

**Hearing Date and Time: September 20, 2021 at 1:00 p.m. (Prevailing Eastern Time)**  
**Objection Date and Time: September 13, 2021 at 4:00 p.m. (Prevailing Eastern Time)**

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

**In re:**

**GRUPO AEROMÉXICO, S.A.B. de C.V., et al.,  
Debtors.<sup>1</sup>**

**Chapter 11**

**Case No. 20-11563 (SCC)**

**(Jointly Administered)**

**NOTICE OF HEARING ON DEBTORS' MOTION FOR ENTRY OF AN ORDER  
AUTHORIZING DEBTORS TO REJECT THAT CERTAIN AIRCRAFT LEASE**

**PLEASE TAKE NOTICE** that, on August 20, 2021, the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) filed the *Debtors’ Motion for Entry of an Order Authorizing Debtors To Reject that Certain Aircraft Lease* (the “**Motion**”). A hearing on the Motion is scheduled to be held on **September 20, 2021 at 1:00 p.m. (prevailing Eastern Time)** (the “**Hearing**”) before the Honorable Judge Shelley C. Chapman, United States

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<sup>1</sup> 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; and 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.

Bankruptcy Judge, in the United States Bankruptcy Court for the Southern District of New York (the “**Court**”), or at such other time as the Court may determine.

**PLEASE TAKE FURTHER NOTICE** that, in accordance with General Order M-543, dated March 20, 2020 (Morris, C.J.) (“**General Order M-543**”),<sup>2</sup> the Hearing will be conducted telephonically. Any parties wishing to participate must do so telephonically by making arrangements through CourtSolutions, LLC ([www.court-solutions.com](http://www.court-solutions.com)). Instructions to register for CourtSolutions, LLC are attached to General Order M-543.

**PLEASE TAKE FURTHER NOTICE** that copies of the Motion may be obtained free of charge by visiting the website of Epiq Corporate Restructuring, LLC at <https://dm.epiq11.com/aeromexico>. You may also obtain copies of any pleadings by visiting the Court’s website at <http://www.nysb.uscourts.gov> in accordance with the procedures and fees set forth therein.

**PLEASE TAKE FURTHER NOTICE** that the Hearing may be continued or adjourned from time to time by an announcement of the adjourned date or dates at the Hearing or a later hearing or by filing a notice with the Court. The Debtors will file an agenda before the Hearing, which may modify or supplement the motion(s) to be heard at the Hearing.

**PLEASE TAKE FURTHER NOTICE** that any responses or objections to the Motion shall be in writing, shall comply with the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules for the Southern District of New York, shall be filed with the Court by (a) attorneys practicing in the Court, including attorneys admitted *pro hac vice*, electronically in accordance with General Order M-399 (which can be found at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov)) and

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<sup>2</sup> A copy of the General Order M-543 can be obtained by visiting <http://www.nysb.uscourts.gov/news/general-order-m-543-court-operations-under-exigent-circumstances-created-covid-19>.

(b) all other parties in interest, in accordance with the customary practices of the Court and General Order M-399, to the extent applicable, and shall be served in accordance with General Order M-399 and the *Order Establishing Certain Notice, Case Management, and Administrative Procedures*, entered on July 8, 2020 [ECF No. 79], so as to be filed and received no later than **September 13, 2021 at 4:00 p.m. (prevailing Eastern Time)** (the “**Objection Deadline**”).

**PLEASE TAKE FURTHER NOTICE** that all objecting parties are required to telephonically attend the Hearing, and failure to appear may result in relief being granted upon default.

**PLEASE TAKE FURTHER NOTICE** that, if no responses or objections are timely filed and served with respect to the Motion, the Debtors may, on or after the Objection Deadline, submit to the Court an order substantially in the form of the proposed order annexed to the Motion, under certification of counsel or certification of no objection, which order may be entered by the Court without further notice or opportunity to be heard.

Dated: August 20, 2021  
New York, New York

DAVIS POLK & WARDWELL LLP

By: /s/ Timothy Graulich

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

**In re:**

**GRUPO AEROMÉXICO, S.A.B. de C.V., et al.,  
  
Debtors.<sup>1</sup>**

**Chapter 11**

**Case No. 20-11563 (SCC)**

**(Jointly Administered)**

**PARTIES RECEIVING THIS MOTION SHOULD LOCATE THEIR NAMES AND  
AIRCRAFT IN SCHEDULE 1 ATTACHED TO THE PROPOSED ORDER (AS DEFINED  
HEREIN)**

**DEBTORS' MOTION FOR ENTRY OF AN ORDER AUTHORIZING DEBTORS TO  
REJECT THAT CERTAIN AIRCRAFT LEASE**

Grupo Aeroméxico, S.A.B. de C.V. (“**Grupo Aeroméxico**”) and certain of its affiliates (collectively, the “**Debtors**”), each of which is a debtor and debtor in possession in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”), hereby file this motion (this “**Motion**”) seeking the entry of an order authorizing Debtor Aerovías de México, S.A. de C.V. (the “**Debtor Lessee**”) to reject the Rejected Lease (as defined herein). This Motion is supported by the

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<sup>1</sup> 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; and 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.

*Declaration of Matthew Landess in Support of Debtors' Motion for Entry of an Order Authorizing Debtors To Reject that Certain Aircraft Lease* (the “**Landess Declaration**”) attached hereto as **Exhibit B** and incorporated herein by reference. In further support of this Motion, the Debtors respectfully state as follows:

### **Jurisdiction and Venue**

1. The United States Bankruptcy Court for the Southern District of New York (the “**Court**”) has jurisdiction over this Motion 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.). This is a core proceeding pursuant to 28 U.S.C. § 157(b). In addition, the Debtors confirm their 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 a final order or judgment in connection herewith consistent with Article III of the United States Constitution.

2. Venue of the Chapter 11 Cases and related proceedings is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

### **Relief Requested**

3. By this Motion, and pursuant to sections 365(a), 554(a), and 105(a) of chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) and Bankruptcy Rule 6006 the Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “**Proposed Order**” and, if entered, the “**Order**”) authorizing the Debtor Lessee to reject that certain aircraft lease (the “**Rejected Lease**”) for the aircraft (the “**Rejected Aircraft**”) identified on Schedule 1 to the Proposed Order.

## **Background**

### **A. General Background**

4. On June 30, 2020 (the “**Petition Date**”), each of the Debtors filed in this Court voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors have continued to operate and manage their businesses and have continued to possess their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

5. The Chapter 11 Cases are being jointly administered for procedural purposes only pursuant to Bankruptcy Rule 1015(b) and the *Order Directing Joint Administration of Chapter 11 Cases* [ECF No. 30] entered by the Court on July 1, 2020 in Grupo Aeroméxico’s Chapter 11 Case.<sup>2</sup>

6. On July 13, 2020, the Office of the United States Trustee for the Southern District of New York (the “**U.S. Trustee**”) appointed an Official Committee of Unsecured Creditors (the “**Committee**”) pursuant to section 1102 of the Bankruptcy Code. *See Notice of Appointment of Official Committee of Unsecured Creditors* [ECF No. 92]. No trustee or examiner has been appointed in the Chapter 11 Cases.

7. Detailed information regarding the Debtors’ businesses and affairs, capital structure, and the circumstances leading to the commencement of the Chapter 11 Cases can be found in the *Declaration of Ricardo Javier Sánchez Baker in Support of the Debtors’ Chapter 11 Petitions and First Day Pleadings* [ECF No. 20], which is incorporated herein by reference.

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<sup>2</sup> On July 2, 2020, the Court entered similar orders for the other Debtors on their respective Court dockets. *See In re Aerovías de México, S.A. de C.V.*, No. 20-11561, ECF No. 2; *In re Aerolitoral, S.A. de C.V.*, No. 20-11565, ECF No. 2; *In re Aerovías Empresa de Cargo, S.A. de C.V.*, No. 20-11566, ECF No. 2.

**B. The Debtors' Fleet Optimization Process**

8. As the Court is aware, the Debtors have been engaged in a multi-step process to (a) analyze their anticipated, long-term fleet and equipment needs, (b) make corresponding adjustments to the size and composition of their current operating fleet, and (c) obtain the most favorable terms for agreements relating to aircraft equipment. Over the last several months, the Debtors have continued negotiating with existing lessors and potential lessors of additional aircraft equipment to obtain the best terms available for the aircraft and equipment that will be necessary for the Debtors to pursue their long-term business plan and to optimize their anticipated fleet upon emergence from the Chapter 11 Cases.

9. As a result of arm's length and good faith negotiations, the Debtors have reached agreement with lessors to either (a) enter into new aircraft leases for new aircraft or (b) assume current aircraft leases on an amended basis. By agreeing to such transactions and receiving Court approvals [ECF Nos. 396, 399–429, 475, 491, 502, 984, 1100, 1141, 1154, 1156–57, 1161, 1544, 1572–73], the Debtors achieved certainty in maintaining and adding aircraft in and to their fleet on terms that fit the Debtors' short- and long-term needs and that the Debtors believe are advantageous. These aircraft provided the Debtors with attractive economics and ownership costs compared to the Debtors' average prepetition lease costs for similar equipment.

10. In addition to the improved costs and better terms and conditions, these transactions also created operational flexibility for the Debtors, as they allowed the Debtors to potentially reject other costly aircraft or equipment that are not as attractive for the long term fleet. Although the Debtors are negotiating with the lessor of the Rejected Aircraft (the "**Rejected Lessor**") terms and conditions to potentially assume the Rejected Lease on an amended basis, the Debtors must be prepared and in position to reject the Rejected Lease if they are unable to agree to terms that fit the Debtors' short- and long-term plans.

### **Basis for Relief**

11. Section 365 of the Bankruptcy Code allows a debtor in possession (with bankruptcy court approval) to maximize the value of its estates by, among other things, assuming or rejecting executory contracts and unexpired leases. 11 U.S.C. § 365(a); *see also NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 521 (1984). An executory contract is a “contract under which the obligation of both the bankrupt and the other party to the contract are so far unperformed that the failure of either to complete performance would constitute a material breach excusing performance of the other.” *Sharon Steel Corp. v. Nat’l Fuel Gas Distribution Corp.*, 872 F.2d 36, 39 (3d Cir. 1989) (internal citations omitted); *see also In re Keren Ltd. P’ship*, 225 B.R. 303, 307 (S.D.N.Y. 1997), *aff’d*, 189 F.3d 86 (2d Cir. 1999) (same). “[T]he purpose behind allowing the assumption or rejection of executory contracts is to permit the trustee or debtor-in-possession to use valuable property of the estate and to ‘renounce title to and abandon burdensome property.’” *Orion Pictures Corp. v. Showtime Networks, Inc. (In re Orion Pictures Corp.)*, 4 F.3d 1095, 1098 (2d Cir. 1993).

12. In determining whether to permit a debtor to assume or reject a contract or lease, “the debtor’s interests are paramount.” *COR Route 5 Co. v. Penn Traffic Co. (In re Penn Traffic Co.)*, 524 F.3d. 373, 383 (2d Cir. 2008). Accordingly, the decision to assume or reject an executory contract or unexpired lease is governed by the business judgment rule, which requires that a debtor determine that the requested assumption would be beneficial to its estates. *See Grp. of Institutional Invs. v. Chicago, M., St. P. & P. R. Co.*, 318 U.S. 523, 550 (1943) (finding that the question of assumption or rejection “is one of business judgment”); *In re Penn Traffic*, 524 F.3d at 383; *In re Old Carco LLC*, 406 B.R. 180, 188 (Bankr. S.D.N.Y. 2009); *In re Helm*, 335 B.R. 528, 538 (Bankr. S.D.N.Y. 2006); *In re MF Global Inc.*, No. 11-2790, 2011 WL 6792758, at \*2 (Bankr. S.D.N.Y. Dec. 20, 2011) (“The assumption or rejection of an executory contract



may be approved if such action would benefit the debtor's estate and is an exercise of sound business judgment."); *Sharon Steel*, 872 F.2d at 40.

13. In considering a motion to assume or reject an executory contract or unexpired lease, a debtor "should examine a contract and the surrounding circumstances and apply its best 'business judgment' to determine if [assumption] would be beneficial or burdensome to the estate." *In re Orion Pictures Corp.*, 4 F.3d at 1099; *see also In re Gucci*, 193 B.R. 411, 414–15 (S.D.N.Y. 1996). A debtor's decision to assume or reject an executory contract or unexpired lease based on its business judgment will generally not be disturbed absent a showing of "bad faith or abuse of business discretion." *In re Old Carco*, 406 B.R. at 188 (quoting *In re G Survivor Corp.*, 171 B.R. 755, 757 (Bankr. S.D.N.Y. 1994), *aff'd sub nom. John Forsyth Co., Inc. v. G Licensing, Ltd.*, 187 B.R. 111 (S.D.N.Y. 1995)); *see also In re MF Global Inc.*, No. 11-2790, 2011 WL 6792758, at \*2 (Bankr. S.D.N.Y. Dec. 20, 2011) ("The assumption or rejection of an executory contract may be approved if such action would benefit the debtor's estate and is an exercise of sound business judgment."); *In re Chipwich, Inc.*, 54 B.R. 427, 430–31 (Bankr. S.D.N.Y. 1985). The party opposing a debtor's exercise of its business judgment has the burden of rebutting the presumption of validity. *See 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).

14. Upon finding that the debtor has exercised its sound business judgment in determining that the assumption or rejection of a contract or lease is in the best interests of the debtor, its creditors, and all parties in interest, the court should approve the assumption or rejection under section 365(a) of the Bankruptcy Code. *See, e.g., In re Child World, Inc.*, 142 B.R. 87, 89 (Bankr. S.D.N.Y. 1992).

15. Moreover, section 105(a) of the Bankruptcy Code confers the Court with broad equitable powers 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).

16. The Debtors respectfully submit that the relief requested herein is fair, equitable, reasonable, and in the best interests of the Debtors’ estates and is, thus, justified under sections 365(a) and 105(a) of the Bankruptcy Code. As described above and in the Landess Declaration, the Debtors are seeking to reset their fleet and attendant costs to a market level. As part of this process, the Debtors are evaluating their fleet of aircraft and equipment, reviewing the relevant underlying leases and agreements, and, to the extent prudent, negotiating amendments to such leases and agreements for aircraft and equipment that the Debtors desire to maintain. In doing so, the Debtors compared the Rejected Lease and the Rejected Aircraft to available alternatives and determined (in good faith and after consultation with their key stakeholders) that they needed to negotiate new economically favorable terms for the Rejected Lease that are in line with the Debtors’ business plans. Accordingly, the Debtors approached the Rejected Lessor to negotiate new terms and conditions for the Rejected Lease. To date, however, the Debtors have not reached agreement with the Rejected Lessor and the Debtors must be prepared and in position to reject the Rejected Lease if they are unable to agree to terms that fit the Debtors’ short- and long-term plans.

17. Finally, the relief sought herein is similar to the relief granted by this Court in connection with the rejection of aircraft, engines, and related equipment leases in the Chapter 11 Cases and under similar circumstances. *See, e.g., In re Grupo Aeroméxico, S.A.B. de C.V.*, Case No. 20-11563 (SCC) (Bankr. S.D.N.Y.) [ECF Nos. 177, 210]; *In re LATAM Airlines Group S.A.*, Case No. 20-11254 (JLG) [ECF No. 391] (Bankr. S.D.N.Y. Jun. 28, 2020); *In re Avianca*

*Holdings S.A.*, Case No. 20-11133 (MG) [ECF No. 277] (Bankr. S.D.N.Y. Jun. 11, 2020); *In re AMR Corporation*, Case No. 11-15463 (SHL) [ECF No. 454] (Bankr. S.D.N.Y. Dec. 23, 2011); *In re Northwest Airlines Corp.*, Case No. 05-17930 (ALG) [ECF No. 672] (Bankr. S.D.N.Y. Oct. 20, 2005); *In re Delta Air Lines, Inc.*, Case No. 05-17923 (PCB) [ECF No. 164] (Bankr. S.D.N.Y. Sept. 16, 2005).

18. In light of the foregoing, the Debtors respectfully request that the Court approve the rejection of the Rejected Lease pursuant to section 365(a) of the Bankruptcy Code.<sup>3</sup>

### **Notice**

19. Notice of this Motion will be provided to the following parties: (a) the entities on the Master Service List (as defined in the *Order Establishing Certain Notice, Case Management, and Administrative Procedures* [ECF No. 79], which is available on the Debtors' case website at <https://dm.epiq11.com/case/aeromexico/info>); (b) the U.S. Trustee; (c) counsel to the Committee; (d) counsel to Apollo Management Holdings, L.P.; (e) counsel to the Ad Hoc Group; (f) each party listed on Schedule 1 to the Proposed Order; and (g) any person or entity with a particularized interest in the subject matter of this Motion. The Debtors respectfully submit that no other or further notice is required.<sup>4</sup>

### **Reservation of Rights**

20. Nothing contained herein or any action taken pursuant to such relief is intended or shall be construed as (a) an admission as to the validity or priority of any claim against the

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<sup>3</sup> In the alternative, although the Debtors believe that the Rejected Lease is a true lease, in the event that the Rejected Aircraft is considered collateral for secured obligations, the Debtors respectfully request authority to abandon the Rejected Aircraft pursuant to section 554(a) of the Bankruptcy Code.

<sup>4</sup> The filing and service of this Motion shall also be deemed to constitute the notice required under Paragraph ¶ 3(d) of the *Stipulation and Order Between Certain Debtors and Counterparties Concerning Certain Equipment* [ECF No. 424] (the "**Stipulation**").

Debtors, (b) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of, any claim against the Debtors, or (c) a waiver of any claims or causes of action which may exist against any creditor or interest holders.. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Order is not intended to be, and should not be construed as, an admission as to the validity or priority of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.

**No Prior Request**

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

*[Remainder of page intentionally left blank]*

WHEREFORE, the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as the Court deems just and proper.

Dated: August 20, 2021  
New York, New York

DAVIS POLK & WARDWELL LLP

By: /s/ Timothy Graulich

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Timothy Graulich  
Steven Z. Szanzer  
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*Counsel to the Debtors  
and Debtors in Possession*

**Exhibit A**

**Proposed Order**

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

**In re:**

**GRUPO AEROMÉXICO, S.A.B. de C.V., et  
al.,  
  
Debtors.<sup>1</sup>**

**Chapter 11**

**Case No. 20-11563 (SCC)**

**(Jointly Administered)**

**ORDER AUTHORIZING DEBTORS TO  
REJECT THAT CERTAIN AIRCRAFT LEASE**

Upon the motion (the “**Motion**”)<sup>2</sup> of the Debtors for entry of an order (this “**Order**”), authorizing the Debtor Lessee to reject the Rejected Lease as set forth more fully in the Motion and the Landess Declaration; 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 of the Chapter 11 Cases and related proceedings being proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the notice parties identified in the Motion; such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion [and held a hearing to consider the relief requested in the Motion on September 20, 2021 (the “**Hearing**”)]; and upon [the record of the Hearing, and upon] all of the

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<sup>1</sup> 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; and 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.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

proceedings had before the Court; and after due deliberation the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and the Court having found that the relief granted herein is in the best interests of the Debtors, their creditors, and all other parties in interest; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted to the extent set forth herein.
2. The Debtor Lessee's rejection of the Rejected Lease, as identified on **Schedule 1** hereto, is hereby approved and effective as of October 15, 2021 (the "**Rejection Date**"), pursuant to section 365 and 105 of the Bankruptcy Code and Bankruptcy Rule 6006.
3. On the Rejection Date, the terms of the Rejected Lease shall not be enforceable against the Debtors; *provided, however*, that the terms of this paragraph shall not prevent a counterparty from prosecuting any right or claim against any non-Debtor third party related to the Rejected Lease.
4. The Rejected Lessor may file a claim under section 502 of the Bankruptcy Code or other claims in connection with the Rejected Lease by no later than 30 days after the Rejection Date. Any person or entity that fails to timely file such proof of claim (a) shall be forever barred, estopped, and enjoined from asserting such claim against the Debtors or thereafter filing a proof of claim with respect thereto in the Chapter 11 Cases, (b) shall not, with respect to such claim, be treated as a creditor of the Debtors for the purpose of voting on any plan in the Chapter 11 Cases, and (c) shall not receive or be entitled to receive any payment or distribution of property from the Debtors or their successors or assigns with respect to such claim in the Chapter 11 Cases.



5. Nothing in this Order nor any action by the Debtors pursuant to this Order shall be construed as or deemed to constitute (a) an agreement or admission by the Debtors as to the categorization, priority, or validity of any claim against the Debtors on any grounds, (b) a grant of third party beneficiary status or bestowal of any additional rights on any third party, (c) a waiver or impairment of any rights, claims, or defenses of the Debtors' rights to dispute any claim on any grounds, (d) a promise by the Debtors to pay any claim, or (e) an implication or admission by the Debtors that such claim is payable pursuant to this Order.

6. To the extent necessary, the automatic stay provided by section 362 of the Bankruptcy Code is hereby modified as to the Debtors to allow the parties to effectuate the provisions of this Order and to transfer, move, and dispose of the aircraft subject to the Rejected Lease.

7. The Debtors shall make the Rejected Aircraft available for retrieval by the Rejected Lessor as of the Rejection Date. The Rejected Lessor must remove its Rejected Aircraft from the location designated in **Schedule 1** hereto. If the Rejected Lessor does not retrieve the Rejected Aircraft within five days of the Rejection Date, the Rejected Lessor shall be responsible for the costs of storing the Rejected Aircraft and other attendant costs as determined by the Debtors, including the costs of insuring and maintaining the Rejected Aircraft.

8. Notwithstanding anything contained herein, the Debtors and the Rejected Lessor shall comply with Paragraphs 3(d) and 4 of the Stipulation in connection with the payments related to the rejection of the Rejection Aircraft, the redelivery process of the Rejected Aircraft, and any costs related thereto.

9. Notwithstanding any subsequent appointment of any trustee(s) under any chapter of the Bankruptcy Code, this Order shall be binding in all respects upon, and shall inure to the

benefit of, the Debtors, their estates, and their creditors, their respective affiliates, successors, and assigns, and any affected third parties, including, but not limited to, the Rejected Lessor and all other persons asserting interests in the Rejected Aircraft or Rejected Lease.

10. The Debtors are authorized to take, or refrain from taking, any action necessary or appropriate to implement and effectuate the terms of, and the relief granted in, this Order without seeking further order of the Court.

11. While the above referenced Chapter 11 Cases are pending, this Court shall retain exclusive jurisdiction over any and all matters arising from or related to the implementation, interpretation, and enforcement of this Order

Dated: \_\_\_\_\_, 2021  
New York, New York

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THE HONORABLE SHELLEY C. CHAPMAN  
UNITED STATES BANKRUPTCY JUDGE

**Schedule 1**

**Rejected Lease for Rejected Aircraft<sup>1</sup>**

Lessee, Sublessee	Notice Parties	Airframe Mfr., Model, Serial Number	Registration No.	Original Engine Mfr., Model, Serial Nos. ESN)	Location of Rejected Aircraft
Pinata Leasing Co., Ltd.	<p>LESSOR  <b>Pinata Leasing Co., Ltd.</b>  c/o Sumitomo Mitsui Finance and Leasing Company, Limited  1-3-2 Marunouchi  Chiyoda-ku, Tokyo 100-8287  Japan  Facsimile: + 81 3 5219 6576  Attention: General Manager of Investment Business Dept.</p> <p>FACILITY AGENT(ACTING ON BEHALF OF ITSELF AND THE LENDERS)  <b>Sumitomo Mitsui Banking Corporation, New York Branch</b>  277 Park Avenue  New York, NY 10172  United States of America  Attention: Shawn Powers  Fax: +1 212 918 1633</p> <p><i>With a copy to:</i>  Sumitomo Mitsui Banking Corporation, New York Branch 277 Park Avenue  New York, NY 10172  United States of America  Attention: Agency Services  Fax: +1 212 918 1633</p>	Boeing model B787-9 43860	XA-ADC	General Electric Company GEnx-1B74/75 956828 and 956829	TBD

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<sup>1</sup> The inclusion of the Rejected Lease on this schedule does not constitute an admission as to the existence, validity, or priority of any claims held by the counterparty or counterparties to the Rejected Contract.

Lessee, Sublessee	Notice Parties	Airframe Mfr., Model, Serial Number	Registration No.	Original Engine Mfr., Model, Serial Nos. ESN)	Location of Rejected Aircraft
	<p>SECURITY AGENT  <b>Sumitomo Mitsui Banking Corporation, New York Branch</b>  277 Park Avenue  New York, NY 10172  United States of America  Attention: Shawn Powers  Fax: +1 212 918 1633</p> <p><i>With a copy to:</i>  Sumitomo Mitsui Banking Corporation, New York Branch 277 Park Avenue  New York, NY 10172  United States of America  Attention: Agency Services  Fax: +1 212 918 1633</p>				

**Exhibit B**

**Landess Declaration**

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

**In re:**

**GRUPO AEROMÉXICO, S.A.B. de C.V., *et al.*,  
Debtors.<sup>1</sup>**

**Chapter 11**

**Case No. 20-11563 (SCC)**

**(Jointly Administered)**

**DECLARATION OF MATTHEW LANDESS IN SUPPORT OF DEBTORS'  
MOTION FOR ENTRY OF AN ORDER AUTHORIZING DEBTORS TO  
REJECT THAT CERTAIN AIRCRAFT LEASE**

I, Matthew Landess, declare as follows:

1. I am a partner of SkyWorks Capital, LLC (“**SkyWorks**”), which serves as aircraft fleet restructuring financial advisor to the debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”) and served in such capacity prior to the commencement of these cases. I have been employed by SkyWorks or its affiliates since 2008.

2. As a Partner at SkyWorks, I have advised several airlines during their restructuring processes. I have worked on bankruptcy cases in the airline industry, including TWA, Delta Air Lines, and American Airlines. I have advised multiple industry-leading airlines on matters relating to fleet planning, including aircraft orders, aircraft financing structures, tax leases, operating leases, capital leases and multiple debt structures, and negotiating contracts on behalf of my clients that have enabled them to collectively save billions of dollars and successfully restructure their businesses.

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<sup>1</sup> 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 Mexico, S.A. de C.V. 108984; Aerolitoral, S.A. de C.V. 217315; and 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.

3. I submit this declaration (this “**Declaration**”) in support of the *Debtors’ Motion for Entry of an Order Authorizing Debtors To Reject that Certain Aircraft Lease “Motion”*).<sup>2</sup>

4. The statements in this Declaration are, except where specifically noted, based on my personal knowledge or opinion, on information that I have received from the Debtors’ employees or advisors or professionals of SkyWorks working directly with me or under my supervision, direction, or control, or from the Debtors’ books and records maintained in the ordinary course of their businesses.<sup>3</sup>

5. I am not being specifically compensated for this testimony other than through payments received by SkyWorks as a professional retained by the Debtors. I am over the age of 18 years and authorized to submit this Declaration on behalf of the Debtors. If I were called upon to testify, I could and would competently testify to the facts set forth herein.

### **Declaration**

6. As set forth in the Motion, the Debtors have been engaged in a multi-step process to (a) analyze their anticipated, long-term fleet and equipment needs, (b) make corresponding adjustments to the size and composition of their current operating fleet, and (c) obtain the most favorable terms for agreements relating to aircraft equipment. Over the last several months, the Debtors have continued negotiating with existing lessors and potential lessors of additional aircraft equipment to obtain the best terms

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<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Motion.

<sup>3</sup> This Declaration is based on SkyWorks’ knowledge of the Debtors, the Chapter 11 Cases, and their fleet (aside from aircraft bearing manufacturer’s serial number 35311).

available for the aircraft and equipment that will be necessary for the Debtors to pursue their long-term business plan and to optimize their anticipated fleet upon emergence from the Chapter 11 Cases.

7. As a result of arm's length and good faith negotiations, the Debtors have reached agreement with lessors to either (a) enter into new aircraft leases for new aircraft or (b) assume current aircraft leases on an amended basis. By agreeing to such transactions and receiving Court approvals [ECF Nos. 396, 399–429, 475, 491, 502, 984, 1100, 1141, 1154, 1156–57, 1161, 1544, 1572–73], the Debtors achieved certainty in maintaining and adding aircraft in and to their fleet on terms that fit the Debtors' short- and long-term needs and that the Debtors believe are advantageous. These aircraft provided the Debtors with attractive economics and ownership costs compared to the Debtors' average prepetition lease costs for similar equipment.

8. In addition to the improved costs and better terms and conditions, these transactions also created operational flexibility for the Debtors, as they allowed the Debtors to potentially reject other costly aircraft or equipment that are not as attractive for the long term fleet. Although the Debtors are negotiating with the lessor of the Rejected Aircraft (the “**Rejected Lessor**”) terms and conditions to potentially assume the Rejected Lease on an amended basis, the Debtors must be prepared and in position to reject the Rejected Lease if they are unable to agree to terms that fit the Debtors' short- and long-term plans.

9. The Debtors are seeking to reset their fleet and attendant costs to a market level. As part of this process, the Debtors are evaluating their fleet of aircraft and equipment, reviewing the relevant underlying leases and agreements, and, to the extent



prudent, negotiating amendments to such leases and agreements for aircraft and equipment that the Debtors desire to maintain. In doing so, the Debtors compared the Rejected Lease and the Rejected Aircraft to available alternatives and determined (in good faith and after consultation with their key stakeholders) that they needed to negotiate new economically favorable terms for the Rejected Lease that are in line with the Debtors' business plans. Accordingly, the Debtors approached the Rejected Lessor to negotiate new terms and conditions for the Rejected Lease. To date, however, the Debtors have not reached agreement with the Rejected Lessor and the Debtors must be prepared and in position to reject the Rejected Lease if they are unable to agree to terms that fit the Debtors' short- and long-term plans.

10. For the reasons set forth above, I believe that (a) the relief requested in the Motion is fair, equitable, and reasonable and represents a sound exercise of the Debtors' business judgment and (b) the Court's authorization for the Debtors to reject the Rejected Leases is in the best interest of their estates and economic stakeholders.

11. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed this 20<sup>th</sup> day of August, 2021  
in New York, New York

/s/ Matthew Landess  
Matthew Landess