

Hearing Date and Time: December 13, 2021 at 11:30 a.m. (Prevailing Eastern Time)
Objection Date and Time: December 8, 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.¹**

Chapter 11

Case No. 20-11563 (SCC)

(Jointly Administered)

**NOTICE OF HEARING ON DEBTORS' MOTION FOR ENTRY
OF AN ORDER APPROVING THE CLAIMS SETTLEMENT
AMONG DEBTOR AEROVÍAS DE MÉXICO, S.A. DE C.V., SUMIDERO
LIMITED, SUMITOMO MITSUI BANKING CORPORATION, BRUSSELS
BRANCH, AS FACILITY AGENT, SMBC BANK INTERNATIONAL PLC,
AS SECURITY AGENT, AND SUMITOMO MITSUI BANKING
CORPORATION, BRUSSELS BRANCH AND NATIXIS S.A., AS LENDERS**

PLEASE TAKE NOTICE that, on November 29, 2021, the above-captioned debtors and
debtors in possession (collectively, the “**Debtors**”) filed the *Debtors’ Motion for Entry of an Order
Approving the Claims Settlement Among Debtor Aerovías de México, S.A. de C.V., Sumidero*

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; 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.

Limited, Sumitomo Mitsui Banking Corporation, Brussels Branch, as Facility Agent, SMBC Bank International PLC, as Security Agent, and Sumitomo Mitsui Banking Corporation, Brussels Branch and Natixis S.A., as Lenders (the “**Motion**”). A hearing on the Motion is scheduled to be held on **December 13, 2021 at 11:30 a.m. (prevailing Eastern Time)** (the “**Hearing**”) before the Honorable Judge Shelley C. Chapman, United States 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**”),² 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). 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,

² 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>.

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) and (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 **December 8, 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 attached 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.

[Remainder of page intentionally left blank]

Dated: November 29, 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.¹

Chapter 11

Case No. 20-11563 (SCC)

(Jointly Administered)

**DEBTORS' MOTION FOR ENTRY OF AN ORDER APPROVING THE CLAIMS
SETTLEMENT AMONG DEBTOR AEROVÍAS DE MÉXICO, S.A. DE C.V.,
SUMIDERO LIMITED, SUMITOMO MITSUI BANKING CORPORATION, BRUSSELS
BRANCH, AS FACILITY AGENT, SMBC BANK INTERNATIONAL PLC, AS
SECURITY AGENT, AND SUMITOMO MITSUI BANKING CORPORATION,
BRUSSELS BRANCH AND NATIXIS S.A., AS LENDERS**

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 approving the Claims Settlement (as defined herein) among Debtor

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; 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.

Aerovías de México, S.A. de C.V. (“**Aerovías**”) and the Claimants (as defined herein). This Motion is supported by the *Declaration of Matthew Landess in Support of Debtors’ Motion for Entry of an Order Approving the Claims Settlement Among Debtor Aerovías de México, S.A. de C.V., Sumidero Limited, Sumitomo Mitsui Banking Corporation, Brussels Branch, as Facility Agent, SMBC Bank International PLC, as Security Agent, and Sumitomo Mitsui Banking Corporation, Brussels Branch and Natixis S.A., as Lenders* (the “**Landess Declaration**”), attached hereto as **Exhibit B**. 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 105(a) of chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”), Bankruptcy Rules 9013 and 9019, and the *Order Approving (I) Omnibus Claims Objection Procedures, (II) Omnibus Claims Settlement Procedures and (III) Omnibus Claims Hearing Procedures* (the “**Omnibus Settlement Procedures**”) [ECF

No. 904], the Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “**Proposed Order**” and, if entered, the “**Order**”), approving the Claims Settlement, as further detailed herein and in 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.²

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

² On July 2, 2020, the Court entered similar orders for the other Debtors on their respective case dockets. *See In re Aerovías de México, S.A. de C.V.*, No. 20-11561, ECF No. 4; *In re Aerolitoral, S.A. de C.V.*, No. 20-11565, ECF No. 4; *In re Aerovías Empresa de Cargo, S.A. de C.V.*, No. 20-11566, ECF No. 4.

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.

B. The Claims Settlement

8. Prior to the Petition Date, the Debtors obtained pre-delivery payment financing for up to ten Boeing 737MAX aircraft (the “**SMBC/Natixis PDP Financing**”) pursuant to, among other things, a loan agreement among Sumidero Limited, an Irish special-purpose entity (“**Sumidero**”), Sumitomo Mitsui Banking Corporation, Brussels Branch, as facility agent (the “**Facility Agent**”), SMBC Bank International PLC, as security agent (the “**Security Agent**”), and Sumitomo Mitsui Banking Corporation, Brussels Branch and Natixis, S.A., as lenders (the “**Lenders**” and, together with the Facility Agent, the Security Agent, and Sumidero, the “**Claimants**”). Aerovías guaranteed certain obligations in connection with the SMBC/Natixis PDP Financing.

9. On April 22, 2021, the Debtors filed their *Motion for (I) Approval of Compromises with Boeing and Other Counterparties, (II) Authorization To (A) Enter Into Amended Aircraft Purchase Agreement with Boeing and (B) Enter into Agreements with Other Counterparties related to the Boeing Transaction, (III) Approval of the Assumption of Such Amended Agreements, as Applicable, and (IV) Approval To Settle Certain Prepetition Claims of Counterparties* [ECF No. 1108] (the “**Boeing Motion**”). The Court approved the Boeing Motion at a hearing on April 30, 2021³ and subsequently entered orders related thereto,⁴ including the *Order Authorizing the Debtors (I) To Enter into and Perform under the Omnibus Amendment and other Amendment*

³ See Hr’g Tr. (April 30, 2021), 29:17–23.

⁴ See ECF Nos. 1141–42, 1145, 1154, 1157, 1160–62.

Documents with Mayan Aircraft Holdings Limited, Sumidero Limited, Sumitomo Mitsui Banking Corporation, Brussels Branch, as Facility Agent, SMBC Bank International PLC, as Security Agent, Sumitomo Mitsui Banking Corporation, Brussels Branch and Natixis, S.A., as Lenders, and SMBC Aviation capital Limited Related to Certain Sale-Leaseback Agreements and (II) To Assume Certain Agreements in Connection Therewith (the “SMBC-Natixis Order”) [ECF No. 1162].

10. Pursuant to the SMBC-Natixis Order, certain of the Claimants are entitled to non-priority general unsecured claims, in amounts to be determined, in connection with the matters contained in the SMBC-Natixis Order or the SMBC Transaction Documents (as defined in the SMBC-Natixis Order) (collectively, the “**Prepetition Claims**”).⁵ Now, as a result of arm’s length and good faith negotiations, the Debtors have reached an agreement with the Claimants to resolve the Prepetition Claims. To this end, the parties have agreed that the Security Agent, on behalf of the Lenders, will be allowed a non-priority general unsecured prepetition claim in the final amount of \$9,417,390.35 against the bankruptcy estate of Aerovías on account of the Prepetition Claims (the “**Claims Settlement**”).

11. In determining to enter into the Claims Settlement, the Debtors consulted with the respective advisors to the Committee, the Ad Hoc Group of Senior Noteholders,⁶ and the Ad Hoc

⁵ For the avoidance of doubt, the “Prepetition Claims” do not include claims entitled to administrative expense priority in accordance with the SMBC-Natixis Order, the SMBC Transaction Documents, or otherwise.

⁶ As used in this Motion, “Ad Hoc Group of Senior Noteholders” refers to those parties identified in the *Third Amended Verified Statement of the Ad Hoc Group of Senior Noteholders Pursuant to Bankruptcy Rule 2019* [ECF No. 1731].

Group of Unsecured Claimholders,⁷ none of which expressed opposition to the relief requested herein.

Basis for Relief

12. By this Motion, the Debtors seek approval of the Claims Settlement between the Claimants and the Debtors for the allowance of the Security Agent's Prepetition Claim (as described herein).

13. A court should exercise its discretion to approve settlements "in light of the general public policy favoring settlements." *In re Hibbard Brown & Co.*, 217 B.R. 41, 46 (Bankr. S.D.N.Y. 1998). Indeed, courts in this district have made clear that "[a]s a general matter, 'settlements and compromises are favored in bankruptcy as they minimize costly litigation and further parties' interests in expediting the administration of the bankruptcy estate.'" *In re Republic Airways Holdings, Inc.*, No. 16-10429 (SHL), 2016 WL 2616717, at *3 (Bankr. S.D.N.Y. May 4, 2016) (citing *In re Dewey & LeBouef LLP*, 478 B.R. 626, 640 (Bankr. S.D.N.Y. 2012)); *see also Motorola, Inc. v. Official Comm. of Unsecured Creditors (In re Iridium Operating LLC)*, 478 F.3d 452, 455 (2d Cir. 2007).

14. Under Bankruptcy Rule 9019 and governing case law, a court should approve a compromise or settlement where it makes an independent determination that the compromise or settlement is fair and equitable, reasonable, and in the best interests of the debtor's estate. *See, e.g., In re Republic Airways*, 2016 WL 2616717 at *3; *Air Line Pilots Ass'n, Int'l v. Am. Nat'l Bank & Trust Co. of Chi. (In re Ionosphere Clubs)*, 156 B.R. 414, 426 (S.D.N.Y. 1993); *Nellis v.*

⁷ As used in this Motion, "Ad Hoc Group of Unsecured Claimholders" refers to the group identified in the *First Amended Verified Statement of the Ad Hoc Group of Unsecured Claimholders Pursuant to Bankruptcy Rule 2019* [ECF No. 1733].

Shugrue, 165 B.R. 115, 122–23 (S.D.N.Y. 1994). In so doing, a court may consider the opinions of the trustee or debtor in possession that the settlement is fair and equitable. *See Nellis*, 165 B.R. at 122; *In re Purofied Down Prods. Corp.*, 150 B.R. 519, 522 (S.D.N.Y. 1993).

15. Furthermore, when assessing whether or not to approve a settlement, “the court need not conduct a ‘mini-trial’ to determine the merits of the underlying litigation” nor decide the issues of law or fact raised by the settlement. *See In re Purofied Down Prods.*, 150 B.R. at 522. Instead, a court should “canvass the issues and see whether the settlement fall[s] below the lowest point in the range of reasonableness.” *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983) (alteration in original) (citations omitted). In this regard, courts have found that “[t]he ‘reasonableness’ of [a] settlement depends upon all factors, including probability of success, the length and cost of the litigation, and the extent to which the settlement is truly the product of ‘arms-length’ bargaining, and not fraud or collusion.” *In re Ionosphere Clubs, Inc.*, 156 B.R. at 428.

16. 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).

17. The Debtors respectfully submit that the Claims Settlement satisfies the range of reasonableness test described above. Rather than engage in costly and value-destructive litigation over Aerovías’s obligations to the Claimants, the amounts of the Prepetition Claims, and any amounts mitigating the quantum of those Prepetition Claims, the Debtors and the Claimants negotiated a consensual resolution settling on \$9,417,390.35 as the agreed final amount for the

Claims Settlement.⁸ Any efforts by the Debtors, through litigation or otherwise, to resolve such disputes would be time-consuming and expensive, and would delay any distribution to the creditor beneficiaries of the Debtors' estates. A failure to resolve the matters at issue at this time could negatively impact the Debtors and their estates. The Claims Settlement is the product of arm's length and good faith bargaining among the separate and independent advisors of the Debtors and the Claimants that will (a) eliminate the need for a costly claims dispute and (b) unlock distributable value for the Debtors' unsecured creditors by liquidating the Claimants' prepetition claims against the Debtors and resulting in the withdrawal of the other Prepetition Claims. Lastly, a number of the Debtors' key stakeholders, including the respective advisors to the Committee, the Ad Hoc Group of Senior Noteholders, and the Ad Hoc Group of Unsecured Claimholders, have no objection to the relief requested herein. Accordingly, the Debtors respectfully submit that the proposed Claims Settlement is fair and equitable, would be in the best interests of the Debtors' estates, creditors, and other stakeholders, and should be approved.

Notice

18. Notice of this Motion will be provided to the following parties in accordance with the Omnibus Settlement Procedures and the *Order Establishing Certain Notice, Case Management, and Administrative Procedures* (the "**Case Management Procedures**") [ECF No. 79]: (a) the entities on the Master Service List (as defined in the Case Management Procedures, 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 the DIP Lenders; (e) counsel to

⁸ Pursuant to the Claims Settlement, Prepetition Claims in the aggregate amount of at least \$384,716,040.55 will be withdrawn. Furthermore, certain of the Withdrawn Claims (as defined in the Proposed Order) also assert secured or unliquidated amounts.

the Ad Hoc Group of Senior Noteholders; and (f) 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.

No Prior Request

19. 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: November 29, 2021
New York, New York

DAVIS POLK & WARDWELL LLP

By: /s/ Timothy Graulich

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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.¹**

Chapter 11

Case No. 20-11563 (SCC)

(Jointly Administered)

**ORDER APPROVING THE CLAIMS SETTLEMENT
AMONG DEBTOR AEROVÍAS DE MÉXICO, S.A. DE C.V.,
SUMIDERO LIMITED, SUMITOMO MITSUI BANKING CORPORATION,
BRUSSELS BRANCH, AS FACILITY AGENT, SMBC BANK INTERNATIONAL
PLC, AS SECURITY AGENT, AND SUMITOMO MITSUI BANKING
CORPORATION, BRUSSELS BRANCH AND NATIXIS S.A., AS LENDERS**

Upon the motion (the “**Motion**”)² of the Debtors for entry of an order (this “**Order**”), approving the Claims Settlement as set forth 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 in accordance with the Omnibus Settlement

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; 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.

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

Procedures, 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 December 13, 2021 (the “**Hearing**”)]; and upon [the record of the Hearing, and upon] all of the 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 Claims Settlement is (a) supported by reasonable consideration, (b) fair and equitable and in the best interest of the Debtors’ estates, and (c) permitted by the Bankruptcy Code, and thus, is hereby approved pursuant to Bankruptcy Rule 9019(a) and shall be binding on the Debtors and the Claimants.
3. In accordance with the Claims Settlement, SMBC Bank International PLC, as security agent on behalf of the Lenders (the “**Security Agent**”), shall be allowed a non-priority general unsecured prepetition claim against Aerovías in its Chapter 11 Case (or any subsequent chapter 7 case in the event of conversion) (the “**Allowed Claim**”) as follows:

Claim Number	Claimant	Debtor	Treatment	Allowed Claim Amount
14875	SMBC Bank International PLC, as Security Agent	Aerovías de México, S.A. de C.V.	Allowed	\$9,417,390.35

4. In accordance with the Claims Settlement, all other Prepetition Claims against the Debtors in the Chapter 11 Cases arising out of the SMBC/Natixis PDP Financing belonging to any of the Claimants are hereby deemed withdrawn, including, without limitation, the following Prepetition Claims (collectively, the “**Withdrawn Claims**”):

Claim Number	Claimant	Treatment
329	Sumidero Limited	Withdrawn
330	SMBC Bank International PLC, as Security Agent	Withdrawn
331	Sumitomo Mitsui Banking Corporation Brussels Branch, as Facility Agent	Withdrawn
332	Sumitomo Mitsui Banking Corporation Brussels Branch, as Lender	Withdrawn
578	Natixis, New York Branch	Withdrawn
753	Natixis, New York Branch	Withdrawn
14873	Sumitomo Mitsui Banking Corporation Brussels Branch, as Facility Agent	Withdrawn
14874	Sumitomo Mitsui Banking Corporation Brussels Branch, as Lender	Withdrawn

5. The Allowed Claim shall be automatically allowed, and the Withdrawn Claims shall be automatically withdrawn, upon entry of this Order, and no further notice or action shall be required of the Security Agent, any other Claimant, or the Debtors to effectuate the allowance or withdrawal, as applicable, of such Claims upon such occurrence. Upon entry of this Order and without any further action by the Debtors or the Claimants, Epiq Corporate Restructuring, LLC is authorized to update the claims register to reflect the terms of this Order, including, without limitation, (a) allowing the Allowed Claim and (b) expunging the Withdrawn Claims as set forth in this Order.

6. 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.

7. 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, their creditors, their respective affiliates, successors, and assigns, and any affected third parties, including, but not limited to, the Claimants.

8. 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

THE HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE

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.¹**

Chapter 11

Case No. 20-11563 (SCC)

(Jointly Administered)

**DECLARATION OF MATTHEW LANDESS IN SUPPORT OF DEBTORS'
MOTION FOR ENTRY OF AN ORDER APPROVING THE CLAIMS
SETTLEMENT AMONG DEBTOR AEROVÍAS DE MÉXICO, S.A. DE C.V.,
SUMITOMO MITSUI BANKING CORPORATION, BRUSSELS BRANCH, AS
FACILITY AGENT, SMBC BANK INTERNATIONAL PLC, AS SECURITY
AGENT, AND SUMITOMO MITSUI BANKING CORPORATION, BRUSSELS
BRANCH AND NATIXIS S.A., AS LENDERS**

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

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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.

3. I submit this declaration (this “**Declaration**”) in support of the *Debtors’ Motion for Entry of an Order Approving the Claims Settlement Among Debtor Aerovías de México, S.A. de C.V., Sumitomo Mitsui Banking Corporation, Brussels Branch, as Facility Agent, SMBC Bank International PLC, as Security Agent, and Sumitomo Mitsui Banking Corporation, Brussels Branch and Natixis S.A., as Lenders* (the “**Motion**”).²

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.³

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. Prior to the Petition Date, the Debtors obtained pre-delivery payment

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

³ 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).

financing for up to ten Boeing 737MAX aircraft (the “**SMBC/Natixis PDP Financing**”) pursuant to, among other things, a loan agreement among Sumidero Limited, an Irish special-purpose entity (“**Sumidero**”), Sumitomo Mitsui Banking Corporation, Brussels Branch, as facility agent (the “**Facility Agent**”), SMBC Bank International PLC, as security agent (the “**Security Agent**”), and Sumitomo Mitsui Banking Corporation, Brussels Branch and Natixis, S.A., as lenders (the “**Lenders**” and, together with the Facility Agent, the Security Agent, and Sumidero, the “**Claimants**”). Aerovías guaranteed certain obligations in connection with the SMBC/Natixis PDP Financing.

7. On April 22, 2020, the Debtors filed the Boeing Motion. The Court approved the Boeing Motion at a hearing on April 30, 2021⁴ and subsequently entered orders related thereto,⁵ including the SMBC-Natixis Order.

8. Pursuant to the SMBC-Natixis Order, certain of the Claimants are entitled to non-priority general unsecured claims, in amounts to be determined, in connection with the matters contained in the SMBC-Natixis Order or the SMBC Transaction Documents (as defined in the SMBC-Natixis Order) (collectively, the “**Prepetition Claims**”).⁶ Now, as a result of arm’s length and good faith negotiations, the Debtors have reached an agreement with the Claimants to resolve the Prepetition Claims. To this end, the parties have agreed that the Security Agent, on behalf of the Lenders, will be allowed a non-priority general unsecured prepetition claim in the final amount of \$9,417,390.35 against

⁴ See Hr’g Tr. (April 30, 2021), 29:17–23.

⁵ See ECF Nos. 1141–42, 1145, 1154, 1157, 1160–62.

⁶ For the avoidance of doubt, the “Prepetition Claims” do not include claims entitled to administrative expense priority in accordance with the SMBC-Natixis Order, the SMBC Transaction Documents, or otherwise.

the bankruptcy estate of Aerovías on account of the Prepetition Claims (the “**Claims Settlement**”).

9. I believe that the Claims Settlement negotiated with the Claimants is reasonable. Rather than engage in costly and value-destructive litigation over Aerovías’s obligations to the Claimants, the amounts of the Prepetition Claims, and any amounts mitigating the quantum of those Prepetition Claims, the Debtors and the Claimants negotiated a consensual resolution settling on \$9,417,390.35 as the agreed final amount for the Claims Settlement.⁷ Any efforts by the Debtors, through litigation or otherwise, to resolve such disputes would be time-consuming and expensive, and would delay any distribution to the creditor beneficiaries of the Debtors’ estates. A failure to resolve the matters at issue at this time could negatively impact the Debtors and their estates. The Claims Settlement is the product of arm’s length and good faith bargaining among the separate and independent advisors of the Debtors and the Claimants that will (a) eliminate the need for a costly claims dispute and (b) unlock distributable value for the Debtors’ unsecured creditors by liquidating the Claimants’ prepetition claims against the Debtors and resulting in the withdrawal of the other Prepetition Claims. Lastly, a number of the Debtors’ key stakeholders, including the respective advisors to the Committee, the Ad Hoc Group of Senior Noteholders, and the Ad Hoc Group of Unsecured Claimholders, have no objection to the relief requested.

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’

⁷ Pursuant to the Claims Settlement, Prepetition Claims in the aggregate amount of at least \$384,716,040.55 will be withdrawn. Furthermore, certain of the Withdrawn Claims (as defined in the Proposed Order) also assert secured or unliquidated amounts.

business judgment and (b) the Court's approval of the Claims Settlement 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 29th day of November, 2021
in Castle Rock, Colorado

/s/ Matthew Landess

Matthew Landess