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in Possession*

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

In re:

PHILIPPINE AIRLINES, INC.,¹

Debtor.

Chapter 11

Case No. 21-____ (____)

**DEBTOR’S MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS
AUTHORIZING (I) THE DEBTOR TO CONTINUE AND RENEW ITS LIABILITY,
PROPERTY, CASUALTY AND OTHER INSURANCE POLICIES AND HONOR ALL
OBLIGATIONS IN RESPECT THEREOF AND (II) FINANCIAL INSTITUTIONS TO
HONOR AND PROCESS RELATED CHECKS AND TRANSFERS**

Philippine Airlines, Inc., the above-captioned debtor and debtor in possession (the “**Debtor**” or “**PAL**,” and collectively with the Debtor’s non-debtor affiliates, the “**Airline**”), hereby moves (the “**Motion**”) for entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B** (the “**Interim Order**” and the “**Final Order**,” respectively, and collectively, the “**Proposed Orders**”), granting the relief described below. In support of the Motion, the Debtor relies upon and incorporates by reference the *Declaration of Nilo Thaddeus Rodriguez in Support of First Day Motions and Applications* (the “**First Day**”

¹ The Debtor in this chapter 11 case, along with its registration number in the Philippines, is Philippine Airlines, Inc., Philippine Securities and Exchange Commission Registration PW 37. The Debtor’s corporate headquarters is located at PNB Financial Center, President Diosdado Macapagal Avenue, CCP Complex, Pasay City 1300, Metro Manila, Philippines.



Declaration”), which was filed with the Court on the Petition Date (as defined herein). In further support of the Motion, the Debtor, by and through its undersigned proposed counsel, respectfully represents:

Jurisdiction and Venue

1. The United States Bankruptcy Court for the Southern District of New York (the “**Court**”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012. The Debtor confirms its consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

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

3. The bases for the relief requested herein are sections 105(a) and 363(b) of title 11 of the United States Code (the “**Bankruptcy Code**”) and Bankruptcy Rules 6003 and 6004.

Background

4. On September 3, 2021 (the “**Petition Date**), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtor is authorized to continue to operate its business and manage its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. As of the date hereof, no trustee, examiner or statutory committee has been appointed in this chapter 11 case (the “**Chapter 11 Case**”).

5. The Debtor and its affiliates are the largest airline group in the Philippines, and the Debtor is the national flag carrier of the Philippines. Its principal activity is to provide air transportation for passengers and cargo within and outside the Philippines. The Debtor is among the oldest airlines in the Asia Pacific region, having been founded in February 1941. With approximately 4,500 employees and over \$3 billion in annual gross revenue prior to the COVID-19 pandemic, the Debtor is the leading airline in the Philippines airline market.

6. In 2020, the Debtor was confronted with an extraordinary set of circumstances and flight disruptions induced by the COVID-19 pandemic. The COVID-19 crisis has had a catastrophic impact upon the aviation industry, causing major airlines to effectively halt many business operations. For major airlines such as PAL, the dramatic reduction in worldwide air travel caused significant balance sheet losses and created intractable challenges to meeting existing payment obligations.

7. In response to these unprecedented circumstances, PAL undertook a number of cost cutting measures and began discussions with key stakeholders in the hopes of mapping out a healthy future for the Airline. Those discussions, which spanned many months and involved all major stakeholders and their retained professionals, culminated in several restructuring support agreements (the “**RSAs**”) with substantially all of its aircraft lessors and lenders outlining the material terms for a proposed chapter 11 plan of reorganization (the “**Proposed Plan**”). The RSAs and the Proposed Plan contemplate (a) the reduction of the Debtor’s aircraft related obligations by approximately \$2.1 billion, (b) a \$505 million infusion of working capital to fund the Debtor’s ongoing operations during the Chapter 11 Case and upon emergence from its primary shareholder (the “**DIP Lender**”), (c) optimizing the Debtor’s fleet size, composition, and ownership costs as required by the new market, (d) maintaining and enhancing the Debtor’s

key contracts and business partners to strengthen the Debtor's viability during the pending COVID-19 pandemic and beyond, and (e) obtaining commitments for a \$150 million exit facility from new investors to ensure PAL has adequate liquidity and runway to complete its restructuring.

8. The Debtor likewise engaged in good faith negotiations with its other critical creditors, including its primary original equipment manufacturers ("OEM") and maintenance, repair, and overhaul service providers ("MRO"), to ensure that the Debtor continues to obtain the benefit of such critical goods and services. In addition, the OEMs and MROs have agreed to support the Proposed Plan by entering into RSAs, thereby providing additional certainty and predictability to the Debtor's restructuring and Chapter 11 Case.

9. Prior to the Debtor's Chapter 11 Case, the Debtor also (a) engaged in numerous good faith negotiations with a large number of its ordinary course vendors and suppliers, resulting in agreements to extend payment terms to provide the Debtor with additional breathing room and runway to assist it through the COVID-19 pandemic and (b) undertook a resizing of its operations, including the reduction of its workforce by 32%, to meet expected post-COVID-19 operational needs.

10. Additional information regarding the events leading up to the Petition Date is set forth in the First Day Declaration and is incorporated herein by reference.

Relief Requested

11. By this Motion, and pursuant to sections 105(a) and 363(b) of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004, the Debtor seeks entry of the Interim Order and Final Order, substantially in the forms attached hereto, authorizing (a) the Debtor to maintain, continue, renew, or purchase, in its sole discretion, Insurance Policies (defined below) on an

uninterrupted basis and in accordance with the practices and procedures in effect before the Petition Date and (b) financial institutions to receive, process, honor, and pay checks or wire transfers used by the Debtor to pay the foregoing. This would include (i) paying all amounts arising under the Insurance Policies, including any Brokers' Fees (defined below) and Insurance Fees (defined below), whether due and payable before, on, or after the Petition Date, and (ii) renewing or obtaining new insurance policies as needed in the ordinary course of business (including creating, capitalizing, and obtaining insurance from a captive insurance company or a segregated account within a licensed insurer as described herein). If the requested relief is not granted and the Insurance Policies lapse or terminate, the Debtor may well be unable to continue large portions of its operations, thereby endangering the Debtor's successful reorganization and substantially harming all creditors.

A. The Debtor's Insurance Policies

12. The Debtor requires various liability, property, life, fire and disaster, and other insurance, reinsurance, and risk control programs in the ordinary course of its business (the "**Insurance Policies**"), which it maintains through several private insurance carriers (the "**Insurance Carriers**"). A summary of the Debtor's Insurance Policies is set forth on **Exhibit C** attached hereto.² The Debtor is also obligated to pay certain fees (the "**Insurance Fees**," which include "**Brokers' Fees**" (defined below)) associated with procuring and maintaining the Insurance Policies. A summary of the Debtor's Insurance Fees is set forth on **Exhibit D** attached hereto.

13. The Insurance Policies include coverage for, among other things, operation of aircraft, property damage, ground handling operators' liability, operation of automobiles,

² **Exhibit C** is intended to be a comprehensive schedule of the principal Insurance Policies. The Debtor, however, requests relief applicable to all Insurance Policies, regardless of whether such Insurance Policy is specifically identified on **Exhibit C**.

officers' or directors' liability, civil liability, transport/cargo, and various other property-related and general liabilities. All of the Insurance Policies are essential to the ongoing operation of the Debtor's business.

B. The Premium Payments

14. The Insurance Policies renew on various dates throughout the year. The premiums for most of the Insurance Policies (collectively, the "**Insurance Premiums**") are determined annually and are due either in their entirety at policy inception or via installments through the policy term. The Debtor's Insurance Premiums are typically paid to the insurer, while the Brokers' Fees are paid directly to the applicable brokers (the "**Brokers**"). The Debtor's primary aviation insurance broker is Willis Limited.

15. The Brokers receive compensation from the Debtor for various services in the form of a commission included in the Insurance Premiums paid by the Debtor or a fee for non-commission insurance policies, as well as fees for claim noticing services (the "**Brokers' Fees**"). While employing a Broker is not a requirement under Philippine law, engaging such a Broker is a practical requirement because certain major providers of aviation insurance, such as Lloyd's of London, will only transact with companies such as the Debtor through a Broker. Accordingly, the Debtor believes that it is in the best interests of the creditors and estate to continue its business relationships with the Brokers.

16. The Debtor's aggregate annual Insurance Premiums under the Insurance Policies total approximately \$11.5 million. As of the Petition Date, the Debtor believes that Insurance Premiums of approximately \$4 million are owed, but not yet due, under the current Insurance Policies. The Debtor believes that approximately \$35,000 in Insurance Premiums or amounts under the Insurance Policies that were due and payable on or prior to the Petition Date are

outstanding. Additionally, the Debtor believes that approximately \$100,000 in Brokers' Fees are owed, but not yet due, under the current Insurance Policies. These Brokers' Fees are to be paid in installments of approximately \$47,000, with the most recent payment made on August 4, 2021, and upcoming payments due in September and November 2021. The Debtor seeks authority, but not direction, to satisfy any such obligations, even if arising prepetition.

17. Pursuant to the Insurance Policies, the Debtor may be required to pay various deductibles or self-insurance retention amounts (collectively, the "**Insurance Deductibles**"), depending upon the type of claim and insurance policy involved. Under the Debtor's typical insurance policies, the Debtor pays the claimants directly and then receives reimbursement, net of the Insurance Deductible, from the Insurance Carrier. Under some policies, the Insurance Carrier pays the claimant directly and sends an invoice to the Debtor. In such situations, the Insurance Carriers may have prepetition claims against the Debtor. As of the Petition Date, the Debtor does not believe there are any material prepetition obligations owed to Insurance Carriers relating to Insurance Deductibles, but, out of an abundance of caution, the Debtor seeks authority, in its discretion, to satisfy any such prepetition obligations if they exist.

18. The Debtor believes that certain prepetition amounts under the Insurance Policies remain outstanding. By this Motion, the Debtor requests the authorization, but not the direction, to pay such amounts.

Basis for Relief

A. The Bankruptcy Code Authorizes the Debtor to Maintain the Insurance Policies

19. The nature of the Debtor's business and the extent of its operations make it essential for the Debtor to maintain its Insurance Policies on an ongoing and uninterrupted basis. The nonpayment or delayed payment of any premiums, deductibles, or related fees under the

Insurance Policies could result in one or more of the Insurance Carriers denying a claim, refusing to settle a claim, terminating or declining to renew their insurance policies, or refusing to enter into new insurance policies with the Debtor in the future. If any of the Insurance Policies lapse without renewal, the Debtor could be in violation of applicable law or out of compliance with regulatory requirements, resulting in a loss of licenses or permits and therefore loss of the ability to operate its business, which would result in immediate and irreparable harm to the Debtor and its estate. Allowing the Insurance Policies to lapse without renewal could also result in exposure to substantial liability for personal, contractual, and/or property damages, to the detriment of all parties-in-interest.

20. As a prerequisite for operating an airline and navigating specific airspace, domestic and foreign governmental agencies require the Debtor to maintain certain Insurance Policies. Moreover, pursuant to the terms of many of its aircraft and real property leases and secured lending facilities, the Debtor is obligated to demonstrate certain levels of insurance coverage and to remain current with respect to certain of its Insurance Policies. The Debtor must also maintain the Insurance Policies to comply with the U.S. Trustee Guidelines (as defined herein). Thus, in order for the Debtor to maintain its operations in compliance with various legal and contractual obligations, the Debtor must be able to continue its Insurance Policies without disruption.

21. If the Debtor is unable to make any outstanding payments that may be owed on account of the Insurance Policies, the unpaid Insurance Carriers may seek relief from the automatic stay to terminate such Insurance Policies. The Debtor would be required to obtain replacement insurance on an expedited basis and at a significant cost to the estate, with payments likely greater than what the Debtor currently pays. Even if these Insurance Carriers were not

permitted to terminate the agreements, any interruption of payment likely would have an adverse effect on the Debtor's ability to obtain future policies at reasonable rates.

B. The Insurance Policies Can Be Maintained Under Section 363(c)(1) of the Bankruptcy Code

22. Although the Debtor does not believe that Court approval is required to maintain its existing Insurance Policies following the Petition Date, the Debtor seeks this relief out of an abundance of caution. The Insurance Carriers and Brokers may be reluctant to engage in ordinary course transactions with the Debtor absent an order eliminating any uncertainty as to whether the Debtor has the requisite authority to engage in such transactions.

23. Section 363(c) of the Bankruptcy Code authorizes a debtor in possession operating its business pursuant to section 1108 of the Bankruptcy Code to “enter into transactions . . . in the ordinary course of business, without notice or a hearing, and use property of the estate in the ordinary course of business without notice or a hearing.” 11 U.S.C. § 363(c)(1).

24. One purpose of section 363 of the Bankruptcy Code is to provide a debtor with the flexibility to engage in the ordinary course transactions required to operate its business without oversight by its creditors or the Court. *See, e.g., In re Crystal Apparel, Inc.*, 220 B.R. 816, 830 (Bankr. S.D.N.Y. 1998); *In re Leslie Fay Companies, Inc.*, 168 B.R. 294, 301 (Bankr. S.D.N.Y. 1994).

25. In addition, section 363(b)(1) of the Bankruptcy Code empowers the Court to allow a debtor to “use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). A debtor's decisions to use, sell, or lease assets outside the ordinary course of business must be based upon the sound business judgment of the debtor. *See, e.g., Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d

Cir. 1983); *In re Chateaugay Corp.*, 973 F.2d 141, 143 (2d Cir. 1992) (holding that a judge determining a section 363(b) application must find from the evidence presented before him or her a good business reason to grant such application); *In re Global Crossing Ltd.*, 295 B.R. 726, 743 (Bankr. S.D.N.Y. 2003); *In re Ionosphere Clubs, Inc.*, 100 B.R. 670, 674 (Bankr. S.D.N.Y. 1989) (noting the standard for determining a section 363(b) motion is “a good business reason”).

26. The business judgment rule is satisfied “when the following elements are present: (1) a business decision, (2) disinterestedness, (3) due care, (4) good faith, and (5) according to some courts and commentators, no abuse of discretion or waste of corporate assets.” *Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.)*, 147 B.R. 650, 656 (S.D.N.Y. 1992), *appeal dismissed*, 3 F.3d 49 (2d Cir. 1993) (internal quotations omitted). In fact, “[w]here the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct.” *Comm. of Asbestos-Related Litigants and/or Creditors v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986). Courts in this district have consistently and appropriately been reluctant to interfere with corporate decisions absent a showing of bad faith, self-interest, or gross negligence and will uphold a board’s decisions as long as they are attributable to any “rational business purpose.” *In re Integrated Res. Inc.*, 147 B.R. at 656.

27. The Debtor submits that the relief requested in this Motion represents a sound exercise of the Debtor’s business judgment. To the extent the maintenance, continuance, and renewal of the Insurance Policies and any and all payments related thereto (including any payments made to the Brokers) are outside the ordinary course of business, they are justified under section 363(b) of the Bankruptcy Code. Even where coverage is not expressly required by

applicable law, the Debtor is nevertheless compelled by sound business practice to maintain essential insurance coverage. Any interruption in such coverage would expose the Debtor to a variety of risks, including the possible (a) incurrence of direct liability for the payment of claims that otherwise would have been covered by the Insurance Policies, (b) incurrence of material costs and other losses that otherwise would have been reimbursed, such as attorneys' fees for certain covered claims, (c) inability to obtain similar types and levels of insurance coverage, (d) incurrence of higher costs for reestablishing lapsed policies or obtaining new insurance coverage, and (e) incurrence of direct liability for failing to maintain required insurance coverage.

28. Courts in this District have routinely granted similar relief. *See, e.g., LATAM Airlines Group S.A.*, Case No. 20-11254 (JLG) (Bankr. S.D.N.Y. June 30, 2020) [ECF No. 416]; *In re Avianca Holdings S.A.*, Case No. 20-11133 (MG) (Bankr. S.D.N.Y. June 9, 2020) [ECF No. 255]; *In re Windstream Holdings, Inc.*, No. 19-22312 (RDD) (Bankr. S.D.N.Y. June 20, 2019) [ECF No. 702]; *In re Synergy Pharmaceuticals Inc.*, Case No. 18-14010 (JLG) (Bankr. S.D.N.Y. Jan. 23, 2019) [ECF No. 256]; *In re Cumulus Media Inc.*, Case No. 17-13381 (SCC) (Bankr. S.D.N.Y. Dec. 21, 2017) [ECF No. 154]; *In re 21st Century Oncology Holdings, Inc.*, Case No 17-22770 (RDD) (Bankr. S.D.N.Y. June 20, 2017) [ECF No. 127]; *In re Avaya Inc.*, Case No. 17-10089 (SMB) (Bankr. S.D.N.Y. Feb. 10, 2017) [ECF No. 142]; *In re SunEdison, Inc.*, Case No. 16-10992 (SMB) (Bankr. S.D.N.Y. Apr. 26, 2016) [ECF No. 80].³

C. The Doctrine of Necessity and Section 105 of the Bankruptcy Code Support Payment of Amounts Necessary to Maintain Insurance

29. Similarly, although the Debtor does not believe it has any material outstanding prepetition obligations or payment defaults with respect to its insurance obligations, including

³ Because of the voluminous nature of the orders cited herein, such orders have not been attached to this Motion. Copies of these orders are available upon request to the Debtor's proposed counsel.

the Insurance Deductibles, the Debtor is seeking authority to pay any such amounts to ensure continuing insurance coverage during this Chapter 11 Case.

30. Section 105(a) of the Bankruptcy Code empowers the Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). It is well settled that “a Bankruptcy Court [may] authorize the payment of prepetition debt when such payment is needed to facilitate the rehabilitation of the debtor. This is commonly referred to as either the ‘doctrine of necessity’ or the ‘necessity of payment’ rule, which recognizes the existence of the judicial power to authorize a debtor in a reorganization case to pay prepetition claims where such payment is essential to the continued operation of the debtor.” *In re Windstream Holdings, Inc.*, 614 B.R. 441, 456-57 (Bankr. S.D.N.Y. 2020) (internal citations omitted). The doctrine is frequently invoked early in a reorganization, particularly in connection with motions that relate to payment of prepetition claims. The Debtor strongly believes that the uninterrupted provision of the Insurance Policies is critical to its ongoing operations and viability and satisfies this standard.

31. The Debtor’s ability to maintain and honor its Insurance Policies in a timely manner is critical to the ongoing operation of its business, as discussed above, and therefore necessary to maximize the value of the Debtor’s estate. The Debtor believes that any prepetition amounts that it will pay in respect of the Insurance Policies would be small relative to the size of the Debtor’s estate and the critical benefits provided by the Insurance Policies. As noted above, interruption of the Debtor’s insurance coverage could, among other things, cause the Debtor to violate state and/or federal law, as well as obligations arising from the federal concession granted by the Philippine Federal Government, and expose the Debtor to direct liability for significant claims that otherwise would be covered by insurance, thus potentially substantially diminishing

the value of the Debtor's estate. For the Debtor to pay what would be relatively small prepetition amounts under the Insurance Policies to avoid such an occurrence is in the best interests of the Debtor, the Debtor's estate, and all of the Debtor's stakeholders and interested parties. Thus, payments of amounts to ensure continuation of the Insurance Policies, including the payment of prepetition and postpetition Insurance Premiums, Insurance Fees and other amounts necessary to maintain the Debtor's Insurance Policies, fall within the sound business judgment of the Debtor and will benefit, rather than prejudice, the Debtor's creditors by preserving the property of the Debtor's estate. The Debtor submits that the relief requested herein is appropriate under the doctrine of necessity and section 105(a) of the Bankruptcy Code.

D. Payment of Amounts Necessary to Maintain Insurance Is Required by the Bankruptcy Code and the United States Trustee

32. The Debtor believes that the Insurance Policies are essential to the operation of its business during the Chapter 11 Case. The Insurance Carriers may cancel the Insurance Policies according to their terms due to nonpayment by the Debtor. Such cancellation will harm the Debtor not only for the reasons set forth above, but section 1112(b)(4)(C) of the Bankruptcy Code provides that "failure to maintain appropriate insurance that poses a risk to the estate or to the public" is "cause" for mandatory conversion or dismissal of a chapter 11 case. 11 U.S.C. § 1112(b)(4)(C). Moreover, the Operating Guidelines and Reporting Requirements for Debtors in Possession and Trustees, issued by the Office of the United States Trustee for Region 2 (the "**U.S. Trustee Guidelines**"), require the Debtor to maintain insurance coverage throughout the pendency of the Chapter 11 Case.

**Cause Exists to Authorize the Debtor's Financial Institutions
to Honor Checks and Electronic Fund Transfers**

33. The Debtor has sufficient funds to pay the amounts described in this Motion in the ordinary course of business by virtue of expected cash flows from ongoing business operations and anticipated access to its postpetition financing. In addition, under the Debtor's existing cash management system, the Debtor can readily identify checks or wire transfer requests as relating to an authorized payment in respect of the relief requested herein. Accordingly, the Debtor believes that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently. Therefore, the Debtor respectfully requests that the Court authorize and direct all applicable financial institutions, when requested by the Debtor, to receive, process, honor, and pay any and all checks or wire transfer requests in respect of the relief requested in this Motion.

The Debtor Has Satisfied Bankruptcy Rule 6003(b)

34. Bankruptcy Rule 6003(b) provides that, to the extent relief is necessary to avoid immediate and irreparable harm, a bankruptcy court may issue an order granting "a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition" within 21 days of filing a petition. Irreparable harm "is a continuing harm which cannot be adequately redressed by final relief on the merits and for which money damages cannot provide adequate compensation." *Kamerling v. Massanari*, 295 F.3d 206, 214 (2d Cir. 2002) (internal quotations omitted). The "harm must be shown to be actual and imminent, not remote or speculative." *Id.*

35. As set forth above, the Debtor believes an immediate and orderly transition into chapter 11 is critical to the viability of its operations and that any delay in granting the relief requested could hinder the Debtor's operations and cause irreparable harm. The failure to

receive the requested relief during the first 21 days of the Chapter 11 Case could severely disrupt the Debtor's operations at this critical juncture and imperil the Debtor's restructuring as contemplated by the RSAs. Accordingly, the Debtor submits that the relief requested herein is necessary to avoid immediate and irreparable harm, and that Bankruptcy Rule 6003(b) is satisfied.

Reservation of Rights

36. Nothing contained herein or any actions taken pursuant to such relief requested is intended or shall be construed as: (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtor's or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this motion or any order granting the relief requested by this motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtor's estates; (g) a waiver or limitation of the Debtor's, or any other party in interest's, rights under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtor that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in this motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens. If the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to

the validity of any particular claim or a waiver of the Debtor's or any other party in interest's rights to subsequently dispute such claim.

Compliance With Bankruptcy Rule 6004(a)
and Waiver of Stay Under Bankruptcy Rule 6004(h)

37. To implement successfully the relief sought herein, the Debtor requests that the Court find that notice of the Motion is adequate under Bankruptcy Rule 6004(a) under the circumstances. The Debtor also requests that, to the extent applicable to the relief requested in this Motion, the Court waive the stay imposed by Bankruptcy Rule 6004(h), which provides that “[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6004(h). As described above, the relief that the Debtor seeks in this Motion is necessary for the Debtor to operate its business without interruption and to preserve value for its estate. Accordingly, the Debtor respectfully submits that ample cause exists to justify the finding that the notice requirements under Bankruptcy Rule 6004(a) have been satisfied and to grant a waiver of the 14-day stay imposed by Bankruptcy Rule 6004(h), as the exigent nature of the relief sought herein justifies immediate relief.

Notice

38. Notice of this Motion has been provided to the following parties, or, in lieu thereof, their counsel (the “**Notice Parties**”): (a) the Office of the United States Trustee for the Southern District of New York; (b) the holders of the thirty largest unsecured claims against the Debtor; (c) the parties to the RSAs; (d) the DIP Lender; (e) the United States Attorney's Office for the Southern District of New York; (f) the Internal Revenue Service; (g) the Securities and Exchange Commission; (h) the Federal Aviation Administration; (i) the Insurance Carriers; and (j) any party that has requested service pursuant to Bankruptcy Rule 2002. A copy of this

Motion and any order approving it will also be made available on the Debtor's Case Information Website located at www.kccllc.net/PAL. In light of the nature of the relief requested in this Motion, the Debtor respectfully submits that no further notice is necessary.

No Previous Request

39. No previous request for the relief sought herein has been made by the Debtor to this or any other court.

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WHEREFORE, the Debtor respectfully requests that the Court enter the Proposed Orders granting the relief requested herein and such other and further relief as the Court deems just and proper.

Dated: September 3, 2021
New York, New York

DEBEVOISE & PLIMPTON LLP

By: /s/ Jasmine Ball

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*Proposed Counsel to the Debtor and Debtor
in Possession*

Exhibit A

Proposed Interim Order

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

In re:

PHILIPPINE AIRLINES, INC.,¹

Debtor.

Chapter 11

Case No. 21-____ (____)

**INTERIM ORDER AUTHORIZING (I) THE DEBTOR TO CONTINUE AND RENEW
ITS LIABILITY, PROPERTY, CASUALTY AND OTHER INSURANCE POLICIES
AND HONOR ALL OBLIGATIONS IN RESPECT THEREOF AND (II) FINANCIAL
INSTITUTIONS TO HONOR AND PROCESS RELATED CHECKS AND TRANSFERS**

Upon the motion (the “**Motion**”)² of the above-captioned debtor and debtor in possession (the “**Debtor**”) for entry of an interim order (this “**Order**”) and a final order authorizing, but not directing, (a) the Debtor to maintain, continue, review, or purchase, in its sole discretion, its liability, property, casualty, and other insurance policies and to honor all obligations in respect thereof and (b) financial institutions to receive, honor, and process related checks and transfers, all as set forth more fully in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* M- 431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the relief requested therein being a core proceeding under 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion and held a

¹ The Debtor in this chapter 11 case, along with its registration number in the Philippines, is Philippine Airlines, Inc., Philippine Securities and Exchange Commission Registration No. PW 37. The Debtor’s corporate headquarters is located at PNB Financial Center, President Diosdado Macapagal Avenue, CCP Complex, Pasay City 1300, Metro Manila, Philippines.

² Each capitalized term used herein but not otherwise defined herein shall have the meaning ascribed to it in the Motion.

hearing to consider the relief requested in the Motion on an interim basis (the “**Hearing**”); and upon the First Day Declaration and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and the Court having determined that immediate relief is necessary to avoid irreparable harm to the Debtor and its estate as contemplated by Bankruptcy Rule 6003(b) and is in the best interests of the Debtor, the Debtor’s estate, the creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The relief requested in the Motion is hereby GRANTED on an interim basis as set forth herein.

2. The Debtor is authorized, but not directed, in its sole discretion, to continue its Insurance Policies, including, but not limiting to, the Insurance Policies listed on **Exhibit C** attached to the Motion, without interruption and in accordance with the same practices and procedures as were in effect prior to the Petition Date. Further, the Debtor is, in its sole discretion, authorized, but not directed, to continue paying the Insurance Fees as they come due, including the Insurance Fees listed on **Exhibit D** attached to the Motion, without interruption and in accordance with the same practices and procedures as were in effect prior to the Petition Date.

3. The Debtor is authorized, but not directed, in its sole discretion, to pay prepetition obligations, if any, that may be owed in connection with the Insurance Policies (including Insurance Fees, Insurance Premiums, and Insurance Deductibles) during the interim period,

whether due and payable before, on or after the Petition Date, to the extent any such obligations are owed.

4. The Debtor is authorized, but not directed, in its sole discretion, to renew or obtain new insurance policies or execute other agreements or premium financing agreements in connection with its Insurance Policies, including upon the expiration or termination of any Insurance Policy.

5. The Debtor shall continue to maintain records with respect to all transfers of cash so that all transactions may be readily ascertained, traced, and recorded properly.

6. Notwithstanding anything to the contrary in this Order, payments of Insurance Policies (including Insurance Premiums, Insurance Fees, Insurance Deductibles, and Brokers' Fees) made pursuant to this Order shall only be made as they become due, and no payments shall be accelerated prior to the final hearing of this Motion.

7. All applicable banks and other financial institutions are hereby authorized to receive, process, honor, and pay any and all checks, drafts, wires, check transfer requests, or automated clearinghouse transfers evidencing amounts paid by the Debtor under this Order whether presented prior to, on, or after the Petition Date to the extent the Debtor has good funds standing to its credit with banks or other financial institutions. Such banks and financial institutions are authorized to rely on the representations of the Debtor as to which checks are issued or authorized to be paid pursuant to this Order without any duty of further inquiry and without liability for following the Debtor's instructions.

8. Nothing in this Order or any action taken by the Debtor in furtherance of the implementation hereof shall be deemed to constitute an assumption or rejection of any executory

contract or unexpired lease pursuant to section 365 of the Bankruptcy Code, and all of the Debtor's rights with respect to such matters are expressly reserved.

9. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained herein shall (a) create, nor is it intended to create, any rights in favor of, or enhance the status of any claim held by any person or entity or (b) be deemed to convert the priority of any claim from a prepetition claim into an administrative expense claim.

10. Nothing in this Order or the Motion shall be construed as prejudicing the rights of the Debtor to dispute or contest the amount of or basis for any claims against the Debtor in connection with or relating to the Debtor's Insurance Policies.

11. Nothing in this Order nor the Debtor's payment of claims pursuant to this Order shall be construed as (a) an agreement or admission by the Debtor as to the validity or priority of any claim on any grounds, (b) a waiver or impairment of any of the Debtor's rights to dispute any claims on any grounds, (c) a promise by the Debtor to pay any claim, or (d) an implication or admission by the Debtor that such claim is payable pursuant to this Order.

12. The requirements of Bankruptcy Rule 6003 are satisfied by the contents of the Motion.

13. A final hearing to consider the relief requested in the Motion shall be held on _____, 2021, at _____ (Prevailing Eastern Time) and any objections or responses to the Motion shall be filed and served on the Notice Parties so as to be actually received on or prior to _____, 2021, at 4:00 p.m. (Prevailing Eastern Time). Any objections or responses to the entry of the Final Order shall be (a) filed with the Court and (b) served upon and actually received by (i) the United States Trustee, U.S. Federal Office Building, 201 Varick Street, Room 1006, New York, NY 10014 (Attn: Susan A. Arbeit), (ii) proposed counsel to the Debtor, Debevoise &

Plimpton LLP, 919 Third Avenue, New York, NY 10022 (Attn: Jasmine Ball, Nick Kaluk, and Elie Worenklein), (iii) counsel to the DIP Lender, White & Case LLP, 1221 Avenue of the Americas, New York, NY 10020 (Attn: Andrew Zatz), and (iv) counsel to any official committee then appointed in this chapter 11 case, so as to be received by 4:00 p.m. (Prevailing Eastern Time) seven days before the hearing to approve the relief requested in the Motion on a final basis (the “**Objection Deadline**”). A reply to an objection may be filed with the Court and served on or before 12:00 p.m. (Prevailing Eastern Time) on the day that is at least two business days before the date of the applicable hearing. If no objections or responses are filed and served, this Court may enter the Final Order without further notice or hearing.

14. If no objections are timely filed and served as set forth herein, the Debtor shall, on or after the Objection Deadline, submit to the Court a final order substantially in the form of this Order, which order shall be submitted and may be entered with no further notice or opportunity to be heard afforded any party, and the Motion shall be approved *nunc pro tunc* to the date of the commencement of the Chapter 11 Case.

15. The contents of the Motion and the notice procedures set forth therein are good and sufficient notice and satisfy the Bankruptcy Rules and the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”), and no other or further notice of the Motion or the entry of this Order shall be required.

16. Any Bankruptcy Rule (including Bankruptcy Rule 6004(h)) or Local Rule that might otherwise delay the effectiveness of this Order is hereby waived, and the terms and conditions of this Order shall be effective immediately and enforceable upon its entry.

17. The Debtor is authorized to take all such actions as are necessary or appropriate to implement the terms of this Order.

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

Dated: _____, 2021
New York, New York

THE HONORABLE [●]
UNITED STATES BANKRUPTCY JUDGE

Exhibit B

Proposed Final Order

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

In re:

PHILIPPINE AIRLINES, INC.,¹

Debtor.

Chapter 11

Case No. 21-____ (____)

FINAL ORDER AUTHORIZING (I) THE DEBTOR TO CONTINUE AND RENEW ITS LIABILITY, PROPERTY, CASUALTY AND OTHER INSURANCE POLICIES AND HONOR ALL OBLIGATIONS IN RESPECT THEREOF AND (II) FINANCIAL INSTITUTIONS TO HONOR AND PROCESS RELATED CHECKS AND TRANSFERS

Upon the motion (the “**Motion**”)² of the above-captioned debtor and debtor in possession (the “**Debtor**”) for entry of an interim order and a final order (this “**Order**”) authorizing, but not directing, (a) the Debtor to maintain, continue, review, or purchase, in its sole discretion, its liability, property, casualty, and other insurance policies and to honor all obligations in respect thereof and (b) financial institutions to receive, honor, and process related checks and transfers, all as set forth more fully in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* M- 431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the relief requested therein being a core proceeding under 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and no other or further notice need be provided; and the Court having reviewed the Motion and held a hearing to

¹ The Debtor in this chapter 11 case, along with its registration number in the Philippines, is Philippine Airlines, Inc. Philippine Securities and Exchange Commission Registration No. PW 37. The Debtor’s corporate headquarters is located at PNB Financial Center, President Diosdado Macapagal Avenue, CCP Complex, Pasay City 1300, Metro Manila, Philippines.

² Each capitalized term used herein but not otherwise defined herein shall have the meaning ascribed to it in the Motion.

consider the relief requested in the Motion on a final basis (the “**Hearing**”); and upon the First Day Declaration and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and the Court having determined that the relief granted herein is in the best interests of the Debtor, the Debtor’s estate, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The relief requested in the Motion is hereby GRANTED on a final basis as set forth herein.

2. The Debtor is, in its sole discretion, authorized, but not directed, to continue its Insurance Policies, including, but not limiting to, the Insurance Policies listed on Exhibit C attached to the Motion, without interruption and in accordance with the same practices and procedures as were in effect prior to the Petition Date. Further, the Debtor is, in its sole discretion, authorized, but not directed, to continue paying the Insurance fees as they come due, including the Insurance Fees listed on Exhibit D attached to the Motion, without interruption and in accordance with the same practices and procedures as were in effect prior to the Petition Date.

3. The Debtor is, in its sole discretion, authorized, but not directed, to pay prepetition obligations, if any, that may be owed in connection with the Insurance Policies (including Insurance Fees, Insurance Premiums, and Insurance Deductibles), whether due and payable before, on or after the Petition Date, to the extent any such obligations are owed.

4. The Debtor is, in its sole discretion, authorized, but not directed, to renew or obtain new insurance policies or execute other agreements or premium financing agreements in connection with its Insurance Policies, including upon the expiration or termination of any Insurance Policy.

5. The Debtor shall continue to maintain records with respect to all transfers of cash so that all transactions may be readily ascertained, traced, and recorded properly.

6. All applicable banks and other financial institutions are hereby authorized to receive, process, honor, and pay any and all checks, drafts, wires, check transfer requests, or automated clearinghouse transfers evidencing amounts paid by the Debtor under this Order whether presented prior to, on, or after the Petition Date to the extent the Debtor has good funds standing to its credit with banks or other financial institutions. Such banks and financial institutions are authorized to rely on the representations of the Debtor as to which checks are issued or authorized to be paid pursuant to this Order without any duty of further inquiry and without liability for following the Debtor's instructions.

7. Nothing in this Order or any action taken by the Debtor in furtherance of the implementation hereof shall be deemed to constitute an assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code, and all of the Debtor's rights with respect to such matters are expressly reserved.

8. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained herein shall (a) create, nor is it intended to create, any rights in favor of, or enhance the status of any claim held by any person or entity or (b) be deemed to convert the priority of any claim from a prepetition claim into an administrative expense claim.

9. Nothing in this Order or the Motion shall be construed as prejudicing the rights of the Debtor to dispute or contest the amount of or basis for any claims against the Debtor in connection with or relating to the Debtor's Insurance Policies.

10. Nothing in this Order nor the Debtor's payment of claims pursuant to this Order shall be construed as (a) an agreement or admission by the Debtor as to the validity or priority of any claim on any grounds, (b) a waiver or impairment of any of the Debtor's rights to dispute any claims on any grounds, (c) a promise by the Debtor to pay any claim, or (d) an implication or admission by the Debtor that such claim is payable pursuant to this Order.

11. The contents of the Motion and the notice procedures set forth therein are good and sufficient notice and satisfy the Bankruptcy Rules and the Local Bankruptcy Rules for the Southern District of New York (the "**Local Rules**"), and no other or further notice of the Motion or the entry of this Order shall be required.

12. Any Bankruptcy Rule (including Bankruptcy Rule 6004(h)) or Local Rule that might otherwise delay the effectiveness of this Order is hereby waived, and the terms and conditions of this Order shall be effective immediately and enforceable upon its entry.

13. The Debtor is authorized to take all such actions as are necessary or appropriate to implement the terms of this Order.

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

Dated: _____, 2021
New York, New York

THE HONORABLE [●]
UNITED STATES BANKRUPTCY JUDGE

Exhibit C

List of Debtor's Insurance Policies

Insurance Company	Policy Description	Policy Term
ALPHA INSURANCE & SURETY CO., INC.	General Transport Surety Bond	January 1, 2021 to December 31, 2021
Alpha Insurance & Surety Co. Inc.	General Warehousing Bond (Cebu)	January 1, 2021 to December 31, 2021
Alpha Insurance & Surety Co. Inc.	General Bond for Customs Bonded Warehouse (Cebu)	January 1, 2021 to December 31, 2021
Alpha Insurance & Surety Co. Inc.	General Bond for Customs Bonded Warehouse (Cebu)	April 19, 2021 to April 19, 2022
Alpha Insurance & Surety Co. Inc.	General Bond for Customs Bonded Warehouse (Cebu)	April 19, 2021 to April 19, 2022
Alpha Insurance & Surety Co. Inc.	General Bond for Customs Bonded Warehouse (Cebu)	April 21, 2021 to January 31, 2022
PNB General Insurers Co., Inc.	Fire and Allied Perils Insurance Policy	July 25, 2020 to July 25, 2021
PNB General Insurers Co., Inc.	Comprehensive Motor Vehicle Insurance for Private Vehicles	December 18, 2020 to December 18, 2021
PNB General Insurers Co., Inc.	Voluntary Third Party Liability for Private Vehicles	December 18, 2020 to December 18, 2021
PNB General Insurers Co., Inc.	Comprehensive Motor Vehicle Insurance for Commercial Vehicles	December 18, 2020 to December 18, 2021
PNB General Insurers Co., Inc.	Voluntary 3rd Party Liability for Commercial Vehicles	December 18, 2020 to December 18, 2021
PNB General Insurers Co., Inc.	AVIATION INSURANCE - HULL, SPARES & LIABILITY	December 15, 2020 to December 14, 2021
PNB General Insurers Co., Inc.	AVIATION INSURANCE - HULL WAR, HULL TOTAL LOSS	December 15, 2020 to December 14, 2021
PNB General Insurers Co., Inc.	AVIATION INSURANCE - EXCESS THIRD PARTY WAR LIABILITY	December 15, 2020 to December 14, 2021
PNB General Insurers Co., Inc.	AVIATION INSURANCE - HULL DEDUCTIBLE	December 15, 2020 to December 14, 2021
PNB General Insurers Co., Inc.	Special Contingent Liability Policy	December 31, 2020 to 2023
PNB General Insurers Co., Inc.	Compulsory Third Party Liability Insurance	Varies Depending on Plate Number

Insurance Company	Policy Description	Policy Term
The Premier Insurance & Surety Corporation	Surety Bond	June 28, 2021 to June 28, 2022

Part 2: Foreign (Non-Philippine) Insurance Policies of the Debtor

Insurance Company	Policy Description	Policy Term
National Union Fire Insurance Company	Commercial Crime Policy	January 19, 2021 to January 19, 2022
National Liability & Fire Insurance	Automobile Liability Policy	December 22, 2020 to December 22, 2021
Allianz	Inland Marine (Property) Insurance	May 1, 2021 to May 1, 2022
Penn-Star Insurance	Corporate Condos Liability Insurance	April 4, 2021 to April 4, 2022
CPS General Insurance Agencies PTY Ltd.	Syd. International Airport	July 13, 2020 to July 13, 2021
Optimum West Insurance Co.	Commercial Property - Fire, Water Damage, Earthquake - Office Contents	November 9, 2020 to November 9, 2021
Ping An Insurance Company	Leasehold Improvement; Furniture and Office Equipment; Communications. Equipment; Computer Equipment	upon issuance
Ping An Insurance Company	Leasehold Improvement; Furniture and Office Equipment; Communications. Equipment; Computer Equipment	upon issuance
Ping An Insurance Company	Leasehold Improvement; Furniture and Office Equipment; Communications. Equipment; Computer Equipment	upon issuance
Ping An Insurance Company	Leasehold Improvement; Furniture and Office Equipment; Communications. Equipment; Computer Equipment	upon issuance
Axa General Insurance	Material Damage Insurance for HKG CTO, HKG G/F property at East Ocean Centre, and HKG ATO	January 1, 2021 to December 31, 2021
Axa General Insurance	Plate Glass Insurance for HKGCTO and HKGATO	January 1, 2021 to December 31, 2021

Insurance Company	Policy Description	Policy Term
AIG	Fire & Earthquake Insurance for Furniture & Equipment	February 27, 2021 to February 27, 2022
AIG	Fire & Earthquake Insurance for Furniture & Equipment	February 27, 2021 to February 27, 2022
AIG	Fire & Earthquake Insurance for Furniture & Equipment	February 27, 2021 to February 27, 2022
AIG	Fire & Earthquake Insurance for Furniture & Equipment	February 27, 2021 to February 27, 2022
AIG	Fire & Earthquake Insurance for Furniture & Equipment	February 27, 2021 to February 27, 2022
AIG	Fire & Earthquake Insurance for Furniture & Equipment	February 27, 2021 to February 27, 2022
AIG	Fire & Earthquake Insurance for Furniture & Equipment	February 27, 2021 to February 27, 2022
AIG	Auto Insurance for Company Cars	April 1, 2021 to April 1, 2022
AIA BHD	Office Insurance - Commercial Plus Fire/ Burglary	October 15, 2020 to October 14, 2021
QBE General Insurance	Material Damage Insurance (MFMATO)	September 23, 2020 to September 22, 2021
QBE General Insurance	Material Damage Insurance (MFMCTO)	August 1, 2020 to July 31, 2021
AIG Asia Pacific Insurance, PTE Ltd.	Property Insurance	September 23, 2020 to September 22, 2021
Fubon Fire Insurance	Property Insurance	October 18, 2020 to October 18, 2021

Exhibit D

List of Insurance Fees

Payee	Type of Fee or Expense	Period
New South Wales State Revenue Office	Stamp Duty on Insurance Premium	July 2021 to June 2022
Victoria State Revenue Office	Stamp Duty on Insurance Premium	July 2021 to June 2022
PNB General Insurers Co., Inc.	Handling Fee in relation to Aviation Insurance	December 15, 2020 to December 14, 2021
Willis Limited	Broker's Fee for Aviation Insurance	December 15, 2020 to December 14, 2021
Willis Limited (on behalf of Lead Aviation Reinsurer)	Leaders Fee	December 15, 2020 to December 14, 2021