

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

In re

GRUPO AEROMÉXICO, S.A.B. de C.V., *et al.*,

Debtors.¹

Chapter 11 Case

Case No. 20-11563 (SCC)

(Jointly Administered)

**AMENDED CONFIDENTIALITY STIPULATION AND PROTECTIVE ORDER
BETWEEN THE DEBTORS, COMMITTEE, DELTA,
APOLLO, THE AD HOC GROUP OF SENIOR NOTEHOLDERS, AND THE AD HOC
GROUP OF UNSECURED CLAIMHOLDERS.**

This amended stipulation (the “Amended Stipulation” or “Amended Protective Order”) is entered into by and between (a) Grupo Aeroméxico, S.A.B. de C.V. and its affiliated debtors and debtors in possession in these Chapter 11 Cases (collectively, the “Debtors”); (b) the Official Committee of Unsecured Creditors of Grupo Aeroméxico, S.A.B. de C.V. and its affiliated debtors and debtors in possession (the “Committee”); (c) Delta Air Lines, Inc. (“Delta,”); (d) Apollo Management Holdings, L.P. and its affiliates, including Alpage Debt Holdings S.à r.l. (“Apollo”), (e) the Ad Hoc Group of Holders of 7.000% Senior Notes due 2025² (the “Ad Hoc Group of Senior Noteholders”); and (f) certain beneficial holders or the

¹ The Debtors in these cases, along with each Debtor’s registration number in the applicable jurisdiction, are as follows: Grupo Aeroméxico, S.A.B. de C.V. 286676; Aerovías de México, S.A. de C.V. 108984; Aerolitoral, S.A. de C.V. 217315; Aerovías Empresa de Cargo, S.A. de C.V. 437094-1. The Debtors’ corporate headquarters is located at Paseo de la Reforma No. 243, piso 25 Colonia Cuauhtémoc, Mexico City, C.P. 06500.

² The Ad Hoc Group of Senior Noteholders collectively consists of certain unaffiliated beneficial holders, investment advisors or managers of beneficial holders of the 7.000% Senior Notes due 2025 as set forth in the Second Amended Verified Statement of the Ad Hoc Group of Senior Noteholders Pursuant to Bankruptcy Rule 2019, filed with the Bankruptcy Court in the Chapter 11 Cases on June 9, 2021, as thereafter amended.

investment advisors or managers for certain beneficial holders³ (the “Ad Hoc Group of Unsecured Claimholders” and collectively with the Debtors, the Committee, Delta, Apollo, and the Ad Hoc Group of Senior Noteholders, the “Parties” and each a “Party”).

WHEREAS, on June 30, 2020, the Debtors commenced voluntary cases under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court” or “Court”), and the Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, on July 13, 2020, the United States Trustee for the Southern District of New York appointed the Committee;

WHEREAS, on May 10, 2021 the Court entered the Confidentiality Stipulation and Protective Order Between the Debtors, Committee, and Delta [Dkt. 1163] (the “Original Stipulation”);

WHEREAS, Apollo, the Ad Hoc Group of Senior Noteholders, and Ad Hoc Group of Unsecured Claimholders, wish to join in and be subject to the terms of and afforded the

³ The Ad Hoc Group of Unsecured Claimholders consists of certain beneficial holders or the investment advisors or managers for certain beneficial holders as set forth in the Verified Statement of the Ad Hoc Group of Unsecured Claimholders Pursuant to Bankruptcy Rule 2019, filed with the Bankruptcy Court in the Chapter 11 Cases on August 9, 2021, as thereafter amended.

protections provided in the Original Stipulation and the Parties agree to do so pursuant to this Amended Stipulation.

NOW, THEREFORE, IT IS HEREBY STIPULATED, AGREED, AND UPON COURT APPROVAL HEREOF, IT IS ORDERED THAT:

1. This Amended Stipulation governs the production and/or provision of Materials⁴ as between the Debtors, the Committee, Delta, Apollo, the Ad Hoc Group of Senior Noteholders, and Ad Hoc Group of Unsecured Claimholders and does not affect, amend or modify any existing confidentiality agreements among, or protective orders otherwise applicable to any Party, other than to amend the Original Stipulation by adding Apollo, the Ad Hoc Group of Senior Noteholders, and the Ad Hoc Group of Unsecured Claimholders as Parties.

2. The Parties agree that the Parties shall submit this Order to the Court to serve as a proposed Confidentiality Agreement and Stipulated Protective Order for governing information exchanges and discovery. The Parties expressly agree to abide by the terms of this agreement even if this Order is not entered by the Court for any reason, unless the Court otherwise determines.

3. All materials provided by the Debtors, Delta, or Apollo to the Committee shall be designated as “Confidential” or “Highly Confidential” or “Bidder Confidential” (collectively, the “Material” or “Materials”). Confidential Materials shall constitute confidential or proprietary Materials that is of such a nature that a risk of competitive injury

⁴ “Materials” shall mean all documents and information provided henceforward by the Debtors, Delta, or Apollo, and may include, without limitation, trade secrets, confidential or proprietary information, operational data, business plans, and competitive analysis the disclosure of which, if not restricted as set forth in this Amended Stipulation, may subject Debtors, Delta or Apollo to competitive or financial injury.

would be created if such Material were disclosed to persons other than those identified in Paragraph 4 of this Order. Highly Confidential Materials shall constitute confidential or proprietary Materials, such as trade secrets, or sensitive financial or business information that is of such a nature that a risk of competitive injury would be created if such Materials were disclosed to persons other than those identified in Paragraph 5 of this Order. Bidder Confidential Materials shall constitute or include Materials related to the producing Party's analysis or consideration of any financing proposals that is of such a nature that a risk of competitive injury would be created if such Materials were disclosed to persons other than those identified in Paragraph 6 of this Order; provided, further, that "Confidential" and "Highly Confidential" and "Bidder Confidential" information shall not include: information that is at any time independently developed by the Committee, the Ad Hoc Group of Senior Noteholders, or the Ad Hoc Committee of Unsecured Claimholders without use of or reliance upon any of Materials; information rightfully acquired by the Committee, the Ad Hoc Group of Senior Noteholders, or the Ad Hoc Group of Unsecured Claimholders from an independent source without restrictions as to use; information that was, prior to being provided by the Debtors or Delta or Apollo, rightfully in the possession or knowledge of the Committee, the Ad Hoc Group of Senior Noteholders, and the Ad Hoc Group of Unsecured Claimholders; information that is publicly available in substantially the same form in which it was provided by the Debtors or Delta or Apollo; information that is required by law to be

made available to third parties; information that was, is or becomes public knowledge, not in violation of this Protective Order.

4. The Materials that have been designated Confidential shall be maintained in confidence and shall only be produced to and examined by the Parties to this Amended Stipulation and their professionals.

5. The Materials that have been designated Highly Confidential shall be maintained in confidence and shall only be produced to and examined by the outside legal counsel retained by each of the Parties to this Amended Stipulation and the following retained financial advisors: (i) Rothschild & Co US Inc. and Rothschild & Co Mexico S.A. de C.V., in their capacity as investment banker to the Debtors; (ii) AlixPartners, LLP, in its capacity as financial advisor to the Debtors; (iii) FTI Consulting, Inc. (“FTI”), in its capacity as financial advisor to the Committee; (iv) PJT Partners LP, in its capacity as investment banker and financial advisor to Delta; (v) Evercore Group, L.L.C., in its capacity as investment banker to Apollo; (vi) Seabury International Corporate Finance LLC, in its capacity as financial advisor to Apollo; (vii) Ducera Partners LLC, in its capacity as investment banker and financial advisor to the Ad Hoc Group of Senior Noteholders; (viii) BTG Pactual, in its capacity as Mexican investment banker to the Ad Hoc Group of Senior Noteholders; and (ix) Moelis & Company LLC, in its capacity as investment banker and financial advisor to the Ad Hoc Group of Unsecured Claimholders. Except as otherwise set forth in this paragraph, the Materials that have been designated as Highly Confidential shall not be provided to any individual member of the Committee, the Ad Hoc Group of Senior Noteholders, or the Ad Hoc Group of Unsecured Claimholders; any other employee, professional, consultant or other advisor to the Committee, the Ad Hoc Group of Senior

Noteholders, or the Ad Hoc Group of Unsecured Claimholders; or any of the Debtors' creditors pursuant to the Committee's obligations under section 1102(b)(3) of the Bankruptcy Code.

6. The Materials that have been designated as Bidder Confidential shall be maintained in confidence and shall only be produced to and examined by (i) Willkie Farr & Gallagher LLP ("Willkie") in its capacity as proposed counsel to the Committee, including Willkie's attorneys, legal assistants, paralegals, secretarial, and other staff; (ii) FTI, including FTI's accountants, advisors, consultants, and other staff; and (iii) Santamarina y Steta, S.C. ("S+S", collectively with Willkie and FTI, the "Professionals") in its capacity as Mexican counsel to the Committee, including S+S's attorneys, legal assistants, paralegals, secretarial, and other staff. The Materials that have been designated as Bidder Confidential shall not be provided to any individual member of the Committee; any other employee, professional, consultant or other advisor to the Committee; or any of the Debtors' creditors pursuant to the Committee's obligations under section 1102(b)(3) of the Bankruptcy Code.

7. The Confidential and Highly Confidential and Bidder Confidential Materials disclosed pursuant to this Amended Stipulation shall be used solely in connection with these Chapter 11 Cases; however, any settlement formulas contained within the Confidential or Highly Confidential or Bidder Materials may not be used related to any financial modeling or otherwise in these Chapter 11 Cases. Any summary, compilation, notes, memoranda, analysis, or copy containing Confidential or Highly Confidential or Bidder Material, and any electronic image or database containing Confidential or Highly Confidential or Bidder Confidential Material, shall be subject to the terms of the Protective Order to the same extent as the material or information from which such summary,

compilation, notes, copy, memoranda, analysis, electronic image or database is derived. No Confidential or Highly Confidential or Bidder Confidential Material shall be used for any other purpose, including business, governmental, commercial, administrative, or judicial proceedings other than these Chapter 11 Cases.

8. Any Party that seeks to file Confidential or Highly Confidential or Bidder Material with the Bankruptcy Court, or to disclose such Confidential or Highly Confidential or Bidder Material in any portions of pleadings, motions or other papers (or attachments thereto) to be filed with the Bankruptcy Court, shall file a motion to file such Confidential or Highly Confidential or Bidder Confidential Materials and/or portions of pleadings, motions or other papers (or attachments thereto) under seal (the “Sealing Motion”) with the Bankruptcy Court, absent a previous order from the Bankruptcy Court that such Confidential or Highly Confidential or Bidder Confidential Materials be filed under seal. Until the Bankruptcy Court rules on a Sealing Motion, no Confidential or Highly Confidential or Bidder Confidential Materials shall be filed with the Bankruptcy Court absent the producing Party’s prior written consent to the redacted form of such Confidential or Highly Confidential or Bidder Confidential Materials proposed to be filed. All such redactions shall remain in effect until the Bankruptcy Court rules on the Sealing Motion.

9. Notwithstanding the foregoing, solely in the event that any Party is requested or required (through discovery, subpoena, civil investigative demand, or other similar legal or investigative process) to disclose any of the Confidential or Highly Confidential or Bidder Material outside of these Chapter 11 Cases, the Party shall provide the Debtors, Delta, and Apollo with prompt written notice of any such request or requirement so that the Debtors, Delta and / or Apollo may seek a protective order or other appropriate

remedy and/or waive compliance with the provisions of this Amended Stipulation in respect of such request or requirement. If, in the absence of a protective order or other remedy or the receipt of a waiver by the Party, the Party is nonetheless, in the opinion of its counsel, legally compelled to disclose such Confidential or Highly Confidential or Bidder Confidential Material or else stand liable for contempt or suffer other censure or significant penalty, the Party may, without liability under this Amended Stipulation, disclose only that portion of the Confidential or Highly Confidential or Bidder Confidential Material which its counsel advises it is legally required to be disclosed, provided that the Party exercises its commercially reasonable efforts to preserve the confidentiality of the Confidential or Highly Confidential or Bidder Confidential Material, including, without limitation, by taking commercially reasonable measures to cooperate with the Debtors, Delta and / or Apollo to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Confidential or Highly Confidential or Bidder Confidential Material by the party to whom such material will be produced, and then only with as much prior written notice to the Debtors, Delta and Apollo as is practical under the circumstances. In no event will the Party oppose action by the Debtors, Delta or Apollo outside of these Chapter 11 Cases to obtain a protective order or other relief to prevent the disclosure of the Confidential or Highly Confidential or Bidder Confidential Material or to obtain reliable assurance that confidential treatment will be afforded the Confidential or Highly Confidential or Bidder Confidential Material.

10. Neither this Amended Stipulation nor disclosure of any Confidential or Highly Confidential or Bidder Confidential Material by the Debtors, Delta, or Apollo shall be deemed by implication or otherwise to vest in the Committee, or any other Party to this

agreement, rights in or to such Confidential or Highly Confidential or Bidder Confidential Material other than the right to use such Confidential or Highly Confidential or Bidder Confidential Material solely in accordance with this Amended Stipulation. It is understood and agreed by the Parties that no failure or delay by the Debtors, Delta, or Apollo in exercising any right, power, or privilege pursuant to this Amended Stipulation shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege pursuant to this Amended Stipulation. Entry into this Amended Stipulation and/or producing Confidential or Highly Confidential or Bidder Confidential Material pursuant hereto shall not prejudice in any way the Debtors', Delta's, and Apollo's rights to object to the authenticity or admissibility into evidence of any testimony or other evidence subject hereto.

11. Notwithstanding the designation of the Materials as Confidential or Highly Confidential or Bidder Confidential Material, nothing in this Protective Order shall limit the right of any Party to this Amended Stipulation, or any third party's right, to challenge such designation in the Bankruptcy Court or any other court of competent jurisdiction.

12. Except as provided herein, all obligations under this Amended Stipulation shall terminate and be of no further force or effect on the date that is three (3) months from the earliest of: (a) the effective date of a chapter 11 plan of reorganization for the Debtors, (b) the dismissal of the Chapter 11 Cases and (c) the conversion of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code (collectively, the "Case Closure"). Within sixty (60) days after the Case Closure, all persons having received Confidential or Highly Confidential Material shall either return such material and all copies thereof

(including summaries and excerpts) to the Party which produced such Confidential or Highly Confidential or Bidder Confidential Material or destroy all such Confidential or Highly Confidential or Bidder Confidential Material and certify that fact to the producing Party. Documents that have been received electronically and that cannot be returned or destroyed must be electronically deleted and deleted from “trash” files. This does not require that the Professionals destroy work product or correspondence.

13. No amendment, waiver, or modification of any provision of this Amended Stipulation shall be effective unless the same shall be in writing and signed by the Parties.

14. Neither this Amended Stipulation, nor any negotiations or proceedings in connection herewith, may be used or be admissible in any proceeding against any Party to this Amended Stipulation for any purpose, except to enforce the terms of this Amended Stipulation.

15. This Amended Stipulation may be signed in counterparts which, when taken as a whole, shall constitute one and the same document; faxed or electronic signatures shall be deemed originals.

16. Each individual signing this Amended Stipulation on behalf of any Party hereto acknowledges and, with respect to his or her own signature below, warrants and represents that he or she is authorized to execute this Amended Stipulation in his or her

representative capacity with binding effect, as reflected below and on behalf of the Party indicated.

17. This Amended Stipulation shall be governed by and shall be interpreted in accordance with the laws of the State of New York, except to the extent that the Bankruptcy Code applies, without regard to New York's rules governing conflict of laws.

18. The Bankruptcy Court shall have jurisdiction to interpret and enforce this Amended Stipulation, and the Parties consent to the jurisdiction of the Bankruptcy Court with respect to the interpretation and enforcement of this Amended Stipulation.

Dated: New York, New York
August 16, 2021

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SO ORDERED this 16th day of August 2021

/S/ Shelley C. Chapman

UNITED STATES BANKRUPTCY JUDGE