chapter 11 Cases to chapter 7, any such fees, costs and expenses shall be paid by the Debtors within ten (10) days after delivery of an invoice (redacted for privilege) to the Debtors and without

the need for application to or order of the Court. A copy of such invoice shall be provided by the DIP Agent to the U.S. Trustee, counsel for the Prepetition Agent and counsel for ~~any~~the Creditors' Committee on the same ~~business~~-day as the Debtors' receipt of such invoice. Notwithstanding the foregoing, if (x) the Debtors, U.S. Trustee or ~~any~~the Creditors' Committee object to an invoice submitted by the DIP Secured Parties and (y) the parties cannot resolve such objection, in each case within the ten (10) day period following receipt of such invoice, the Debtors, the U.S. Trustee or such Creditors' Committee, as the case may be, shall file with the Court and serve on the DIP Agent and the DIP Secured Party submitting the fee request a fee objection (a "DIP Secured Party Fee Objection"). The Debtors shall promptly pay and/or the DIP Lenders are hereby authorized to make an advance under the DIP Agreement to timely pay, any submitted invoice after the expiration of the ten (10) day period if no DIP Secured Party Fee Objection is filed with the Court and served on the DIP Agent and DIP Lenders in such ten (10) day period. If a DIP Secured Party Fee Objection is timely filed and served, the Debtors shall promptly pay and/or the DIP Secured Parties are hereby authorized to make an advance under the DIP Agreement to timely pay, the undisputed amount of the invoices, and the Court shall have jurisdiction to determine the disputed portion of such invoice if the parties are unable to resolve the DIP Secured Party Fee Objection.

12. Amendments, Consents, Waivers and Modifications. The Debtors, with the express written consent of the Required DIP Lenders in accordance with the terms and conditions of the DIP Documents, may enter into any amendments, consents, waivers or modifications to the DIP Documents without the need for further notice and hearing or any order of this Court, so long as such amendments, consents, waivers or modifications are non-material. A copy of any such amendment, consent, waiver or modification shall be provided by the Debtors to the DIP Lenders, U.S. Trustee and counsel for ~~any~~the Creditors' Committee within one business day of execution.

Any material changes to the DIP Documents, including without limitation material changes to the Approved Budget, as well as any increases in the amount of the DIP Loans (except as provided in paragraph 4(c) of this ~~Interim~~ Final Order), will require the consents of the Required DIP Lenders in addition to any express written consents required by the DIP Documents and Court approval after notice and a hearing, and increases in the amount of the DIP Loans shall require the consent of all DIP Lenders whose commitments are being increased.

13. DIP Secured Parties' Lien Priority.

(a) To secure the DIP Obligations, and solely with respect to the New Money Loans, the DIP Secured Parties are hereby granted pursuant to and in accordance with Sections 364(c)(2), 364(c)(3) and 364(d) of the Bankruptcy Code, valid, enforceable and fully perfected liens (the “DIP Liens”) in and on all of the property, assets or interests in property or assets of each Debtor, and all “property of the estate” (within the meaning of the Bankruptcy Code) of each Debtor, of any kind or nature whatsoever, real or personal, tangible or intangible or mixed, now existing or hereafter acquired or created, including, without limitation, all of each Debtor’s now owned or hereafter acquired right, title and interest in and to all cash, accounts, accounts receivable, goods, inventory, property, plant and equipment, commercial tort claims, intellectual property, contract rights, tax refunds, prepaid expenses, deposits, general intangibles, real estate, leaseholds (provided, however, with respect to the Debtors’ non-residential real property leases, no liens or encumbrances shall be granted or extend to such leases themselves under this ~~Interim~~ Final Order, except as permitted in the applicable lease or pursuant to applicable law, but rather any liens granted shall extend only to the proceeds realized upon the sale, assignment, termination, or other disposition of such leases, books and records related to the foregoing, accessions and proceeds of the foregoing, wherever located, including insurance or other proceeds), ~~all proceeds~~

~~or property recovered in connection with actions under chapter 5 of the Bankruptcy Code (“Avoidance Actions”) (provided that the lien on Avoidance Actions and proceeds of Avoidance Actions shall be limited to the proceeds and property recovered in connection therewith and shall only attach hereunder to the extent approved in the Final Order)~~, all intercompany claims, all claims and causes of action of each Debtor or its respective estate (including, without limitation, all commercial tort claims of every kind and description, whether described in specificity in the DIP Documents or not) and any and all proceeds and property recovered therefrom, any and all proceeds arising from insurance policies, all intellectual property, and the equity interests of each direct subsidiary of each Debtor, which for the avoidance of doubt, shall include, without limiting the generality of the foregoing, all assets of each Debtor that constitute Prepetition Collateral, and all other property and assets including, without limitation, Cash Collateral, and all cash and non-cash proceeds, rents, products, substitutions, accessions, offspring and profits of any of the collateral described above (collectively, the “DIP Collateral”), subject only to prior payment of the Carve-Out, provided, however, that the DIP Collateral shall not include (i) any claims or causes of action under chapter 5 of the Bankruptcy Code (“Avoidance Actions”); (ii) any estate claims or causes of action against The Boeing Company, or any of its affiliates and predecessors in interest, and their respective former, current or future officers, employees, directors, agents, representatives, owners, members, partners, advisors, legal advisors, shareholders, managers, consultants, accountants and attorneys, in their respective capacities as such (the “Boeing Claims”); (iii) any claims and causes of action that the Debtors’ estates may have against the Debtors’ current and former directors and officers (the “D&O Claims”); and (iv) any property and/or proceeds derived from the assets listed in subclauses (i) through (iii) of this paragraph (collectively, the “Excluded Assets”).

(b) The DIP Liens shall be effective immediately upon the entry of ~~this~~ the Interim Order and this Final Order.

(c) The DIP Liens shall be and hereby are deemed fully perfected liens and security interests, effective and perfected upon the date of ~~this~~ the Interim Order, without the necessity of execution by the Debtors of mortgages, security agreements, pledge agreements, financing agreements, financing statements, account control agreements or any other agreements, filings or instruments, such that no additional actions need be taken by the DIP Agent, the DIP Lenders or any other party (including, without limitation, any depository bank or securities intermediary) to perfect such interests.

(d) At all times prior to indefeasible payment in cash in full of the DIP Obligations, the priority of the DIP Liens will:

(i) Pursuant to sections 361, 362, 364(c)(2), 364(c)(3) and 364(d) of the Bankruptcy Code, be perfected first priority liens (subject to Senior Third-Party Liens, if any) on all DIP Collateral;

(ii) Pursuant to section 364(c)(3) of the Bankruptcy Code, be perfected junior liens on all DIP Collateral that was, as of the Petition Date, subject to valid, properly perfected, (before the Petition Date or in accordance with section 546(b) of the Bankruptcy Code), non-avoidable and senior in priority as a matter of law liens in existence at the time of the commencement of these Chapter 11 Cases (other than the liens in favor of the Prepetition Lenders, which liens are “primed” pursuant to the liens described in subsection (iii) below) (“Senior Third-Party Liens”), with a priority immediately junior to any such Senior Third-Party Liens;

(iii) Pursuant to section 364(d) of the Bankruptcy Code, be perfected first priority, senior priming liens on all DIP Collateral that is subject to (a) the existing liens that

secure the obligations of the applicable Debtors under or in connection with the Prepetition Credit Agreement and, (b) ~~subject to entry of the Final Order~~, existing liens junior in priority to the liens granted in favor of the Prepetition Lenders, all of which existing liens (the “Primed Liens”) shall be primed by and made subject and subordinate to the perfected first priority senior liens granted to the DIP Secured Parties hereunder, which senior priming liens in favor of the DIP Secured Parties shall also prime any liens granted after the commencement of these Chapter 11 Cases to provide adequate protection in respect of any of the Primed Liens; and

(iv) Pursuant to the terms of ~~this~~ the Interim Order and this Final Order, be subject to the Carve- Out and any senior liens, if any, permitted under the DIP Documents.

14. DIP Secured Parties’ Superpriority Claim. The DIP Secured Parties are hereby granted an allowed superpriority administrative expense claim solely with respect to the New Money Loans (the “DIP Superpriority Claim”) pursuant to section 364(c)(1) of the Bankruptcy Code in each of these Chapter 11 Cases and in any successor case(s) under the Bankruptcy Code (including any case or cases under chapter 7 of the Bankruptcy Code, the “Successor Case(s)”) for all DIP Obligations, which allowed DIP Superpriority Claim shall be payable from and have recourse to all pre- and postpetition property of the Debtors and all proceeds thereof ~~including, without limitation (subject to entry of a Final Order), any proceeds or property recovered in connection with the pursuit of Avoidance Actions~~ excluding the Excluded Assets. The DIP Superpriority Claim shall be subject and subordinate in priority of payment only to prior payment of the Carve-Out.

15. Survival of DIP Liens, DIP Superpriority Claim, Adequate Protection Liens, and Adequate Protection Superpriority Claim. The DIP Liens, DIP Superpriority Claim, Adequate Protection Liens and Adequate Protection Superpriority Claim and other rights and remedies

granted under ~~this-the~~ Interim Order or this Final Order to the DIP Agent, the DIP Lenders, the Prepetition Agent and the Prepetition Lenders shall continue in these Chapter 11 Cases and any Successor Case(s), and shall be valid and enforceable against any trustee appointed in any or all of the Debtors' Chapter 11 Cases and upon the dismissal of any or all of the Debtors' Chapter 11 Cases, or in any Successor Case(s), and such liens and security interests shall maintain their first priority as provided in ~~this-the~~ Interim Order or this Final Order until all the DIP Obligations and the Prepetition Obligations have been indefeasibly paid in full in cash and the DIP Lenders' commitments have been terminated in accordance with the DIP Documents and this ~~Interim-Final~~ Order.

16. Adequate Protection for Prepetition Lenders. As adequate protection in respect of, and as consideration for any Diminution ~~resulting from any of the incurrence and payment of the DIP Obligations, the use of Cash Collateral, the use of other Prepetition Collateral, the granting of the DIP Liens and the DIP Superpriority Claim, the subordination of the Prepetition Obligations to the DIP Obligations and the Carve-Out and the imposition of the automatic stay pursuant to section 362 of the Bankruptcy Code~~, the Prepetition Lenders are hereby granted (in each case subject only to the DIP Liens, the DIP Superpriority Claim, and prior payment of the Carve-Out) the following adequate protection:

(a) Adequate Protection Liens. To secure the Adequate Protection Superpriority Claim (as defined below), the Prepetition Agent, for itself and for the benefit of the other Prepetition Lenders, is hereby granted (effective and perfected by operation of law immediately upon entry of ~~this-the~~ Interim Order and without the necessity of execution by the Debtors of mortgages, security agreements, pledge agreements, financing statements, account control agreements and other agreements, filings or instruments) valid, perfected, postpetition

security interests and liens (the “Adequate Protection Liens”) in and on all of the DIP Collateral, with a priority subject and subordinate only to (i) the DIP Liens, (ii) the Senior Third-Party Liens and (iii) prior payment of the Carve-Out.

(b) Adequate Protection Superpriority Claim. As further adequate protection, the Prepetition Agent, for itself and for the benefit of the other Prepetition Lenders, is hereby granted a superpriority claim to the extent of any Diminution, which claim shall have the priority afforded to it under section 507(b) of the Bankruptcy Code (the “Adequate Protection Superpriority Claim”), provided however, such Adequate Protection Superpriority Claim shall (i) be subordinate and subject only to the DIP Superpriority Claim and prior payment of the Carve-Out, and (ii) shall be entitled to all protections and benefits of section 507(b) of the Bankruptcy Code.

(c) Limited Roll-Up / Adequate Protection Payments. As further adequate protection, subject to paragraph 19, the Debtors’ receipts shall be applied in satisfaction of Prepetition Obligations then outstanding as set forth in the DIP Agreement (the “Roll-Up Loans”), provided, that, the liens in respect of the Roll-Up Loans shall not attach to any of the Debtors’ unencumbered assets, including, but not limited to, any assets that may become unencumbered postpetition as a result of a successful Challenge. For the avoidance of doubt, and subject to paragraph 19, proceeds of sales outside the ordinary course, including from the Everett Sale Motion and the Kansas Sale Motion (each as defined below), shall first be applied to the DIP Loan prior to application to the Prepetition Obligations.

(d) Prepetition Lenders’ Fees and Expenses. Subject to paragraph 19, the Debtors shall pay the reasonable fees, charges and expenses (including attorneys’ fees and other professional expenses) of the Prepetition Lenders (in their capacities as such) who are also DIP

Lenders in connection with these Chapter 11 Cases and any Successor Case(s), including, without limitation, in connection with (i) the preparation, negotiation, execution and delivery of the DIP Documents, ~~this~~the Interim Order and ~~any~~this Final Order, and the funding of all DIP Loans under the DIP Facility, (ii) the administration of the DIP Facility and any amendment or waiver of any provision of the DIP Documents, ~~this~~the Interim Order and ~~any~~this Final Order, (iii) the administration of these Chapter 11 Cases and any Successor Case(s), and (iv) the enforcement or protection of the DIP Secured Parties' or the Prepetition Lenders' rights and remedies under DIP Documents, the Prepetition Credit Agreement, ~~this~~the Interim Order and ~~any~~this Final Order. The Debtors' obligations to make such payments shall include, in each instance, any of such fees, charges, expenses and other amounts which were incurred or accrued but unpaid as of the date hereof, including amounts incurred prior to the Petition Date. Prior to any conversion of these Chapter 11 Cases to chapter 7, all such fees, costs and expenses shall be paid by the Debtors within twelve (12) days after delivery of an invoice (redacted for privilege) to the Debtors and without the need for further application to or order of the Court. A copy of such invoice shall be provided by the Prepetition Lender to the U.S. Trustee, counsel for the DIP Agent and counsel for ~~any~~the Creditors' Committee at the same time as delivery to the Debtors. Notwithstanding the foregoing, if (x) the Debtors, the U.S. Trustee or ~~any~~the Creditors' Committee object to an invoice submitted by the Prepetition Lenders and (y) the parties cannot resolve such objection, in each case within the ten (10) day period following the ~~Debtors' objecting party's~~ receipt of such invoice, the Debtors, the U.S. Trustee or such Creditors' Committee, as the case may be, shall file with the Court and serve on the Prepetition Lenders a fee objection (a "Prepetition Lenders Fee Objection"). The Debtors shall promptly pay and/or the DIP Lenders are hereby authorized to make an advance under the DIP Agreement to timely pay, any submitted invoice after the expiration of the ten (10)

day period if no Prepetition Lenders Fee Objection has been filed with the Court and served on the DIP Agent in such ten (10) day period. If a Prepetition Lenders Fee Objection is timely filed and served, the Debtors shall promptly pay and/or the DIP Secured Parties are hereby authorized to make an advance under the DIP Agreement to timely pay, the undisputed amount of the invoice, and the Court shall have jurisdiction to determine the disputed portion of such invoice if the parties are unable to resolve the Prepetition Lenders Fee Objection. In all events, the payments pursuant to this subsection (~~ed~~) shall be subject to the rights reserved to third parties under paragraph 19.

(e) Reserved.

(f) ~~506(e) and 552(b) Waivers. Subject to the entry of the Final Order, the The~~ Prepetition Lenders' consent to use of Cash Collateral and Prepetition Collateral under ~~this the~~ Interim Order and this Final Order and the Debtors' right to use Cash Collateral and Prepetition Collateral: ~~(i) is in lieu of any section 506(e) claim, payment or priority for the costs or expenses of the administration of any of these Chapter 11 Cases; and (ii) is~~ granted as consideration for (among other things) the waiver of the exceptions provided in sections 552(b)(1) and (2) of the Bankruptcy Code, which exceptions are hereby waived.

(g) Access to Debtors' Management and Investment Banker. The Debtors shall cause their management team and their investment bankers (the "Investment Bankers") to be made available to provide periodic telephonic updates of such reports to the DIP Agent, the DIP Lenders and the Prepetition Lenders from time to time, as reasonably requested by the DIP Agent, at reasonable times to be mutually agreed; provided that in the event the DIP Lenders and/or Prepetition Lenders are a stalking horse bidder, a qualified bidder, or otherwise actively involved in bidding on assets of the Debtors' estates, either the DIP Lenders and Prepetition Lenders will no longer be entitled to such information respecting sale efforts, or the Debtors, the Creditors'

Committee, the DIP Lenders and Prepetition Lenders shall make arrangements to share such information only with representatives of the DIP Lenders and/or Prepetition Lenders who are not involved in the bidding process and are on the other side from the sale team of an ethical wall for such purpose.

(h) Reporting. As and when required under the terms of the DIP Agreement, the Debtors shall provide to the DIP Agent and each DIP Lender all of the financial information, operational information and related reports, documents and analyses required under the terms of the DIP Agreement. Weekly Approved Variance Reports shall be made available to the Creditors' Committee in accordance with Paragraph 4(d) above.

(i) Credit Bidding Rights. The Debtors and the DIP Secured Parties agree that in any sale of the DIP Collateral or Prepetition Collateral other than a sale in the ordinary course of business, the DIP Lenders and the Prepetition Lenders shall have the right ~~-,~~ subject to Paragraph 19 below, to credit bid the DIP Obligations and Prepetition Obligations (as applicable) in accordance with section 363(k) of the Bankruptcy Code, provided that any such credit bid of the Prepetition Lenders that does not also contain a credit bid of the DIP Obligation must contain a cash component satisfactory to satisfy in full the DIP Obligations unless the DIP Lenders agree otherwise. Nothing herein precludes the Creditors' Committee or other party in interest from opposing such credit bidding rights in accordance with section 363(k). The Debtors agree that any motion filed by the Debtors seeking approval of bid procedures will contain a request for approval of the right of the DIP Lenders and the Prepetition Lenders to credit bid the DIP Obligations and Prepetition Obligations (as applicable) and the DIP Lenders consent to the Prepetition Lenders being granted the right to credit bid in accordance with this subsection (i). ~~Subject to entry of a Final Order, the foregoing agreement shall operate as a finding that the DIP Lenders and the~~

~~Prepetition Lenders shall have the right to credit bid the DIP Obligations and Prepetition Obligations (as applicable) in accordance with section 363(k) of the Bankruptcy Code (as set forth above) and the right of the DIP Lenders and Prepetition Lenders to credit bid in accordance with this subsection (i) shall not be modified or altered by any event, including entry of a subsequent order of the Court, without the prior written consent of each of the DIP Lenders and Prepetition Lenders.~~

(j) Further Adequate Protection. Nothing in this ~~Interim~~ Final Order shall, or shall be deemed to, limit, abridge or otherwise affect the rights of the Prepetition Lenders to request at any time that the Court provide additional or further protection of their interests in the Prepetition Collateral (including the Cash Collateral) or to seek further or additional adequate protection in the event the adequate protection provided herein proves to be inadequate, subject to the Debtors' rights to contest any such request. No such further adequate protection may be granted absent notice and a hearing, and any such further adequate protection may be contested by the Creditors' Committee or any other party in interest.

17. Carve-Out.

(a) The DIP Liens, the DIP Superpriority Claim, the Adequate Protection Liens, the Adequate Protection Superpriority Claim and the Prepetition Liens shall be subject and subordinate to the prior payment of: (i) all fees required to be paid to (A) the clerk of the Bankruptcy Court and (B) the Office of the United States Trustee under section 1930(a) of Title 28 of the United States Code, plus interest required to be paid on any past due amount at the statutory rate (collectively, the "UST Carve-Out"); (ii) all reasonable fees and expenses, up to \$50,000, incurred by a trustee under section 726(b) of the Bankruptcy Code (the "Chapter 7 Trustee Carve-Out"); (iii) [\$800,000] (the "Carve-Out Funded Healthcare Costs") of the accrued

but unpaid claims of the Debtors' current and former employees under the Debtors' existing health insurance policies that accrued after the Petition Date but have not yet been reported (the "Administrative Healthcare Claims"); (iv) to the extent allowed at any time (whether by interim order, procedural order or otherwise), all unpaid fees and expenses (the "Allowed Professional Fees") of persons or firms retained by the Debtors pursuant to sections 327, 328, or 363 of the Bankruptcy Code (the "Debtor Professionals") or by the Creditors' Committee pursuant to sections 328 or 1103 of the Bankruptcy Code (the "Committee Professionals" and, together with the Debtor Professionals, the "Professional Persons"), that are incurred or earned at any time before or on the first Business Day following delivery by the DIP Agent of a Carve-Out Trigger Notice (as defined below), whether allowed prior to or after delivery of a Carve-Out Trigger Notice, in each case, to the extent set forth in the Approved Budget (the "Professional Fee Carve-Out"); and ~~(iv)~~ Allowed Professional Fees of Professional Persons other than Investment Bankers in an aggregate amount not to exceed \$250,000, plus Allowed Professional Fees of Investment Bankers, in each case incurred after the first Business Day following delivery by the DIP Agent of the Carve-Out Trigger Notice, to the extent allowed at any time (the "Post-Trigger Carve-Out" and with the UST Carve-Out, the Chapter 7 Carve-Out, the Carve-Out Funded Healthcare Costs and the Professional Fee Carve-Out, the "Carve-Out"). "Carve-Out Trigger Notice" shall mean a written notice delivered by e-mail by the DIP Agent to lead restructuring counsel to the Debtors, the U.S. Trustee and counsel to the Creditors' Committee, stating that (a) the Carve-Out has been invoked, which notice may be delivered following the occurrence and during the continuation of an Event of Default under the DIP Agreement; (b) the DIP Loans have been accelerated and (c) the DIP Lenders do not intend to fund further advances under the DIP Loans, or consent to further use of Cash Collateral, except to the extent necessary to fund any portion of the Carve-Out required to be

funded pursuant to this Order but not yet funded. Thereafter, if the DIP Lenders fund further advances under the DIP Loans (other than amounts required to be funded in accordance with this ~~Interim~~ Final Order), or the DIP Lenders or the Prepetition Lenders consent to the use of Cash Collateral for the Debtors to operate in the ordinary course of business as going concerns, the Carve-Out Trigger Notice shall be deemed automatically revoked. If a Carve-Out Trigger Notice is revoked, the Carve-Out will operate as if the Carve-Out Trigger Notice was never delivered. While the Carve-Out shall include the fees of any Investment Bankers earned in conjunction with the consummation of a transaction or transactions as set forth in their respective engagement letters with the applicable Debtors, such amounts may be paid out of the collateral of the Prepetition Lenders and the DIP Lenders only to the extent such fees were (a) actually earned pursuant to the terms of the respective engagement letters with the Debtors in effect as of the date of the DIP Loan Documents (or as amended with the consent of the Required DIP Lenders), (b) approved by the Bankruptcy Court, and (c) earned in connection with transactions consented to by the Required DIP Lenders, or, to the extent such transaction occurs in connection with a Plan, the class of creditors consisting exclusively of the Prepetition Lenders has voted to accept the treatment provided in such Plan .

(b) Reserve Accounts.

(i) The Debtors shall establish a segregated trust account not subject to the control of the Prepetition Agent, the Prepetition Lenders and/or the DIP Secured Parties (the “Professional Fee Reserve Account”) for the sole purpose of paying unpaid Allowed Professional Fees to the extent set forth in the Approved Budget calculated on an accrual and not a cash-flow basis (the “Budgeted Professional Fees”), provided that the Debtors’ obligations to pay Allowed Professional Fees shall not be limited or deemed limited to funds held in the Professional Fee

Reserve Account. The Debtors shall, on a weekly basis commencing at the end of the first full calendar week following the Petition Date, transfer from the DIP Facility (by drawing from the DIP Facility) or from cash on hand, the Budgeted Professional Fees for the preceding calendar week into the Professional Fee Reserve Account. The Professional Fee Reserve Account (including any and all funds held therein) shall not be property of the Debtors' estates but shall be held in trust exclusively for the benefit of Professional Persons. Notwithstanding the foregoing, in accordance with section 17(b)(iii) of this Order, the DIP Secured Parties shall retain a residual interest in the Professional Fee Reserve Account (and any funds therein) to the extent such funds are not used to pay Allowed Professional Fees under the terms of this Order.

(ii) ~~As soon as practicable~~ Within two (2) business days after a Carve-Out Trigger Notice is given by the DIP Agent (the "Termination Declaration Date"), an amount equal to the sum of (A) the difference between the amount of the Professional Fee Carve-Out (which amount, for the avoidance of doubt, shall be limited to the amount incurred in accordance with the Approved Budget) and the amount in the Professional Fee Reserve Account *plus* (B) the Post-Trigger Carve-Out, shall be funded by the DIP Lenders, the Debtors from the DIP Facility (by drawing on the DIP Facility) or from cash on hand, into the Professional Fee Reserve.

(iii) In the event that, as determined by a final order of the Court, Allowed Professional Fees are less than the amount in the Professional Fee Reserve, then the excess shall be paid to the DIP Agent for application to the DIP Loans.

(iv) ~~As soon as practicable~~ Within two (2) business days after the Termination Declaration Date, an amount equal to the sum of (A) the UST Carve-Out plus (B) the Chapter 7 Trustee Carve-Out, shall be funded into a separate segregated account (the "Carve-Out Reserve Account"). All funds in the Carve-Out Reserve Account shall be used to pay the UST

Carve-Out and the Chapter 7 Trustee Carve-Out.

(v) Within two (2) business days after the earlier of the Termination Declaration Date and the Maturity Date, an amount equal to the Carve-Out Funded Healthcare Costs shall be funded into a separate segregated account (the “Healthcare Escrow”). All funds in the Healthcare Escrow shall be used to pay Administrative Healthcare Claims. The DIP Secured Parties shall retain a residual interest in the Healthcare Escrow (and any funds therein) to the extent such funds are not used to pay Administrative Healthcare Claims.

(vi) ~~(v)~~ The Carve-Out shall be effective upon entry of ~~this~~the Interim Order and shall not be rendered ineffective as a result of the occurrence, or non-occurrence, of any event or circumstance thereafter.

(vii) ~~(vi)~~ Upon the consummation of a sale of the Everett Assets and the Kansas Assets, in each case, consented to by the Required DIP Lenders, the Debtors shall be authorized and directed (without the requirement to have received a Carve-Out Trigger Notice) to transfer from the proceeds of such sale(s) ~~the sum of no less than~~ \$500,000 for Everett and \$500,000 for Kansas (the “Wind-Down Funds”) for the amount of wind-down expenses expected to be incurred to wind down ~~such location~~the estates after consummation of such sale. The Wind-Down Funds are not intended to be part of the Carve-Out and will only be required to be funded out of the proceeds of such sale in connection with a sale approved by the Required DIP Lenders and the Prepetition Lenders constituting the “Required Lenders” under the Prepetition Credit Agreement (the “Required Prepetition Lenders”).

18. Release. The release, discharge, waivers, settlements, compromises and agreements set forth in this paragraph 18 and the stipulations set forth in paragraph D of this ~~Interim~~Final Order shall, except as set forth in this paragraph 18, be deemed effective upon entry of the Interim

Order, subject only to the rights set forth in paragraph 19 below.

(a) The Debtors forever and irrevocably release, discharge and acquit each of the DIP Secured Parties in their capacities as such, their affiliates and predecessors in interest, and their respective former, current or future officers, employees, directors, agents, representatives, owners, members, partners, advisors, legal advisors, shareholders, managers, consultants, accountants and attorneys (each in their respective capacities as such) (collectively, the “DIP Lender Releasees”), of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, of every type at any time arising prior to the Petition Date, and all claims and causes of action under chapter 5 of the Bankruptcy Code.

(b) ~~Subject to~~ Upon entry of ~~the~~ this Final Order, the Debtors forever and irrevocably release, discharge and acquit each of the Prepetition Lenders in their capacities as such, and their respective affiliates and predecessors in interest, and their respective former, current or future officers, employees, directors, agents, representatives, owners, members, partners, advisors, legal advisors, shareholders, managers, consultants, accountants and attorneys (each in their respective capacities as such) (collectively, the “Prepetition Lender Releasees”), ~~of, and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, of every type at any time arising prior to the Petition Date, and all claims and causes of action under chapter 5 of the Bankruptcy Code.~~ collectively with the DIP Lender Releasees, the “Releasees”, of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, of every type at any time arising prior to the Petition Date, and all claims and causes of action under chapter 5 of the Bankruptcy Code.

(c) For the avoidance of doubt, this Final Order shall in no way release,

discharge or acquit any of the Releasees of or from any claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness or obligations, of any type relating in any way, directly or indirectly, to the trade relationship between the Debtors and The Boeing Company.

~~(c) Subject to entry of the Final Order, the Debtors forever and irrevocably release, discharge and acquit The Boeing Company and its affiliates and predecessors in interest, and their respective former, current or future officers, employees, directors, agents, representatives, owners, members, partners, advisors, legal advisors, shareholders, managers, consultants, accountants and attorneys (collectively, the “Trade Creditor Releasees” and collectively with the DIP Lender Releasees and the Prepetition Lender Releasees, the “Releasees”), of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, of every type at any time arising prior to the Petition Date, and all claims and causes of action under chapter 5 of the Bankruptcy Code, relating in any way, directly or indirectly, to the trade relationship between Debtors and The Boeing Company.~~

~~(d) Notwithstanding the foregoing, such waivers and releases shall not affect ordinary course business adjustments of amounts due to or from The Boeing Company on account of their commercial relationships as manufacturer and customer.~~

19. Reservation of Certain Third Party Rights and Bar of Challenges and Claims. ~~Upon entry of this Interim Order, the The~~ releases set forth in paragraph 18(a) above and the stipulations set forth in paragraph D of this ~~Interim Final~~ Order shall be binding upon the Debtors ~~and, subject to upon~~ entry of the ~~Final Interim~~ Order, ~~and~~ the releases set forth in ~~paragraphs 18(b) (paragraph 18(b))~~ above shall be binding on the Debtors upon entry of this Final Order. In addition, ~~such the~~

releases contained in paragraphs 18(a) and (b), the stipulations at paragraph D and the findings set forth in paragraph J shall be binding upon each other party in interest, including the Creditors' Committee, ~~if any,~~ unless a party in interest having standing, *first*, commences, ~~within seventy-five (75) calendar days following the date of entry of this Interim Order (with respect to challenges~~ respecting claims or causes of action against any of the Releasees, in their respective capacities as such (collectively, the "CoA Matters"), no later than 120 days after the formation of the Creditors' Committee, and with respect to all other matters described in this paragraph 19 as subject to a Challenge (including without limitation the validity, perfection or priority of the Prepetition Obligations or the liens or superpriority claims asserted by the Prepetition Lenders and the DIP Secured Parties in their respective capacities as such) (collectively, the "Lien Matters"), no later than 90 days after the formation of the Creditors' Committee (in each case, the "Challenge Period," and the date that is the next calendar day after the termination of the Challenge Period in the event that either (i) no Challenge (as defined below) is ~~properly~~-raised during the Challenge Period or (ii) with respect only to those parties who ~~properly and~~-timely file a Challenge and only for the matters specifically set forth in such Challenge, such Challenge is fully and finally adjudicated, shall be referred to as the "Challenge Period Termination Date"), (A) a contested matter, adversary proceeding, or other action or claim (as defined in the Bankruptcy Code) challenging or otherwise objecting to the releases set forth in paragraph 18 above ~~or,~~ the stipulations set forth in paragraph D or the findings set forth in paragraph J of this ~~Interim-Final~~ Order or (B) a contested matter, adversary proceeding, or other action or claim (as defined in the Bankruptcy Code) against any Releasee relating to any pre-Petition Date act, omission or aspect of the relationship between such Releasee and the Debtors that is subject to the releases granted by paragraph 18 of this Final Order ((A) and (B) being, collectively, the "Challenges" and, each individually, a "Challenge"),

and, *second*, obtains a final, non-appealable order in favor of such party in interest sustaining any such Challenge in any such timely-filed contested matter, adversary proceeding or other action; provided, that, any trustee that is appointed in these Chapter 11 Cases or any Successor Case prior to the expiration of the Challenge Period shall have until the later of the expiration of the Challenge Period or ~~10-30~~ 30 days after such trustee's appointment to commence a Challenge. The Challenge Period may be extended upon stipulation of the Creditors' Committee, the Debtors, and the Prepetition Agent or upon order of the Court for cause shown. Upon the Challenge Period Termination Date and for all purposes in these Chapter 11 Cases and any Successor Case(s), (i) any and all such Challenges by any party in interest shall be deemed to be forever released, waived and barred and (ii) the releases in paragraph 18 above ~~and~~, the stipulations contained in paragraph D and the findings set forth in paragraph J of this ~~Interim-Final~~ Order shall be binding on all parties in interest, including ~~any~~ the Creditors' Committee. Notwithstanding the foregoing, to the extent a motion seeking standing to commence a Challenge is filed prior to the expiration of the Challenge Period and the Challenge Period expires before such motion is ruled upon by this Court, the Challenge Period shall be extended to the first hearing date available after the filing of such motion within the requisite notice period provided under the applicable Local Rules and the Bankruptcy Rules, provided, that, if the Court grants a party in interest standing at such hearing, the Challenge Period will be further extend by an additional (3) business days solely for the party granted such standing. The Creditors' Committee shall have automatic standing to commence any Challenge. The Prepetition Lenders, Prepetition Agent, DIP Lenders, DIP Agent, and the Debtors stipulate and agree that the Prepetition Agent, each of the Prepetition Lenders, the DIP Agent, and each of the DIP Lenders will not raise as a defense in connection with any Challenge the ability of creditors to file derivative suits on behalf of limited liability companies. ~~This-Notwithstanding~~

any provision of this Order, this Court may fashion any appropriate remedy following a successful Challenge.

20. Restrictions on Use of Funds. Notwithstanding anything in ~~this~~ the Interim Order, this Final Order or the DIP Documents to the contrary, without the express written consent of the DIP Agent and the Prepetition Agent, no proceeds of the DIP Facility, any DIP Collateral or Prepetition Collateral (including, without limitation, Cash Collateral) or any portion of the Carve-Out may be used to pay any claims for services rendered by any professionals retained by the Debtors, any creditor or party in interest, ~~any~~ the Creditors' Committee, any trustee appointed under these Chapter 11 Cases or any Successor Case(s) or any other party to (a) request authorization to obtain postpetition loans or other financial accommodations pursuant to section 364 of the Bankruptcy Code or otherwise, other than from the DIP Secured Parties, unless the proceeds of such loans or accommodations are or will be sufficient, and will be used, to indefeasibly pay in full in cash all DIP Obligations, or (b) investigate (except as set forth in this paragraph below), assert, join, commence, support or prosecute any Challenge or other action or claim, counter-claim, proceeding, application, motion, objection, defense, or other adversary proceeding or contested matter seeking any order, judgment, determination or similar relief against, or adverse to the interests of the DIP Secured Parties or any other Releasee-, in each case solely in the capacities in which they are Releasees, with respect to any transaction, occurrence, omission or action including, without limitation, (i) any actions under chapter 5 of the Bankruptcy Code, (ii) any action relating to any act, omission or aspect of the relationship between or among any of the Releasees, in their respective capacities as such, on the one hand, and any of the Debtors, on the other, (iii) any action with respect to the validity and extent of the DIP Obligations, the Prepetition Obligations or the validity, extent and priority of the DIP Liens, the Prepetition Liens

or the Adequate Protection Liens, (iv) any action seeking to invalidate, set aside, avoid or subordinate, in whole or in part, the DIP Obligations, the DIP Liens, the Prepetition Obligations, the Prepetition Liens, the Adequate Protection Superpriority Claim or the Adequate Protection Liens or (v) any action that has the effect of preventing, hindering or delaying (whether directly or indirectly) any DIP Secured Party in respect of the enforcement of the DIP Liens, ~~(e) subject to authority provided to the Debtors pursuant to the DIP Documents, pay any claim (as defined in the Bankruptcy Code) of a prepetition creditor (as defined in the Bankruptcy Code) if the Debtors have received a written objection to such payment from the DIP Agent, and/or (d~~and/or (c) use or seek to use Cash Collateral or sell or otherwise dispose of DIP Collateral, unless otherwise permitted hereby or by the DIP Documents, without the express written consent of the applicable DIP Secured Parties. Notwithstanding the foregoing, ~~up to \$50,000~~ (x) any such limitations described in this paragraph shall not apply to the Creditors' Committee's investigation of the CoA Matters (or, for the avoidance of doubt, any claims or causes of action relating to or arising out of the trade relationship between The Boing Company and the Debtors) and (y) up to \$75,000 (the "Investigation Amount") in the aggregate of the DIP Facility, DIP Collateral, Cash Collateral and Carve-Out may be used by ~~a~~ the Creditors' Committee during the Challenge Period to investigate ~~claims against the Releasees~~ the Lien Matters against the Releasees, in each case provided that: (I) the foregoing limitations shall not prevent the Creditors' Committee from being heard on whether an Event of Default has occurred and is continuing; and (II) notwithstanding the foregoing subclauses (a) and (b), the Carve-Out, the proceeds of the DIP Facility, and any Cash Collateral may be used for the allowed fees and expenses incurred by the Creditors' Committee and its professionals, other than those fees and expenses incurred subject to the Investigation Amount, in furtherance of its duties as set forth under section 1103 of the Bankruptcy Code, including, but not

limited to, any objection filed to the DIP Motion, any objection filed to any sale motion, disclosure statement or plan of reorganization or liquidation filed in these Chapter 11 Cases, and any objection or other pleading contesting whether the DIP Secured Parties or Prepetition Secured Parties have the right to the exercise of remedies, including the prosecution of any such motions and objections.

21. Remedies and Stay Modification. The provisions of this paragraph 21 are each subject to the Carve-Out.

(a) The automatic stay provisions of section 362 of the Bankruptcy Code are, to the extent applicable, vacated and modified without further application or motion to, or order from, the Court, to the extent necessary so as to permit the following, and neither section 105 of the Bankruptcy Code nor any other provision of the Bankruptcy Code or applicable law shall be utilized to prohibit the exercise, enjoyment and enforcement of any of such rights, benefits, privileges and remedies regardless of any change in circumstances (whether or not foreseeable), whether or not an Event of Default (as defined in the DIP Agreement) under the DIP Documents or a material default by any of the Debtors of any of their obligations under ~~this-the~~ Interim Order or this Final Order has occurred: (i) the right to require all cash, checks or other collections or proceeds from DIP Collateral received by any of the Debtors to be deposited in accordance with the requirements of the DIP Documents or written instructions of the DIP Agent, and to apply any amounts so deposited and other amounts paid to or received by the DIP Secured Parties under the DIP Documents in accordance with any requirements of the DIP Documents; (ii) the right to file or record any financing statements, mortgages or other instruments or other documents to evidence the security interests in and liens upon the DIP Collateral; (iii) the right to charge and collect any interest, fees, costs and other expenses accruing at any time under the DIP Documents as provided therein; and (iv) the right to give the Debtors any notice provided for in any of the DIP Documents

or this ~~Interim-Final~~ Order.

(b) Subject to paragraph 21(f) below, the automatic stay provisions of section 362 of the Bankruptcy Code are vacated and modified without the need for further Court order to permit the DIP Secured Parties, upon the occurrence and during the continuance of an Event of Default under the DIP Agreement or the Debtors' violation of any material provision of ~~this-the~~ Interim Order or this Final Order, and without any interference from the Debtors ~~or any other party in interest~~, to (i) (A) cease making DIP Loans and/or suspend or terminate the commitments under the DIP Documents, and (B) declare all DIP Obligations immediately due and payable, and (ii) subject to five (5) ~~calendar-business~~ days' prior written notice (which may be delivered by electronic mail, and which shall be subject to Bankruptcy Rule 9006(a)(1)(C)) (the "Remedies Notice Period") to the Debtors, their counsel, counsel to ~~any-the~~ Creditors' Committee and the U.S. Trustee, to exercise all rights and remedies provided for in the DIP Documents, this ~~Interim-Final~~ Order or under other applicable bankruptcy and non-bankruptcy law including, without limitation, the right to (A) take any actions reasonably calculated to preserve or safeguard the DIP Collateral or to prepare the DIP Collateral for sale; (B) foreclose or otherwise enforce the DIP Liens on any or all of the DIP Collateral; (C) set off any amounts held as Cash Collateral (including, without limitation, in any Cash Collateral account held for the benefit of the DIP Secured Parties); and/or (D) ~~invoke the "operational continuity" provisions of Section 9.03 of the DIP Agreement allowing The Boeing Company, upon the occurrence of the specified Events of Default therein, to occupy the Debtors' premises, continue production at Debtors' facilities, and otherwise maintain operations, all in accordance with the Approved Budget, provided that after entry of the Final Order such right to effectuate the operational continuity provisions shall not be subject to the Remedies Notice Period; and/or~~ (E) exercise any other default-related rights and

remedies under the DIP Documents as amended by the Final Order, this ~~Interim-Final~~ Order or applicable law. ~~In addition, notwithstanding the Remedies Notice Period, either or both of The Boeing Company and/or the DIP Agent, as applicable, may petition the Court upon such shortened notice period as the Court may allow in order to (y) prior to entry of the Final Order, invoke such operational continuity provisions, and/or (z) request the appointment of a replacement Chief Restructuring Officer with operational control over the Debtors' estates, in each case to ensure continued operation of the business of the Debtors in accordance with the Approved Budget. The Remedies Notice Period shall run concurrently with any notice period provided for under the DIP Documents.~~

(c) Notwithstanding anything herein to the contrary, immediately upon the occurrence of a Termination Event or a default by any of the Debtors of any of their material obligations under this ~~Interim-Final~~ Order, the DIP Lender may charge interest at the default rate set forth in the DIP Documents, regardless of any notice thereof and without being subject to the Remedies Notice Period.

(d) The automatic stay of section 362(a) of the Bankruptcy Code, to the extent applicable, shall be deemed terminated without the necessity of any further action by the Court in the event that any party in interest has not obtained an order providing otherwise from this Court prior to the expiration of the Remedies Notice Period.

(e) If the DIP Secured Parties are entitled, and have elected in accordance with the provisions hereof, to enforce their liens or security interests or exercise any other default-related remedies following expiration of the Remedies Notice Period, the Debtors shall cooperate with the DIP Secured Parties in connection with such enforcement by, among other things, in accordance with applicable non-bankruptcy law, (A) providing at all reasonable times access to

the DIP Collateral and the Debtors' premises to representatives or agents of the DIP Secured Parties (including any collateral liquidator or consultant), (B) providing the DIP Secured Parties and their representatives or agents, at all reasonable times, access to the Debtors' books and records and any information or documents requested by the DIP Secured Parties or their representatives or agents, (C) performing all other obligations set forth in the DIP Documents and (D) taking reasonable steps to safeguard and protect the DIP Collateral, and the Debtors shall not otherwise interfere with or actively encourage others to interfere with the DIP Secured Parties' enforcement of rights.

(f) Upon the occurrence and during the continuance of an Event of Default under the DIP Documents, a violation of the material terms of this ~~Interim~~-Final Order or any other Termination Event, and including during the pendency of any applicable Remedies Notice Period, the DIP Secured Parties shall have no further obligation to provide financing under the DIP Documents, except to the extent necessary to allow the Debtors to (y) fund any payroll obligations scheduled to be paid in the five (5) business days after the initiation of a Remedies Notice Period and (z) fund payments to ordinary course unaffiliated trade vendors and ordinary course unaffiliated service providers who shipped goods or provided services postpetition prior to the commencement of the Remedies Notice Period. Upon (i) initiation of a Remedies Notice Period or (ii) the occurrence of a Maturity Date, the DIP Secured Parties and the Prepetition Lenders shall have no further obligation to permit the continued use of Cash Collateral, except to the extent necessary to allow the Debtors to fund any payroll obligations scheduled to be paid in the five (5) business days after the initiation of a Remedies Notice Period. Once the Debtors' right to use Cash Collateral is no longer permitted by this ~~Interim~~-Final Order, the Debtors shall be prohibited from using any Cash Collateral under this ~~Interim~~-Final Order until such time (if any) as the Prepetition

Lenders and the DIP Secured Parties have consented to further use of Cash Collateral except to the extent necessary to allow the Debtors to fund any payroll obligations scheduled to be paid in the five (5) business days after the Debtors are no longer permitted to use Cash Collateral pursuant to this ~~Interim~~-Final Order.

(g) Upon the occurrence and during the continuance of an Event of Default under the DIP Documents, a violation of the terms of this ~~Interim~~-Final Order, or any other Termination Event, the DIP Secured Parties on behalf of the Prepetition Lenders may at all times continue to collect and sweep cash as provided herein or as provided in the DIP Documents, provided that sufficient funds are (or have been) set aside to fund the Carve-Out and payment of all accrued but unpaid expenses set forth in the Approved Budget through the date of the commencement of the Remedies Notice Period.

(h) This Court shall retain exclusive jurisdiction to hear and resolve any disputes and enter any orders pursuant to the provisions of this ~~Interim~~-Final Order and relating to the application, re-imposition or continuance of the automatic stay of section 362(a) of the Bankruptcy Code or other injunctive relief requested.

~~22. — Limitation on Surcharge. Without limiting the terms of the Carve-Out and subject to the entry of the Final Order, no costs or expenses of administration which have been or may be incurred in these Chapter 11 Cases or any Successor Case(s) at any time shall be surcharged against, and no person may seek to surcharge any costs or expenses of administration against the DIP Secured Parties, the Carve-Out (other than parties entitled to assert a right to be paid amounts in respect of the Carve-Out), the DIP Collateral or the Prepetition Collateral, pursuant to sections 105 or 506(c) of the Bankruptcy Code or otherwise, without the prior written consent of the DIP Agent and the Prepetition Agent (and the beneficiaries of the Carve-Out in the case of a surcharge~~

~~in respect of the Carve-Out). No action, inaction or acquiescence by the DIP Secured Parties or the Prepetition Lenders shall be deemed to be or shall be considered evidence of any alleged consent to a surcharge against the DIP Secured Parties, the DIP Collateral, the Prepetition Lenders or the Prepetition Collateral.~~

22. [Reserved]

23. No Marshaling. ~~Subject to entry of a Final Order, the~~ The DIP Secured Parties (and after payment in full of the DIP Obligations, the Prepetition Lenders) shall not be subject to the equitable doctrine of “marshaling” or any other similar doctrine with respect to any of the DIP Collateral or the Prepetition Collateral. Without limiting the generality of the immediately preceding sentence, ~~from and after the entry of the Final Order~~, no party (other than the DIP Secured Parties and after payment in full of the DIP Obligations, the Prepetition Lenders) shall be entitled, directly or indirectly, to direct the exercise of remedies or seek (whether by order of this Court or otherwise) to marshal or otherwise control the disposition of the DIP Collateral or the Prepetition Collateral (as applicable) after an Event of Default under the DIP Documents, provided, however, that notwithstanding anything to the contrary in the Interim Order or this Final Order, the DIP Agent and the Prepetition Agent, as applicable, shall satisfy any liens or claims on account of the New Money Loans and all claims for Diminution, if any, first from assets other than assets that were unencumbered as of the Petition Date.

24. Additional Perfection Measures.

(a) If the DIP Agent, in its sole discretion, requests that the Debtors execute additional DIP Loan documentation or chooses to take any action to obtain consents from any landlord, licensor or other party in interest, to file mortgages, financing statements, notices of lien or similar instruments, or to otherwise record or perfect such security interests and liens, the DIP

Agent is hereby authorized, but not directed to, take such action or to request that Debtors take such action on its behalf (and Debtors are hereby authorized to take such action) and:

(i) any such documents or instruments shall be deemed to have been recorded and filed as of the Petition Date; and

(ii) no defect in any such act shall affect or impair the validity, perfection and enforceability of the liens granted hereunder.

(b) In lieu of obtaining such consents or filing any mortgages, financing statements, notices of lien or similar instruments, each of the DIP Agent and the Prepetition Agent may, in its respective sole discretion, choose to file a true and complete copy of ~~this-the~~ Interim Order or this Final Order in any place at which any such instruments would or could be filed, together with a description of the DIP Collateral, and such filing by the DIP Agent or Prepetition Agent shall have the same effect as if such mortgages, deeds of trust, financing statements, notices of lien or similar instruments had been filed or recorded on the Petition Date.

(c) Notwithstanding anything to the contrary in the Interim Order or this Final Order, (a) nothing in the Interim Order or this Final Order grants liens (including the DIP Liens and the Adequate Protection Liens) on the Excluded Assets and (b) the claims granted to the DIP Secured Parties and the Prepetition Secured Parties pursuant to the terms of the Interim Order and this Final Order (including the DIP Superpriority Claim and the Adequate Protection Superpriority Claim) shall not have recourse to, or be payable from the Excluded Assets.

25. Application of Collateral Proceeds. To the extent required by ~~this-the~~ Interim Order, this Final Order and the DIP Documents, subject to an order of the Court to the contrary, after (a) an Event of Default, (b) the receipt by the Debtors of written notice that the DIP Lenders will no longer fund the Debtors through the proceeds of the DIP Loans or by consenting to the Debtors'

use of Cash Collateral, and (c) the expiration of the Remedies Notice Period, the Debtors are hereby authorized and directed to remit to the DIP Agent, subject to the payment of the Carve-Out, one hundred percent (100%) of all collections on, and proceeds of, the DIP Collateral until the DIP Obligations are paid in full, and the automatic stay provisions of section 362 of the Bankruptcy Code are hereby modified to permit the DIP Lender to retain and apply all collections, remittances and proceeds of the DIP Collateral in accordance with the DIP Documents. In furtherance of the foregoing, (a) all cash, securities, investment property and other items of any Debtor deposited with any bank or other financial institution shall be subject to a perfected, first priority security interest in favor of the DIP Secured Parties, (b) upon the occurrence and during the continuance of a Termination Event and the expiration of the Remedies Notice Period, each bank or other financial institution with an account of any Debtor is hereby authorized to (i) comply at all times with any instructions originated by the DIP Agent (or its nominee) to such bank or financial institution directing the disposition of cash, securities, investment property and other items from time to time credited to such account, without further consent of any Debtor, including, without limitation, any instruction to send to the DIP Agent (or its nominee) by wire transfer (to such account as the DIP Agent (or its nominee) shall specify, or in such other manner as the DIP Agent (or its nominee) shall direct) all such cash, securities, investment property and other items held by it, and, (ii) ~~subject to entry of a Final Order,~~ waive any right of set off, banker's lien or other similar lien, security interest or encumbrance that is or may be invoked against the DIP Agent (or its nominee) and (c) any deposit account or securities account control agreement executed and delivered by any bank or other financial institution or any Debtor and the Prepetition Agent prior to the Petition Date in connection with the Prepetition Loan Documents shall establish co-control in favor of the DIP Agent of any and all accounts subject thereto and any and all cash, securities,

investment property and other items of any Debtor deposited therein to secure the DIP Obligations (provided that primary control rights shall vest in the DIP Agent), and all rights thereunder in favor of the Prepetition Agent shall inure also to the benefit of, and shall be exercisable exclusively by, the DIP Agent, until all of the DIP Obligations have been paid in full in cash, at which time all rights shall automatically revert to the Prepetition Agent, solely to the extent such deposit account or securities account control agreement relates to Cash Collateral.

26. Lenders Not Responsible Persons. In (a) making the decision to make the DIP Loans and consent to the use of Cash Collateral, (b) extending other financial accommodations to the Debtors under the DIP Documents, and (c) ~~subject to entry of the Final Order,~~ making the decision to collect the indebtedness and obligations of the Debtors, neither the DIP Agent nor any other DIP Secured Party nor any Prepetition Lender shall be considered to owe any fiduciary obligation to the Debtors or any other party with respect to their exercise of any consent or other rights afforded them under the DIP Documents ~~or this,~~ the Interim Order or this Final Order.

27. Successors and Assigns. The DIP Documents and the provisions of ~~this~~ the Interim Order and this Final Order shall be binding upon the Debtors and the DIP Agent, the other DIP Secured Parties, the Prepetition Lenders and each of their respective successors and assigns, and shall inure to the benefit of the Debtors, the DIP Agent, the other DIP Secured Parties, the Prepetition Agent and the other Prepetition Lenders and each of their respective successors and assigns including, without limitation, any trustee, examiner with expanded powers, responsible officer, estate administrator or representative, or similar person appointed or elected in a case for any Debtor under any chapter of the Bankruptcy Code, including any Successor Case. The terms and provisions of ~~this~~ the Interim Order and this Final Order shall also be binding on all of the Debtors' creditors, equity holders and all other parties in interest, including, but not limited to a

trustee appointed or elected under chapter 7 or chapter 11 of the Bankruptcy Code.

28. Binding Nature of Agreement. Each of the DIP Documents to which any of the Debtors are or will become a party shall constitute legal, valid and binding obligations of the Debtors party thereto, enforceable in accordance with their terms.

29. Subsequent Reversal or Modification. This ~~Interim~~ Final Order is entered pursuant to section 364 of the Bankruptcy Code, and Bankruptcy Rules 4001(b) and (c), granting the DIP Secured Parties all protections and benefits afforded by section 364(e) of the Bankruptcy Code.

30. Collateral Rights. Subject to any order of the Bankruptcy Court entered without the objection of the DIP Agent authorizing the Debtors to make payments to prepetition creditors, ~~and subject to entry of a Final Order~~, if any party who holds a lien or security interest in DIP Collateral or Prepetition Collateral that is junior or otherwise subordinate to the DIP Liens, the Adequate Protection Liens or the Prepetition Liens in such DIP Collateral receives or is paid the proceeds of such DIP Collateral or Prepetition Collateral, or receives any other payment with respect thereto from any other source prior to the indefeasible payment in full in cash and the complete satisfaction of (a) all DIP Obligations under the DIP Documents and termination of the commitments thereunder in accordance with the DIP Documents and, as applicable (b) the Prepetition Obligations under the Prepetition Loan Documents, such junior or subordinate lienholder shall be deemed to have received, and shall hold, the proceeds of any such DIP Collateral or Prepetition Collateral, as applicable, in trust for the DIP Secured Parties or Prepetition Lenders, as applicable, and shall immediately turn over such proceeds to the DIP Agent or Prepetition Agent, as applicable, for application to repay the DIP Obligations and, as applicable, the Prepetition Obligations, in accordance with the DIP Documents, the Prepetition Loan Documents, ~~the Interim~~ Order and this ~~Interim~~ Final Order until the DIP Obligations and the Prepetition Obligations, as

applicable, are indefeasibly paid in full in cash.

31. No Waiver. This ~~Interim~~ Final Order shall not be construed in any way as a waiver or relinquishment of any rights that the DIP Secured Parties may have to bring or be heard on any matter brought before this Court.

~~32. —Reserved.~~

32. ~~33.~~ Case Milestones. The Debtors agree to adhere to the following milestones with respect to the Chapter 11 Cases, provided that any milestone may be modified with the consent of the DIP Agent (“Case Milestones”) or upon order of the Court for cause shown:

<p><i>Case Milestones</i></p>	<p>(a) No later than one (1) day after the Petition Date, the Debtors will have filed a motion requesting approval of the Interim Order and the Final Order. (b) No later than five (5) days after the Petition Date, the Court will have entered the Interim Order, in form and substance reasonably acceptable to the DIP Agent. (c) No later than thirty-five (35) days after the Petition Date, the Court will have entered the Final Order, in form and substance reasonably acceptable to the DIP Agent. (d) No later than one (1) day after the Petition Date, the Debtors will have filed a motion requesting approval of the Debtors’ continued obligations respecting use of the lock box and other cash management provisions in effect prior to the Petition Date. (e) No later than five (5) days after the Petition Date, the Court will have entered an order approving such cash management provisions on an interim basis. (f) No later than thirty-five (35) days after the Petition Date, the Court will have entered an order approving such cash management provisions on a final basis. (g) No later than thirty-five (35) days after the Petition Date, the Court will have entered an order appointing a representative of Winter Harbor, LLC as Chief Restructuring Officer of the Debtors, in form and substance reasonably acceptable to the DIP Agent. (h) No later than thirty-five (35) days after the Petition Date, the Court will have entered an order approving the retention of an investment</p>
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	<p>banker or business broker reasonably acceptable to the DIP Agent to sell substantially all of the Debtors' assets through one or more sales under section 363 of the Bankruptcy Code. [No later than ten (10) days after the Petition Date, the Debtors will have filed a motion (the "<u>Everett Sale Motion</u>"), in form and substance reasonably acceptable to the DIP Agent, for approval of sale and bidding procedures (the "<u>Everett Bidding Procedures</u>") relating to the sale of the Debtors' Everett, Washington assets (the "<u>Everett Assets</u>"), including the designation of a stalking horse purchaser (the "<u>Everett Stalking Horse</u>") for such assets. The Everett Sale Motion will, among other things, (i) establish a bidding and sale process for the Everett Assets, including scheduling an auction to be held approximately forty-five (45) days after the Petition Date (the "<u>Everett Auction Date</u>"), and (ii) seek approval of the sale of the Everett Assets to the Everett Stalking Horse or such other successful bidder or bidders as determined at the Auction.]</p> <p>(a) (j) [No later than thirty-five (35) days after the Petition Date, the Court will have entered an order approving the Everett Bidding Procedures.-]</p> <p>(b) (k) No later than five (5) business days after the <u>Everett</u> Auction Date, the Court will have entered an order approving the sale of the Everett Assets to the Everett Stalking Horse or such other successful bidder or bidders as determined at the Auction, if held (the "<u>Everett Sale Order</u>").</p> <p>(c) (h) No later than three (3) business days after entry of the Everett Sale Order, the closing of the sale of the Everett Assets shall have occurred.</p> <p>(d) (m) No later than sixty (60) days after the Petition Date, the Debtors will have filed a motion (the "<u>Kansas Sale Motion</u>"), in form and substance reasonably acceptable to the DIP Agent, for approval of sale and bidding procedures (the "<u>Kansas Bidding Procedures</u>") relating to the sale</p>
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	<p>of the Debtors' Kansas assets (the "<u>Kansas Assets</u>").</p> <p>(e) (h) No later than one hundred five (105) days after the Petition Date, the Court will have entered an order approving the sale of the Kansas Assets (the "<u>Kansas Sale Order</u>").</p> <p>(f) (e) No later than three (3) business days after entry of the Kansas Sale Order, the closing of the sale of the Kansas Assets shall have occurred.</p> <p>(g) (f) No later than one hundred five (105) days after the Petition Date, the Debtors will have filed a chapter 11 plan ("<u>Plan</u>") and accompanying disclosure statement ("<u>Disclosure Statement</u>"), in each case, in form and substance reasonably acceptable to the DIP Agent.</p> <p>(h) (g) The Bankruptcy Court will have entered an order approving the Disclosure Statement on or before the date which is forty-five (45) days after its filing, and will have entered an order confirming the Plan no later than ninety (90) days after its filing.</p> <p>(i) (h) The effective date of the Plan shall have occurred on or prior to the date which is thirty (30) days after entry of the order confirming the Plan.</p>
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For the avoidance of doubt, failure to comply with the Case Milestones or the other provisions of this paragraph ~~33-32~~ shall be a Termination Event for purposes of this ~~Interim~~-Final Order.

33. ~~34.~~ Dismissal and Conversion. If an order dismissing or converting any of these Chapter 11 Cases under sections 305 or 1112 of the Bankruptcy Code or otherwise, or appointing a chapter 11 trustee or a responsible officer or examiner with expanded powers, is at any time entered, such order shall provide that (a) the DIP Liens, the DIP Superpriority Claim, the Adequate Protection Liens and the Adequate Protection Superpriority Claim granted hereunder and in the

DIP Documents shall continue in full force and effect, remain binding on all parties in interest, and maintain their priorities as provided in this ~~Interim~~ Final Order and the DIP Documents and (b) this Court shall retain jurisdiction, notwithstanding such dismissal, for purposes of enforcing the DIP Liens, the DIP Superpriority Claim, the Adequate Protection Liens and the Adequate Protection Superpriority Claim. Any motion by the Debtors to dismiss any of these Chapter 11 Cases shall be filed on no less than 21 days' notice unless the DIP Agent specifically consents to a shorter notice period.

34. ~~35.~~ Limits on Lenders' Liability. ~~Nothing in this~~ Subject to Paragraph 19, nothing in the ~~Interim~~ Order, this Final Order or in any of the DIP Documents or any other documents related to this transaction shall in any way be construed or interpreted to impose or allow the imposition upon the DIP Agent, any other DIP Secured Party, the Prepetition Agent or any other Prepetition Lender-, in their respective capacities as such, of any liability for any claims arising from any and all activities by the Debtors or any of their subsidiaries or affiliates in the operation of their businesses or in connection with their restructuring efforts.

35. ~~36.~~ Priority of Terms. To the extent of any conflict between or among (a) the express terms or provisions of any of the DIP Documents, the Motion, the Requested Relief or any other agreements, on the one hand, and (b) the terms and provisions of this ~~Interim~~ Final Order, on the other hand, unless such term or provision herein is phrased in terms of "as defined in" "as set forth in" or "as more fully described in" the DIP Documents (or words of similar import), the terms and provisions of this ~~Interim~~ Final Order shall govern.

36. ~~37.~~ No Third Party Beneficiary. Except as explicitly set forth herein, no rights are created hereunder for the benefit of any third party, any creditor or any direct, indirect or incidental beneficiary.

37. ~~38.~~Survival. Except as otherwise provided herein, (a) the protections afforded under this ~~Interim~~ Final Order, and any actions taken pursuant thereto, shall survive the entry of an order (i) to the fullest extent permitted by applicable law, dismissing any of these Chapter 11 Cases or (ii) converting any of these Chapter 11 Cases to a case pursuant to chapter 7 of the Bankruptcy Code, and (b) the DIP Liens, the Adequate Protection Liens, the DIP Superpriority Claim and the Adequate Protection Superpriority Claim shall continue in these Chapter 11 Cases, any such Successor Case(s) or, to the fullest extent permitted by applicable law, after any such dismissal. Except as otherwise provided herein, the DIP Liens, the Adequate Protection Liens, the DIP Superpriority Claim and the Adequate Protection Superpriority Claim shall maintain their priorities as provided in this ~~Interim Order, the~~ Final Order and the DIP Documents, and not be modified, altered or impaired in any way by any other financing, extension of credit, incurrence of indebtedness (except with respect to any additional financing to be provided by the DIP Secured Parties in accordance with the DIP Agreement and ~~any~~ this Final Order), or any conversion of any of these Chapter 11 Cases into a case pursuant to chapter 7 of the Bankruptcy Code or, to the fullest extent permitted by applicable law, dismissal of any of these Chapter 11 Cases, or by any other act or omission until: (i) all DIP Obligations are indefeasibly paid in full in cash and completely satisfied, and the commitments under the DIP Documents are terminated in accordance therewith, and (ii) the Prepetition Obligations have been or are deemed to have been satisfied in accordance with the Bankruptcy Code.

~~39. — Adequate Notice/Scheduling of Final Hearing. The notice given by the Debtors of the Interim Hearing was given in accordance with Bankruptcy Rules 2002 and 4001(b), (c), and (d) and the Local Rules. Any objection to the relief sought at the Final Hearing shall be filed on or prior to April 29, 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 Zachary I. Shapiro (shapiro@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@perkincoie.com), and (b) Young Conaway Stargatt & Taylor, LLP, Kenneth J. Enos (kenos@yest.com); and (iv) counsel for any official committee of unsecured creditors. The Court shall conduct a Final Hearing on the Requested Relief on May 6, 2021, at 10:00 a.m. (prevailing Eastern Time).~~

38. ~~40.~~ Immediate Binding Effect; Entry of Interim-Final Order. This ~~Interim-Final~~ Order shall not be stayed and shall be valid and fully effective immediately upon entry, notwithstanding the possible application of Bankruptcy Rules 6004(h), 7062 and 9014, or otherwise, and the Clerk of the Court is hereby directed to enter this ~~Interim-Final~~ Order on the Court's docket in these Chapter 11 Cases.

39. ~~41.~~ Proofs of Claim. Neither the DIP Secured Parties nor the Prepetition Lenders shall be required to file proofs of claim in any of these Chapter 11 Cases or Successor Cases for any claim allowed herein. The Debtors' Stipulations shall be deemed to constitute a timely filed proof of claim for the Prepetition Lenders upon approval of ~~this~~ the Interim Order, and the Prepetition Agent shall be treated under section 502(a) of the Bankruptcy Code as if it had filed a proof of claim on behalf of the Prepetition Lenders. Notwithstanding any order entered by the Court in relation to the establishment of a bar date in any of these Chapter 11 Cases or Successor Cases to the contrary, the Prepetition Agent is hereby authorized and entitled, in its sole discretion, but not required, to file (and amend and/or supplement as it sees fit) a proof of claim and/or

aggregate proofs of claim in each of these Chapter 11 Cases or Successor Cases for any claim allowed herein.

40. DIP Agreement. Notwithstanding anything to the contrary in the DIP Documents, the Interim Order, or this Final Order, the following provisions of the DIP Agreement shall not be applicable to the Debtors and will be deemed stricken in their entirety: (a) Section 7.15 (Accommodation Agreements); and (b) Section 9.03 (Additional Remedies Upon Specified Events of Default).

41. ~~42.~~Headings. The headings of the various paragraphs in this ~~Interim~~Final Order are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

42. ~~43.~~Retention of Jurisdiction. This Court shall retain jurisdiction over all matters pertaining to the implementation, interpretation and enforcement of this ~~Interim~~Final Order.

CERTIFICATE OF SERVICE

I, Christopher A. Lewis, certify that I am not less than 18 years of age, and that on May 3, 2021, a copy of the foregoing document was electronically filed via CM/ECF and served via CM/ECF upon all parties registered to receive CM/ECF notices in this action, and I caused copies to be served upon the following persons via electronic mail:

RICHARDS, LAYTON & FINGER, P.A.

Attn: Daniel J. DeFranceschi, Esq. (defranceschi@rlf.com)

Attn: Paul N. Heath, Esq. (heath@rlf.com)

Attn: Zachary I. Shapiro, Esq. (shapiro@rlf.com)

Proposed Counsel to the Debtors

OFFICE OF THE UNITED STATES TRUSTEE

Attn: Linda J. Casey, Esq. (Linda.Casey@usdoj.gov)

United States Trustee

PERKINS COIE LLP

Attn: Alan D. Smith, Esq. (ADSmith@perkinscoie.com)

Counsel to the DIP Agent

YOUNG CONAWAY STARGATT & TAYLOR, LLP

Attn: Kenneth J. Enos, Esq. (kenos@ycst.com)

Counsel to the DIP Agent

Under penalty of perjury, I declare that the foregoing is true and correct.

Dated: May 3, 2021

/s/ Christopher A. Lewis

Christopher A. Lewis