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In re:	**Chapter 11**
GRUPO AEROMÉXICO, S.A.B. de C.V., *et al.*,	**Case No. 20-11563 (SCC)**
Debtors.[1]	**(Jointly Administered)**

DEBTORS' REPLY TO INVICTUS'S RESPONSE AND IN FURTHER SUPPORT OF MOTION TO ENFORCE THE COURT'S ORDER AUTHORIZING ENTRY INTO NEW AGREEMENTS ESTABLISHING NEW LABOR CONDITIONS WITH ASPA, ASSA, STIA, AND INDEPENDENCIA

[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.

Grupo Aeroméxico S.A.B. de C.V. and its affiliated debtors in the above-captioned chapter 11 cases (the "**Chapter 11 Cases**"), as debtors and debtors in possession (collectively, the "**Debtors**"), respectfully submit this reply (this "**Reply**") (a) to *Invictus Global Management, LLC's Response to Debtors' Motion to Enforce the Court's Order Authorizing Entry into New Agreements Establishing New Labor Conditions with ASPA, ASSA, STIA, and Independencia* [ECF No. 2391] (the "**Objection**") filed by Invictus Global Management, LLC (collectively, with its affiliates, "**Invictus**") on January 3, 2022 and (b) in further support of the *Debtors' Motion To Enforce the Court's Order Authorizing Entry Into New Agreements Establishing New Labor Conditions with ASPA, ASSA, STIA, and Independencia* [ECF No. 2356] (the "**Motion to Enforce**").[2] In support thereof, the Debtors rely upon the *Declaration of Alejandro Sainz in Support of the Debtors' Motion to Enforce the Court's Order Authorizing Entry into New Agreements Establishing New Labor Conditions with ASPA, ASSA, STIA, and Independencia* (the "**Sainz Declaration**"), filed contemporaneously herewith, and respectfully state as follows: and state the following:

PRELIMINARY STATEMENT

1. In large measure, the Objection is an impermissible collateral attack on one order of this Court dated April 22, 2021 [ECF No. 1101] (the "**CBA Order**"), and an impermissible attempt to reargue issues that were resolved by this Court on November 16, 2021. The Objection also continues Invictus's ongoing misinformation campaign against the Debtors – this time arguing, without any actual evidence, that the Debtors somehow misled one of its own Unions about a plan support provision as part of its collective bargaining agreement ("**CBA**") renegotiation (and presumably misled this Court into granting a motion and entering an order

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

that provided for such plan support). This plan support language is identical to the plan support language in every CBA that was negotiated over a period of months with each of the Debtors' Unions (including ASPA, the pilots' union that is a member of the Official Committee of Unsecured Creditors (the "**Committee**")), and to post-petition agreements with various fleet counterparties.

2. At bottom, the only remaining matter before the Court is whether the Plan constitutes a "Complying Plan" as that term is defined in the CBA Order. Importantly, Invictus seems to concede that the Plan is a Complying Plan as to the Aeroliteral and Cargo operating companies (or at least fails to argue why the Plan would not be a Complying Plan as to those Debtor entities). And as for Aerovias, as set forth below, the Debtors submit that the Plan is a Complying Plan because the Independencia Union Claim is being provided "no less favorable treatment" under the Plan "than the treatment afforded to any other pre-petition general unsecured non-priority claim against the applicable Debtor (other than 'convenience class' claims, if any)." CBA Order, ¶ 10; *see also* Covenant, ¶ 5(b).

INVICTUS'S OBJECTION

I. The Covenant Is Binding on Invictus

A. Invictus's allegations that there was no agreement with Independencia regarding plan support are plainly inaccurate.

3. Invictus asserts that there is a "glaring hole in the record" as "there is no evidence to show that Independencia actually agreed to the Bankruptcy Protection Covenant containing the Voting Lockup." Obj., ¶ 28. But, as clearly set forth in the *Motion of the Debtors for Entry of an Order Pursuant to 11 U.S.C. §§ 363(b) and 105(a) and Fed. R. Bankr. P. 9019(a) Authorizing Entry into Agreements Establishing New Labor Conditions with ASPA, ASSA, STIA, and Independencia* [ECF No. 1058] (the "**CBA Motion**") and in the sworn declaration of Sergio

Allard Barroso, Chief Legal and Institutional Affairs Officer & Executive Vice President at Grupo Aeroméxico [ECF No. 1060] (the "**Allard Declaration**" and, together with the CBA Motion, the "**CBA Pleadings**"), submitted in support thereof, the Debtors' and Independencia's agreement with respect to the Covenant was in the process of "being documented by means of complementary agreements to their New CBAs" on or around the time of the CBA Motion. *See* CBA Mot., ¶ 22; *see also id*. at ¶ 16, 40; Allard Decl., ¶¶ 7, 13.

4. And, accordingly, on March 31, 2021, Independencia entered into that certain *Complementary Agreement to (I) Collective Modification Agreement of the Working Conditions dated December 29, 2020 and (II) The Complementary Agreement of February 12, 2021* with Aerovías de México, S.A. de C.V. (the "**March 31 Complementary Agreement**");[3]

(a) In pertinent part, each March 31 Complementary Agreement states:

> The Company agrees to recognize the Total Claim under the Chapter 11 Proceeding as a prepetition allowed, non-priority general unsecured claim. The Company further agrees that such claim shall be treated in the Chapter 11 Proceeding no less favorably than any other prepetition allowed, non-priority general unsecured claim. The treatment and distributions on account of such claims shall be determined in the plan of reorganization as part of the exit from the Chapter 11 Proceeding ("Plan of Reorganization").
>
> **Thus, the Union agrees to support the Plan of Reorganization proposed by the Company (Complying Plan). In this regard, the Court order approving the amendments to the Collective Labor Agreement, to be issued by the Court in the Chapter 11 Proceeding, shall provide that as long as the Plan of Reorganization provides for the terms set forth above (i.e., treatment no less favorable in comparison to other general unsecured claimants; the assumption of the Collective Labor Agreement amendments; the recognition of the Total Claim), the Union shall be obligated to support (i.e., to vote in favor of the Plan of Reorganization** (under the understanding that the Union

[3] The March 31 Complementary Agreement among Aerovías and Independencia is annexed hereto as **Exhibit A-1** in Spanish (original), and an English translation is annexed hereto **Exhibit A-2**. Additional complementary agreements (such agreements, together with the Aerovías March 31 Complementary Agreements, the "**March 31 Complementary Agreements**") were entered into on March 31, 2021 among the Debtors and Independencia that are identical to the March 31 Complementary Agreement, *mutatis mutandis* (including, without limitation, the requirement to vote in favor of a Complying Plan), and will be produced by the Debtors upon request.

> will receive a ballot to collectively vote on the Total Claim, so that Union members (unionized employees) will not have to vote individually).

See Mar. 31 Complementary Agr.'s at "Fourth" (respectively) (emphasis added).[4]

5. Invictus failed to review—or chooses to ignore—the record established in connection with the Court's approval of the CBA Motion.[5] Invictus likewise failed to diligence—or chose not to—its own transaction with Independencia in purchasing the Independencia Union Claims. The Modification Agreements, the February 12 Complementary Agreements and the March 31 Complementary Agreements were all executed by the Debtors and Independencia (and the CBA Order was entered on the Court's docket) months in advance of Invictus's purchase of the Independencia Union Claims. Invictus's failure to properly diligence its own transaction with Independencia does not, in any way, result in Independencia (and, in turn, Invictus) not being bound by the Covenant. Consistent with the explicit and unequivocal statements made by the Debtors in the CBA Motion and the declarations submitted in support thereof (collectively, the "**CBA Pleadings**"), after months-long negotiations,

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[4] Independencia's agreement to the Covenant is not a new issue before the Court. However, even if it were, references to the March 31 Complementary Agreements herein are properly raised to the Court. *See Bravia Capital Partners, Inc. v. Fike*, 296 F.R.D. 136, 144 (S.D.N.Y. 2013) ("When parties engage in motion practice, reply papers may properly address new material issues raised in the opposition papers so as to avoid giving unfair advantage to the answering party.").

[5] Invictus asserts that the Debtors acknowledged in the CBA Motion "that they did not yet have an executed agreement with Independencia (let alone one providing a voting lockup with respect to Independencia's pre-petition claims . . ..)." Obj., ¶ 12. To the contrary, the CBA Motion clearly states that the Debtors had reached an agreement with Independencia, that such agreement was modified by the February 12 Complementary Agreements, and that the Covenant was in the process of "being documented by means of complementary agreements to their New CBAs." *See* CBA Mot., ¶ 22; *see also id*. at ¶ 16, 40 and Exs. B–C; Allard Decl., ¶¶ 7, 13. Moreover, numerous media reports covered the parties' entry into the Modification Agreements. *See, e.g.*, *Aeromexico Concludes Two Union Negotiations in Bankruptcy Proceedings*, Reuters (Dec. 29, 2020), https://www.reuters.com/article/us-mexico-aeromexico/aeromexico-concludes-two-union-negotiations-in- bankruptcy-proceedings-idUSKBN29325T; Press Release, *Aeromexico Moves Forward With Union Agreements*, PR Newswire (Dec. 29, 2020), https://www.prnewswire.com/news-releases/aeromexico-moves-forward-with-union-agreements-301199176.html; John Huston, *Aeromexico Makes Progress in Union Negotiations*, Airways Magazine (Dec. 31, 2020), https://airwaysmag.com/airlines/am-progress-union-negotiations/.

(a) the Debtors and Independencia reached an agreement in principal on December 29, 2020, as memorialized in the *Collective Modification Agreement of the Working Conditions*, dated December 29, 2020 (the "**Modification Agreement(s)**");

(b) the Debtors announced its entry into the Modification Agreements with Independencia publically on December 29, 2020;[6]

(c) the Modification Agreements were duly presented by the Debtors and Independencia on February 2, 2021 (the "**Labor Board Ratification Hearing**") to the Federal Conciliation and Arbitration Board of the Mexican Department of Labor and Social Welfare (the "**Labor Board**") and were ratified (the Official Letters ratifying the Modification Agreements issued by the Mexican Labor Board are attached hereto as **Exhibit B**). *See* Ex. B; Sainz Decl., ¶ 7; Allard Decl., ¶ 18.

The Modification Agreements, as ratified on February 2, 2021, provided that the changes contemplated therein shall be applicable once the Debtors have reached agreements to modify their collective bargaining agreements with each of the other Unions. Moreover, as negotiated for by each Union, the Modification Agreements included a "most-favored nation" provision (the "**MFN Provision**"), which provided that the Modification Agreements shall be modified as appropriate to conform with any modifications subsequently made to the collective bargaining agreements between the Debtors and the other Unions. *See* Sainz Decl., ¶ 9.[7]

(d) On February 12, 2021, the Debtors and Independencia entered into that certain *Complementary Agreement to (I) Collective Modification Agreement of the Working Conditions dated December 29, 2020* (the "**February 12 Complementary Agreements**").

(e) In accordance with the MFN Provision, subsequent to ASPA executing the Covenant, on March 31, 2021, the Debtors and Independencia entered into the March 31 Complementary Agreements, which, among other things, memorialized the Covenant as applicable to Independencia and Independencia's obligation to support a Complying Plan.

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[6] The corresponding "relevant event" filed with the Mexican Stock Exchange is attached hereto as **Exhibit C**. Also attached hereto as **Exhibit C** is the "relevant event" filed with the Mexican Stock Exchange on January 29, 2021 referencing the earlier agreement among the Debtors and Independencia.

[7] *See also* Mar. 31 Complementary Agr.'s at "Second" (The Parties acknowledge that in the Agreement of February 2, 2021, it is agreed that any change in the agreements adopted between them must be made in the same way for all agreements entered into with the various unions with which Company and Aerolitoral, SA de C.V. have entered into collective contracts, so this agreement will only take effect once the various agreements with the other unions on CLAIMS FOR SAVINGS (referred to in the following clause) are modified in the same terms (except for the amounts corresponding to each union) of the present.").

6. Invictus goes so far as to insinuate that the Debtors somehow took advantage of one of their Unions. Invictus asserts that Independencia lacked representation during the CBA negotiations. *See, e.g.*, Obj., ¶ 45. Invictus is just wrong. Independencia was in fact represented by counsel during the negotiations culminating in the Modification Agreements. As stated in the official ratification letters issued by the Mexican Labor Board, three attorneys appeared on behalf of Independencia at the Labor Board Ratification Hearing.[8] Further, the Debtors understand that Lee Moak, a respected labor relations expert who has advised numerous unions in chapter 11 cases of airlines, advised Independencia – as well as several of the Debtors' other Unions including ASPA – in connection with selling their claims, as well as with ASPA in negotiating the Bankruptcy Protection Covenant that formed the basis for plan support for each of the Unions. *See* Sainz Decl., ¶ 8.[9]

7. In addition, Independencia is a large Union – representing nearly 4,500 of the Debtors' employees as of September 30, 2021, and was engaged in lengthy negotiations with the Debtors for nearly nine months before entering into the Covenant. Independencia had to solicit votes of its members before it could enter into the Modification Agreements. The Debtors and the Unions engaged in hard-fought, arm's length negotiations that culminated in new agreements being reached with each of the Unions. Invictus's assertions that the Debtors somehow misled Independencia into entering into the Covenant ignores the reality that this was a thoughtful and

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[8] *See* Ex. B at 1 ("[A]ppearing for Sindicato Nacional de Trabajadores al Servicio de las Líneas Aéreas, Transportes, Servicios, Similares y Conexos "Independencia" are its agents Elizabeth Hernández Hernández, Víctor Vizcarra González and Salvador Villaseñor del Villar, who identify themselves with professional licenses . . . . Those authorized to receive them are Attorneys at Law Elizabeth Hernández Hernández, Víctor Vizcarra González and Salvador Villaseñor del Villar . . ..").

[9] Moreover, each March 31 Complementary Agreement was signed by Tomás Del Toro Del Villar ("**Villar**"), as Secretary General of Independencia. *See* Exs. A–C. Mr. Villar likewise executed each transfer to Invictus of the Independencia Union Claims. *See* ECF Nos. 1632–40. The Debtors understand that Tomás Del Toro Del Villar is the chief of the Independencia union, an attorney, and a former Deputy of the LX Legislature of the Mexican Congress representing the State of Mexico. *See* Sainz Decl, ¶ 8.

arduous negotiation process that required approval from Independencia's members and ratification by the relevant Mexican authorities.

8. Moreover, the Covenant is not simply a bilateral agreement between the Debtors and Independencia, but was approved by a vote of Independencia's approximately 4,500 members and ratified by the relevant Mexican authorities. And, the important provisions of the CBAs (including the plan support) were set forth in the CBA Motion and the CBA Order. *See* CBA Mot., ¶¶ 16, 21 and Ex. A, Annex 1; CBA Order, ¶¶ 8, 10, 12 and Annex 1. Invictus's implication that the CBA Order does not accurately reflect what the parties had agreed to is plainly wrong.

B. Invictus's Objection impermissibly seeks to collaterally attack this Court's CBA Order.

9. Invictus incorrectly characterizes the relief currently sought by the Debtors as "[t]he Debtors ask[ing] this Court to enter an order compelling Invictus…to surrender its right… to vote to accept or reject a chapter 11 plan." Obj., ¶ 1. To the contrary, Invictus is already contractually and by order of this Court compelled to support the Plan. *See* CBA Order, ¶ 12 (emphasis added) ("The obligations under this Order and the Bankruptcy Protection Covenant (including, without limitation, the obligation to vote claims in favor of a Complying Plan) shall be binding on the Debtors, the Unions, each successor or assignee, or **the transferee of the claims** allowed pursuant to this Order."). The Debtors are simply seeking to enforce the prior Order of this Court. *See Travelers Indem. Co. v. Bailey*, 557 U.S. 137, 151 (2009) ("[A] Bankruptcy Court plainly ha[s] jurisdiction to interpret and enforce its own prior orders.").

10. Invictus's sole recourse here against the Debtors (other than to argue that the Plan is not a Complying Plan as addressed below) would have been to seek relief under Bankruptcy

Rule 9024 from the CBA Order.[10] Invictus has not sought such relief, nor could they. A motion for relief from judgment is generally not favored and is properly granted only upon a showing of exceptional circumstances. *United States v. International Bhd. of Teamsters*, 247 F.3d 370, 391 (2d Cir. 2001) (citations omitted); *see also In re Sudano, Inc.*, No. 02-21821 (CEC), 2018 WL 4182986, at *4 (Bankr. E.D.N.Y. Aug. 30, 2018) ("The burden of proof under each Rule [59 and 60] is extremely high and relief is granted only upon a showing of extraordinary circumstances."). The Debtors will not expand upon Invictus's inability to seek relief under FRCP 60 at this time as such request is not properly before the Court, and note only that Invictus's current objection is an impermissible, improper collateral attack of the CBA Order. *See In re Metex Mfg. Corp.*, 510 B.R. 735, 741 (Bankr. S.D.N.Y. 2014) (finding claims previously allowed pursuant to uncontested court order are not subject to a subsequent collateral attack); *see also In re Daewoo Motor Co. Ltd., Dealership Litig.*, No. MDL-1510, 2005 WL 8005218, at *7 (M.D. Fla. Jan. 6, 2005) ("An impermissible collateral attack is a legal proceeding pursued outside of the proscribed method of challenging a final order…."); *Uecker & Assocs., Inc. v. L.G. Hunt & Assocs., Inc. (In re The American Basketball League, Inc.)*, 317 B.R. 121, 126 (Bankr. N.D. Cal. 2004) ("Final orders . . . are not subject to collateral attack.") (citation omitted).

11. Moreover, the Court has already approved the Covenant. Were the Court to now adopt Invictus's argument that plan support agreements entered into prior to a disclosure statement being filed are per se impermissible (an identical argument recently made by the Committee and rejected by the Court on November 16. 2021), the Court would have to

[10] The Federal Rules of Civil Procedure ("**FRCP**") allow a litigant to seek reconsideration of an order under Rules 50 and 60 of the FRCP, which is applicable in bankruptcy cases pursuant to Bankruptcy Rules 9023 and 9024. *See* Fed R. Civ. P. 59, 60; Fed. R. Bankr. Proc. 9023, 9024.

presumptively vacate approximately a dozen other orders entered – most without objection – in these Chapter 11 Cases.[11] Plan support agreements—substantially identical to the plan support provision of the Covenant—have previously been approved by the Court in this Chapter 11 Case. *See* Nov. 16 Hr'g Tr. 36:17–19, [ECF No. 2402] ("[T]his is not the first settlement of this type that's been approved in this case, not to mention that it's been approved in a lot of other cases."), 41:23–42:2 ("[I]n Philippine Airlines on a wholesale basis, I approved a program for the entry into these types of agreements across the board that provided that the Debtor and the counterparty did not have to come back to the Court at each juncture."), 43:22–24 ("The record -- and I take judicial notice of the record that reflects that my docket is full of these deals in which there are complying plan provisions.").[12]

C. The Debtors Clearly Disclosed the Covenant.

12. Invictus asserts that "the Debtors never expressly said in the CBA Motion itself that they were seeking to impose a voting lockup on unions other than ASPA . . .." Obj., ¶ 14. Once again, this assertion is belied by the facts. *See* CBA Mot., ¶ 21 (emphasis added) ("Under the Bankruptcy Protection Covenant, among other things, the Debtors would agree to support the allowance of the ASPA Claim, and ASPA would agree to vote that claim in favor of a Complying Plan (as defined in the Bankruptcy Protection Covenant). … Separately, and honoring a 'most-favored-nation' understanding between unions, Aeroméxico agreed to provide the **same treatment** of a Bankruptcy Protection Covenant by agreeing to provide for general

[11] *See* Nov. 16 Hr'g Tr. 44:17–45:4, [ECF No. 2402] ("[THE COURT] "[I]f I agree with you , I need to go back and vacate all those other orders, right? Right? I need to go back and vacate. . . . And who would that be fair to? That would be fair to the members of your constituents who engaged in extensive negotiations with the Debtor and agreed to those orders. That would be fair for me to undo those negotiated settlements. That's not my idea of fairness.").

[12] Notably, the Committee filed a statement in support of the CBA Motion. *See* ECF No. 1082.

unsecured claims to STIA and Independencia, in recognition of the labor cost savings achieved by each of the respective New CBAs."

13. Additionally, it is indisputable that Independencia was at all times aware that the Debtors were going to seek this Court's approval of the Modification Agreements and the Complementary Agreements thereto. Tellingly, the March 31 Complementary Agreements expressly contemplate the Debtors seeking this Court's approval. *See* Mar. 31 Complementary Agreements at "Third" ("Application will be made to the Court for the INDEPENDENCIA Savings Claim to be authorized and recognized as a common, pre-petition, unmodified claim under Section 502 of the Bankruptcy Code.").

14. Further, the Debtors understand that Independencia's counsel, Salvador Villaseñor del Villar (the same counsel that appeared on Independencia's behalf at the Labor Board Ratification Hearing), was, in April 2021 when the CBA Motion was filed and the CBA Order was entered, subscribed to receive docket alerts from the Debtors' case website maintained by Epiq Corporate Restructuring, LLC. *See* Sainz Decl. ¶ 10. Subscribers to docket alerts receive email notification of all filings with the Court in these Chapter 11 Cases.

15. Invictus's contention that the Debtors purposefully failed to serve the CBA Motion on Independencia in order to have the Covenant approved without their knowledge defies both credulity and the record. Suffice it to say, Independencia was fully informed and aware of the collective bargaining negotiations and the pleadings filed with this Court at all relevant times.

II. The Plan is a Complying Plan

16. At the outset, the Debtors note that, in the Objection, apparently Invictus concedes that he Plan constitutes a Complying Plan with respect to Aerolitoral and Cargo. *See,*

e.g., Obj., ¶¶ 52 ("[I]t is evident that the Plan is not a 'Complying Plan.' The Plan treats the Independencia Claim against Aerovías 'less favorably' than claims held by other creditors against the same Debtor…."). Among other reasons, Invictus is compelled to concede as much because the Plan provides that all non-convenience class creditors with recourse against (i) Aerolitoral are classified in Class 3(d) and (ii) Cargo are classified in 3(e).

A. The Plan Does Not Treat the Independencia Union Claims Less Favorably

17. As set forth in further detail below and in the Motion, the Independencia Union Claims are not treated less favorably than other pre-petition general unsecured claims against Aevovias. However, Invictus unpersuasively argues that the existence of Class 3(a)—a class of claims with recourse against Grupo Aeroméxico and Aerovías—somehow leads to less favorable treatment for the Independencia Union Claims that have recourse against only a single Debtor – Aerovías. But that different treatment is driven by different pre-petition legal entitlements (*i.e.*, the bondholders and certain fleet claimants bargained for and received guaranties of their indebtedness when they negotiated their pre-petition agreements with the Debtors) and not because some similarly situated creditor is being preferred or treated better.

18. Invictus confusingly asserts that because claimants with recourse against Aerovías and Grupo Aeroméxico—and are therefore classified in Class 3(a)—stand to recover "dramatically more" than Invictus and other creditors in Class 3(c) with recourse solely against Aerovias, the Plan treats certain Aerovias creditors more favorably than others. Obj., ¶ 6. However, Class 3(b) (Grupo Aeroméxico GUCs) Claims are projected to recover approximately between 84%–85%, Class 3(c) (Aerovías GUCs) Claims are projected to recover approximately 15%–16%, and Class 3(a) Claims are projected to recover 100%. Simple math reveals that all claims with recourse against Aerovias are entitled to the same recovery – approximately 15%–

16%. Accordingly, Invictus stands to recover on account of the Independencia Union Claim against Aerovías similar to all other creditors with claims against Aerovías. All additional recoveries available to holders of claims in that class are attributable to their recourse against Grupo Aeroméxico.

19. Invictus incredibly contends that the Plan provides "a small, exclusive subset of claim holders against Aerovías, but not Invictus, with the opportunity to participate in the Debtors' exit equity financing." Obj., ¶ 6. As the Court is well aware, Invictus not only had the opportunity to participate in the exit financing, but previously was a Commitment Party and was entitled to the very same contractual rights as each other Commitment Party. Moreover, Invictus was previously identified as a member of (a) the BSPO Investors as defined in the Verified Statement Pursuant to Bankruptcy Rule 2019 [ECF No. 1995] and (b) the Ad Hoc Group of Unsecured Claimholders as defined in the First Amended Verified Statement of the Ad Hoc Group of Unsecured Claimholders Pursuant to Bankruptcy Rule 2019 [ECF No. 1733]. Both the BSPO Investor Group and the Ad Hoc Group of Unsecured Claimholders were intimately involved in the exit financing process, including while Invictus was a member of each respective group. Invictus's contention that they did not have the opportunity to participate in the exit financing is simply baseless.

20. In addition, as more fully set forth in the Motion and the Exit Financing Reply, the Debtors encouraged broad participation in the exit financing process in order to assure plan value could be accurately ascertained to comply with their contractual obligations under the DIP Facility. Moreover, not only was the exit financing process compliant with the Court-approved DIP financing, but the Plan is compliant with the court-approved exit financing. That Invictus

chose to cease being a Commitment Party does not somehow mean their claims are being treated differently from those of other creditors.

21. Invictus further contends that the Commitment Parties stand to receive "attendant benefits of such participation." Obj., ¶ 6. The treatment creditors receive on account of their claims and the treatment creditors (and third parties) receive on account of capacities other than their capacity as creditors (*i.e.*, new money commitments) are two very different things. Additional consideration provided to those unsecured creditors on account of their new money commitments does not violate the Covenant. Indeed, courts routinely reject that argument in the disparate treatment context. As stated in the Motion to Enforce, it is manifestly unreasonable to assert, where all unsecured creditors, and indeed all parties, were afforded an equal opportunity to participate in the exit financing process, unsecured creditors who incurred additional risk through proposing new money contributions, and negotiating such commitments over months without compensation, should receive the same consideration in all respects as those who chose not to incur this risk (or who walked away from that risk). *See In re Peabody Energy Corp.*, 933 F.3d 918, 926-27 (8th Cir. 2018) (holding that a plan did not violate an "equal treatment" rule where the objecting creditors were "not excluded from any opportunity" to participate in the process leading to the plan ultimately approved by the court); *see also In re Swift Energy Co.*, No. 15-12670 (MFW), 2016 WL 3566962, at *6-7 (D. Del. June 29, 2016) (affirming decision of bankruptcy court that found pursuing an appeal was in violation of RSA's plan support provision, noting appellants are "sophisticated investors" who "freely chose," and the provisions of the RSA requiring the plan support were "unambiguous").

22. Invictus next argues that its claim is being treated less favorably because any cash that remains in the Remaining Cash Pool will first go to non-Commitment Party Holders in Class

3(a), before becoming available to unsecured holders in other classes, the Plan cannot be considered a Complying Plan. *First*, all Aerovías creditors are receiving the same value on account of their claims. *Second*, neither the non-Commitment Parties in Class 3(a), nor holders of Claims solely against Aerovías in Class 3(c) are entitled to elect the form of consideration that they will receive under the Plan – because the election is part of the Equity Commitment Premium. *See* Exit Financing Order [ECF No. 2289]. In other words, the non-Commitment Parties in Class 3(a) are not receiving a choice of consideration that is not being made available to claimants in Class 3(c) – they are being compelled to accept whatever form of consideration that the Commitment Parties do not prefer. Having another party determine the form of your consideration is hardly superior treatment. *Third*, both the non-Commitment Parties in Class 3(a) and the holders of Claims solely against Aerovías in Class 3(c) stand to recover in Cash solely to the extent cash remains in the Remaining Cash Pool after the Commitment Parties have tendered their elections. The fact that claimholders with recourse against Grupo Aeroméxico and Aerovías stand to receive any Cash remaining in the Remaining Cash Pool prior to claimholders with recourse solely against Aerovías does not result in less favorable treatment.[13]

23. Invictus further asserts that the Plan is not a Complying Plan because there may be a delay in distributions to Class 3(c) claimholders, but not Class 3(a) claimholders because:

(a) the Plan deems the Senior Notes Claims Allowed on the Effective Date, and there is "no comparable provision guaranteeing the allowance of any [Class 3(c) Claim]" *see* Obj., ¶ 64, and

[13] For the same reason, Invictus's argument that "the Debtors cannot similarly justify the vastly different *form* of consideration provided to each class of claimants … as eviden[ced] from the Plan's treatment of general unsecured claims solely against Grupo Aeroméxico in Class 3(b)," must fail. Obj., ¶ 56. Claims in Class 3(b) are likewise distinguishable from Class 3(a) Claims as such Claims only have recourse against one Debtor – Grupo Aeroméxico. While the Debtors strongly disagree that the Cash that may be available to non-Commitment Party Class 3(a) claimholders is "favorable" to the New Stock that Aerovías claimholders stand to recover, the different forms of consideration are justified based on the Class 3(a) claimholders holding recourse against two of the Debtors, and do not render the Plan a non-Complying Plan.

(b) Class 3(c) distributions will only be quantified after (i) all 3(a) Claims have been reviewed, objected to and resolved and (ii) 3(a) is paid in full. *Id*.

Invictus's arguments in this regard demonstrate its fundamental misunderstanding of the Plan and the Disputed Claims Process.

24. The Senior Notes Claims total approximately $411 million. Not only is Invictus incorrect that the Plan does not deem any Class 3(c) Claims allowed, but the amount of Claims held by Class 3(c) claimholders that have been allowed by Court Order in these Chapter 11 Cases far exceeds the total amount of Senior Notes Claims allowed under the Plan. Indeed the quantum of allowed Union claims at Aerovías alone exceeds those of the Senior Notes Claims. *See*, e.g., CBA Order (allowing approximately $439 million in Class 3(c) Claims against Aerovías).

25. Critically, however, Invictus's focus in this regard is misguided. As is customary in chapter 11 plans, Invictus will receive its distribution on the Initial Distribution Date concurrently with all other Classes, including, without limitation, Class 3(a), and there is a possibility that Invictus, as with all other holders of general unsecured claims, may receive an additional distribution following the Final Distribution Date in the event that New Stock or Cash are allocated, but not distributed, to Disputed Claims.

26. Assuming Disputed Claims exist in Class 3(a)—which the Debtors do not believe to be the case—the Plan provides for the Debtors to allocate Cash or New Stock for any such Disputed Claim. However, distributions are not put on hold while Disputed Claims are resolved. As the holder of the Allowed Independencia Union Claim, Invictus will receive its distribution on the Initial Distribution Date, just the same as all other holders of Allowed Claims.

27. In addition, if there are no Disputed Claims in Class 3(a), the amount of the Remaining Cash Pool will be known prior to the Initial Distribution Date as all Commitment

Parties will have tendered their elections, and no amounts on account of Class 3(a) will be reserved for Disputed Claims. To the extent that any New Stock or Cash allocated to Disputed Claims exceeds the amount of such Disputed Claims as resolved, such excess will be distributed to all general unsecured creditors pro rata. Put another way, Invictus will receive its distribution on the Initial Distribution Date concurrently with Class 3(a), but there is a possibility that Invictus may receive an additional distribution in the event that New Stock or Cash are allocated, but not distributed, to Disputed Claims.

CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court enter the Order granting the relief requested in the Motion and such other relief as the Court deems appropriate under the circumstances.

Dated: January 5, 2022
New York, New York

DAVIS POLK & WARDWELL LLP

By: */s/ Timothy Graulich*

450 Lexington Avenue
New York, New York 10017
Telephone: (212) 450-4000
Facsimile: (212) 701-5800
Marshall S. Huebner
Timothy Graulich
James I. McClammy
Stephen D. Piraino

Counsel to the Debtors
and Debtors in Possession

Exhibit A-1

March 31 Complementary Agreement (Spanish Version – Original)

CONVENIO COMPLEMENTARIO A (I) CONVENIO DE MODIFICACIÓN COLECTIVA DE LAS CONDICIONES DE TRABAJO DE FECHA 29 DE DICIEMBRE DE 2020 Y (II) AL CONVENIO COMPLEMENTARIO DEL 12 DE FEBRERO DE 2021, QUE CELEBRAN, POR UNA PARTE, LA EMPRESA **AEROVÍAS DE MÉXICO, S.A. DE C.V.**, A QUIEN PARA EFECTOS DEL PRESENTE CONVENIO SE LE DENOMINARÁ LA "EMPRESA", REPRESENTADA POR LOS CC. ACTUARIO SERGIO ALFONSO ALLARD BARROSO, VICEPRESIDENTE EJECUTIVO LEGAL Y RELACIONES INSTITUCIONALES, CLAUDIA ANGELICA CERVANTES MUÑOZ, VICEPRESIDENTE DE LEGAL, CUMPLIMIENTO Y RELACIONES LABORALES, Y LIC. GONZALO CASTRO MENDOZA EN SU CARÁCTER DE SUBDIRECTOR DE RELACIONES LABORALES; Y, POR LA OTRA PARTE EL SINDICATO NACIONAL DE TRABAJADORES AL SERVICIO DE LA LÍNEAS AÉREAS, TRANSPORTES, SERVICIOS, SIMILARES Y CONEXOS "INDEPENDENCIA" A QUIEN PARA EFECTOS DEL PRESENTE CONVENIO SE LE DENOMINARÁ "INDEPENDENCIA" O EL "SINDICATO", INDISTINTAMENTE (Y, CONJUNTAMENTE CON LA EMPRESA, LAS "PARTES"), REPRESENTADA POR LOS SEÑORES TOMÁS DEL TORO DEL VILLAR EN SU CARÁCTER DE SECRETARIO GENERAL; ROBERTO DIEGO SANCHEZ, SECRETARIO DE TRABAJO Y CONFLICTOS; Y JORGE HUMBERTO ACEVES ARECHIGA, SECRETARIO DEL INTERIOR, EL CUAL SE SUJETA AL TENOR DE LAS DECLARACIONES Y CLÁUSULAS SIGUIENTES:

DECLARACIONES

I) Las Partes tienen celebrado Contrato Colectivo de Trabajo que rige la relación Obrero Patronal entre la Empresa y los trabajadores agremiados a Independencia, mismo que en términos de ley se encuentra depositado en la Junta Federal de Conciliación y Arbitraje, registrado bajo el expediente número CC-893-1988-XXIII de la Unidad de Registro de Contratos Colectivos y Reglamentos Interiores de Trabajo.

II) Con motivo de la Pandemia decretada por la Organización Mundial de la Salud (en adelante "OMS") conocido como Coronavirus o COVID-19, la Emergencia Sanitaria por Causa de Fuerza Mayor declarada por el Estado Mexicano, la adhesión de la empresa al proceso de reestructura bajo el Capítulo 11 de la Ley de Quiebras de los Estados Unidos de América y la consecuente situación económica y financiera de la EMPRESA, las Partes han celebrado diversas pláticas conciliatorias en las que atendiendo al interés superior de privilegiar los derechos humanos de los trabajadores y la subsistencia de la fuente de trabajo, han llegado a los acuerdos a que se refiere el presente Convenio.

III) Las Partes han acordado la modificación colectiva de las condiciones de trabajo en los términos a que se refiere el convenio de fecha 29 de diciembre de 2020 el cual fue debidamente ratificado por las Partes el día 2 de febrero de 2021 ante la Secretaría Auxiliar de Asuntos Colectivos de la Junta Federal de Conciliación y Arbitraje, correspondiéndole como número de expediente el **IV-C-6/2021** (el "Convenio del 2 de febrero del 2021").

IV) El 12 de febrero de 2021 las Partes celebraron convenio complementario al convenio modificatorio del Contrato Colectivo de Trabajo el cual está relacionado y forma parte integrante del Convenio del 2 de febrero del 2021.

V) Que derivado de diversas negociaciones, las Partes han acordado modificar la cláusula segunda del Convenio Complementario del 12 de febrero de 2021 (el "Convenio del 12 de febrero de 2021").

Por lo anterior las Partes convienen las siguientes:

CLAUSULAS

PRIMERA.- Las Partes se reconocen mutuamente la personalidad jurídica con la que se ostentan para todos los efectos legales a que haya lugar.

SEGUNDA.- Las Partes reconocen que en el Convenio de 2 de febrero del 2021, se pactó que cualquier cambio en los acuerdos adoptados entre ellas deberá hacerse de la misma manera para todos los acuerdos celebrados con los diversos sindicatos con los cuales la Empresa y Aerolitoral, S.A. de C.V. tienen celebrados contratos colectivos, por lo que el presente convenio sólo surtirá efectos una vez que los diversos acuerdos con los otros sindicatos sobre RECLAMOS POR AHORROS (a que se refiere la cláusula siguiente) sean modificados en los mismos términos (salvo por los montos correspondientes a cada sindicato) del presente.

TERCERA.- **RECLAMOS POR AHORROS**.- Las Partes están de acuerdo en modificar la cláusula segunda del Convenio del 12 de febrero de 2021, para quedar redactada de forma definitiva en los términos siguientes:

Las Partes convienen para los propósitos de este Convenio en que las concesiones o ahorros otorgados por INDEPENDENCIA tienen una cuantificación con un valor nominal bruto de **41.44** millones de dólares (sin considerar algún efecto o ajuste de prorrateo ni descuento del valor presente neto de esta cifra), cantidad que a valor neto presente (descontados a una tasa de **10%**) se ajusta para quedar en el monto total de **32.73** millones de dólares ("Monto Final de Ahorros"), derivado de los acuerdos alcanzados entre las Partes respecto a la modificación de algunas condiciones y términos del contrato colectivo de trabajo conforme a lo que señala el Convenio del 2 de febrero del 2021. El Monto Final de Ahorros otorgados por INDEPENDENCIA se reconocerá como un crédito común, pre-solicitud, dentro del procedimiento de reestructura al que la Empresa está sujeto ante la Corte de Quiebras del Distrito Sur del Estado de Nueva York ("Crédito por Ahorros INDEPENDENCIA"). Se solicitará a la Corte que el Crédito por Ahorros INDEPENDENCIA se autorice y se reconozca como un crédito común, pre-solicitud, sin poder ser modificado, bajo la Sección 502 del Código de Quiebras.

Siempre y cuando sea autorizado y reconocido el Crédito por Ahorros INDEPENDENCIA, el Plan de Reestructura que en su oportunidad presente la Empresa dentro de su procedimiento actual de reestructura bajo el Capítulo 11 del Código de Quiebras (Bankruptcy Code) de los Estados Unidos de América ("Procedimiento bajo el Capítulo 11") deberá prever que el Crédito por Ahorros INDEPENDENCIA reciba, cuando menos, el mismo trato (pero nunca menos favorable) que cualquier otro crédito común contra la Empresa. Los créditos comunes serán, lo más seguro, convertidos en acciones representativas del capital social de

Grupo Aeroméxico a un valor de conversión con descuento aún pendiente de determinarse, y mismo que deberá aprobarse como parte del propio Plan de Reestructura que se presentará a votación y, en su oportunidad, aprobación de la Corte que preside el proceso de la Empresa bajo el referido Capítulo 11.

En el entendido que la resolución que pudiera dictar la Corte bajo el proceso de Capítulo 11 será ajena a la voluntad y/o responsabilidad de la Empresa.

CUARTA.- El Sindicato tendrá el derecho de que se le reconozca el Crédito por Ahorros Independencia en la cantidad total de $32.73 millones de dólares ("Reclamo Total") en el Procedimiento bajo el Capítulo 11, mismo que no está sujeto a reconsideración bajo la sección 502 del Código de Quiebras de los Estados Unidos de América. Por lo tanto, el Sindicato no deberá presentar reclamos adicionales (additional claims), ni tendrá el derecho a cualquier cantidad adicional a cuenta de reclamos previamente presentados o reconocidos dentro del Procedimiento bajo el Capítulo 11. Cualquier otro reclamo (distinto al Reclamo Total) previamente presentado por, o reconocido en favor de, el Sindicato en contra de la Empresa, o de los otros Deudores (Debtors) bajo el Procedimiento bajo el Capítulo 11, deberá considerarse para todos los efectos legal como renunciado y no será efectivo contra la Empresa o los otros Deudores (Debtors) bajo el Procedimiento bajo el Capítulo 11.

La Empresa está de acuerdo en reconocer el Reclamo Total dentro del Procedimiento bajo el Capítulo 11 como un crédito pre-solicitud de carácter común, general, no-preferencial (prepetition allowed, non-priority general unsecured claim). Asimismo, la Empresa también está de acuerdo en que dicho reclamo (claim) será tratado dentro del Procedimiento bajo el Capítulo 11 en una forma no menos favorable que cualquier otro reclamo (claim) pre-solicitud, de carácter común, general, no-preferencial (prepetition allowed, non-priority general unsecured claim). El tratamiento y las distribuciones a cuenta de dichos reclamos (claims) serán determinados en el plan de reestructura (plan of reorganization) como parte de la salida del Procedimiento bajo el Capítulo 11 ("Plan de Reestructura").

En consideración a lo señalado en el párrafo que antecede, el Sindicato se obliga a apoyar el Plan de Reestructura que proponga la Empresa (Complying Plan). Al respecto, la orden judicial que apruebe las modificaciones al Contrato Colectivo de Trabajo, a ser emitida por la Corte en el Procedimiento bajo el Capítulo 11, establecerá que siempre y cuando el Plan de Reestructura establezca los términos arriba señalados (esto es, el tratamiento no menos favorable en comparación a otros reclamos generales y comunes (general unsecured claimants); la aceptación (assumption) de los convenios modificatorios al contrato colectivo de trabajo; el reconocimiento del Reclamo Total), el Sindicato estará obligado a apoyar (i.e., votar a favor) el Plan de Reestructura (en el entendido, de que el Sindicato recibirá una boleta (ballot) para votar colectivamente el Reclamo Total, por lo que los miembros del Sindicato (empleados sindicalizados) no tendrán que votar individualmente).

QUINTA.- Las Partes ratifican el presente Convenio en todas y cada una de sus partes, obligándose a estar y pasar por él en todo momento como si se tratara de laudo elevado a la categoría de cosa juzgada con fundamento en lo dispuesto por los artículo 33, 375, 426 y 987 de la Ley Federal del Trabajo, solicitando a esta H. Junta su aprobación por no contener cláusula contraria a la moral, al derecho, ni a las buenas costumbres. Las Partes se comprometen a ratificar el presente convenio ante la Junta Federal de Conciliación y

Arbitraje para lo cual autorizan, por parte de Independencia al Lic. Elizabeth Hernández Hernández, Victor Vizcarra Gonzalez y/o Salvador Villaseñor del Villar y, por la Empresa, se autoriza al Lic. Héctor Mauricio De la Cruz Castañeda y/o Alejandro Resendiz Tellez y/o Claudio Martínez Santistevan y/o María Berenice Oviedo Ramón, lo anterior para los efectos legales conducentes.

Enteradas las partes de su contenido y alcances lo firman el día 31 de marzo de 2021.

POR LA EMPRESA

ACT. SERGIO A. ALLARD BARROSO
VICEPRESIDENTE EJECUTIVO
LEGAL Y
RELACIONES INSTITUCIONALES

LIC. CLAUDIA A CERVANTES MUÑOZ
VICEPRESIDENTE LEGAL,
CUMPLIMIENTO Y RELACIONES LABORALES

LIC. GONZALO CASTRO MENDOZA
SUBDIRECTOR DE RELACIONES LABORALES

POR INDEPENDENCIA

SR. TOMÁS DEL TORO DEL VILLAR
SECRETARIO GENERAL

SR. ROBERTO DIEGO SÁNCHEZ
SECRETARIO DE TRABAJO Y CONFLICTOS

SR. JORGE H. ACEVES ARECHIGA
SECRETARIO DEL INTERIOR

Exhibit A-2

March 31 Complementary Agreement (English Translation)

SUPPLEMENTAL AGREEMENT TO THE (I) COLLECTIVE AMENDMENT AGREEMENT OF LABOR CONDITIONS DATED DECEMBER 29, 2020; AND TO THE (II) SUPPLEMENTAL AGREEMENT DATED FEBRUARY 12, 2021, ENTERED INTO BY THE COMPANY **AEROVÍAS DE MÉXICO, S.A. DE C.V.**, WHICH FOR THE PURPOSES OF THIS AGREEMENT WILL BE REFERRED HEREINAFTER AS THE "**COMPANY**", REPRESENTED BY MESSRS. ACTUARY SERGIO ALFONSO ALLARD BARROSO, EXECUTIVE VICE PRESIDENT OF LEGAL AND INSTITUTIONAL RELATIONS, CLAUDIA ANGELICA CERVANTES MUÑOZ, VICE PRESIDENT OF LEGAL, COMPLIANCE AND LABOR RELATIONS, AND GONZALO CASTRO MENDOZA, ACTING IN HIS CAPACITY AS DEPUTY DIRECTOR OF LABOR RELATIONS; AND, ON THE OTHER HAND, THE "INDEPENDENCIA" NATIONAL UNION OF WORKERS AT THE SERVICE OF AIRLINES, TRANSPORTATION, SERVICES, SIMILAR AND RELATED, WHO FOR THE PURPOSES OF THIS AGREEMENT WILL BE REFERRED HEREINAFTER AS "INDEPENDENCIA" OR THE "UNION", INDISTINCTLY (AND, JOINTLY WITH THE COMPANY, THE "PARTIES"), REPRESENTED BY MESSRS. TOMÁS DEL TORO DEL VILLAR, ACTING IN HIS CAPACITY AS GENERAL SECRETARY; ROBERTO DIEGO SANCHEZ, SECRETARY OF LABOR AND CONFLICTS; AND JORGE HUMBERTO ACEVES ARECHIGA, SECRETARY OF INTERIOR, WHICH IS SUBJECT TO THE FOLLOWING RECITALS AND CLAUSES:

RECITALS

I) The Parties entered into a Collective Labor Agreement in order to regulate the Labor-Management relationship between the Company and the workers affiliated to Independencia, which, in compliance with the law, is duly recorded before the Federal Conciliation and Arbitration Board (*Junta Federal de Conciliación y Arbitraje*), registered under file number CC-893-1988-XXIII of the Collective Labor Agreement and Internal Labor Regulations Registration Agency (*Unidad de Registro de Contratos Colectivos y Reglamentos Interiores de Trabajo*).

II) As a result of the Pandemic decreed by the World Health Organization (hereinafter, the "WHO") known as Coronavirus or COVID-19, the Sanitary Emergency due to Force Majeure declared by the Mexican State, the petition filed by the Company to begin a reorganization proceeding under the Chapter 11 of the Bankruptcy Law of the United States of America and the consequent economic and financial situation of the COMPANY, the Parties have held several conciliatory talks in which, taking into account the primordial interest of giving priority to the human rights of the workers and the preservation of the source of work, they have reached the agreements referred to in this Agreement.

III) The Parties have agreed to the collective amendment of the labor conditions under the terms referred to in the agreement dated December 29, 2020, which was duly ratified by the Parties on February 2, 2021, before the Auxiliary Secretary of Collective Affairs of the Federal Conciliation and Arbitration Board (*Secretaría Auxiliar de Asuntos Colectivos de la Junta Federal de Conciliación y Arbitraje*), under the file number IV-C-6/2021 (the "February 2, 2021, Agreement").

IV) On February 12, 2021, the Parties entered into a supplemental agreement to the amended Collective Labor Agreement which is related to and forms an integral part of the February 2, 2021, Agreement.

V) As a result of several negotiations, the Parties have agreed to amend the "Clause Second" of the Supplemental Agreement dated February 12, 2021 (the "February 12, 2021, Agreement").

Thus, the Parties hereby agree as follows:

CLAUSES

FIRST. - The Parties mutually recognize each other's legal capacity for all legal purposes.

SECOND.- The Parties acknowledge that in the February 2, 2021, Agreement it was agreed that any amendment to the covenants reached among them shall be made in the same manner for all the agreements entered into with other unions with which the Company and Aerolitoral, S.A. de C.V., have entered into collective labor agreements; therefore, this agreement will only become effective once the several agreements entered into with the other unions regarding SAVINGS CLAIMS (as such term is defined below) are amended in the same terms (except for the amounts corresponding to each union) of this agreement.

THIRD. - **SAVINGS CLAIMS**. The Parties agree to amend the second clause of the Agreement dated February 12, 2021, to read as follows:

The Parties agree for purposes of this Agreement that the awards or savings granted by INDEPENDENCIA have a quantification with a gross face value of $**41.44** million dollars (without regard to any proration effect or adjustment or discounting of the net present value of this figure), which amount at net present value (discounted at a rate of **10%**) is adjusted to be in the total amount of $**32.73** million dollars ("Final Savings Amount"), derived from the agreements reached between the Parties regarding the modification of certain conditions and terms of the Collective Labor Agreement as set forth in the February 2, 2021, Agreement. The Final Savings Amount will be recognized as a common, pre-petition claim in the reorganization proceeding to which the Company is subject before the Bankruptcy Court for the Southern District of New York State ("INDEPENDENCIA Savings Claim"). Application will be made to the Court for the INDEPENDENCIA Savings Claim to be authorized and recognized as a common, pre-petition, unmodified claim under Section 502 of the Bankruptcy Code.

If and when the INDEPENDENCIA Savings Claim is authorized and recognized, the Plan of Reorganization that the Company files in its current reorganization proceeding under Chapter 11 of the U.S. Bankruptcy Code ("Chapter 11 Proceeding") shall provide that the INDEPENDENCIA Savings Claim shall receive at least the same treatment (but no less favorable treatment) as any other common claim against the Company. The common claims will most likely be converted into shares of capital stock of Grupo Aeroméxico at a

conversion value into shares of capital stock of Grupo Aeroméxico at a discounted conversion value yet to be determined and to be approved as part of the Plan of Reorganization itself to be submitted for vote and, in due course, approval by the Court presiding over the Company's Chapter 11 proceedings.

It is understood that the resolution that may be issued by the Court under the Chapter 11 process shall be beyond the will and/or responsibility of the Company.

FOURTH. - Independencia shall be entitled to recognition of the INDEPENDENCIA Savings Claim in the amount of $32.73 million dollars ("Total Claim") in the Chapter 11 Proceeding, which is not subject to reconsideration under section 502 of the Bankruptcy Code of the United States of America. Therefore, Independencia shall not file additional claims, nor shall it be entitled to any additional amounts on account of claims previously filed or recognized in the Chapter 11 Proceeding. Any claims (other than the Total Claim) previously filed by, or recognized in favor of, the Union against the Company or the other Debtors in the Chapter 11 Proceeding shall be deemed for all legal purposes to have been waived and shall not be effective against the Company or the other Debtors under the Chapter 11 Proceeding.

The Company agrees to recognize the Total Claim under the Chapter 11 Proceeding as a prepetition allowed, non-priority general unsecured claim. The Company further agrees that such claim shall be treated in the Chapter 11 Proceeding no less favorably than any other prepetition allowed, non-priority general unsecured claim. The treatment and distributions on account of such claims shall be determined in the plan of reorganization as part of the exit from the Chapter 11 Proceeding ("Plan of Reorganization").

Thus, the Union agrees to support the Plan of Reorganization proposed by the Company (Complying Plan). In this regard, the Court order approving the amendments to the Collective Labor Agreement, to be issued by the Court in the Chapter 11 Proceeding, shall provide that as long as the Plan of Reorganization provides for the terms set forth above (i.e., treatment no less favorable in comparison to other general unsecured claimants; the assumption of the Collective Labor Agreement amendments; the recognition of the Total Claim), the Union shall be obligated to support (i.e., to vote in favor of the Plan of Reorganization (under the understanding that the Union will receive a ballot to collectively vote on the Total Claim, so that Union members (unionized employees) will not have to vote individually).

FIFTH. - The Parties ratify this Agreement in each and every one of its parts, binding themselves to abide by it at all times as if it were an order ascribed as *res judicata* pursuant to the provisions set forth in Articles 33, 375, 426 and 987 of the Federal Labor Law (*Ley Federal de Trabajo*), requesting the approval of this Board for not containing a clause contrary to morality, law, or good customs. The Parties undertake to ratify this agreement before the Federal Conciliation and Arbitration Board (*Junta Federal de Conciliación y Arbitraje*) for which they authorize, on behalf of Independencia, Messrs. Elizabeth Hernández Hernández, Victor Vizcarra Gonzalez and/or Salvador Villaseñor del Villar and, on behalf of the Company, Héctor Mauricio De la Cruz Castañeda and/or Alejandro Reséndiz Téllez and/or Claudio Martínez Santistevan and/or María Berenice Oviedo Ramón; the foregoing for all legal purposes.

Once the parties were made aware of its content and scope, they sign it on March 31, 2021.

ON BEHALF OF THE COMPANY

/signed/
ACTUARY SERGIO A. ALLARD BARROSO
EXECUTIVE VICE PRESIDENT OF LEGAL AND INSTITUTIONAL RELATIONS

/signed/
MS. CLAUDIA A. CERVANTES MUÑOZ
VICE PRESIDENT OF LEGAL

/signed/
MR. GONZALO CASTRO MENDOZA
DEPUTY DIRECTOR OF LABOR RELATIONS

ON BEHALF OF INDEPENDENCIA

/signed/
MR. TOMÁS DEL TORO DEL VILLAR
GENERAL SECRETARY

/signed/
MR. ROBERTO DIEGO SÁNCHEZ
SECRETARY OF LABOR AND CONFLICTS

/signed/
MR. JORGE H. ACEVES ARECHIGA
SECRETARY OF INTERIOR

Exhibit B

Official Letter of Federal Conciliation and Arbitration Board of the Mexican Department of Labor and Social Welfare Ratifying the Modification Agreements

LIONBRIDGE

STATE OF NEW YORK)
)
) ss
COUNTY OF NEW YORK)

CERTIFICATION

This is to certify that the attached translation is, to the best of my knowledge and belief, a true and accurate translation from Spanish into English of the attached File Number IV-C-6/2021 with Contract Number CC-893/1998-XXIII DF (1).

Kristen Duffy, Senior Managing Editor
Lionbridge

Sworn to and subscribed before me
this 26 day of FEBRUARY, 20 21.

JEFFREY AARON CURETON
NOTARY PUBLIC-STATE OF NEW YORK
No. 01CU6169789
Qualified in New York County
My Commission Expires 09-23-2023

[crest of Mexico]

FEDERAL CONCILIATION
AND ARBITRATION BOARD

Ancillary Department of Collective Affairs
Special Board Number: Three Bis
File Number: IV-C-6/2021
Contract Number: CC-893/1988-XXIII DF (1)
Sindicato Nacional de Trabajadores al Servicio de las Líneas Aéreas, Transportes, Servicios, Similares y Conexos "Independencia"
and
Aerovías de México S.A. de C.V.

In Mexico City, at **twelve twenty in the afternoon on the second of February in the year two thousand and twenty-one,** appearing for **Sindicato Nacional de Trabajadores al Servicio de las Líneas Aéreas, Transportes, Servicios, Similares y Conexos "Independencia"** are its agents Elizabeth Hernández Hernández, Víctor Vizcarra González and Salvador Villaseñor del Villar, who identify themselves with professional licenses and certified copy numbers 5364194, 5937600 and 5937598, respectively, verifying their representative capacity in terms of the power of attorney duly related to the minutes that are produced as originals and non-certified copies so that after they are compared and the originals are reviewed, they can be returned because they are useful to us and the copies can be added to the proceedings for the corresponding legal purposes. We are requesting to be recognized as to our representative capacity for the pertinent purposes. Appearing for the company **Aerovías de México S.A. de C.V.** is its agent Héctor Mauricio de la Cruz Castañeda, who identifies himself with his professional license number 4364023, who verifies his representative capacity pursuant to notarial instrument number 62,469, notarized by Attorney at Law Marco Antonio Espinoza Rommyngth, Notary Public number 97, practicing in Mexico City. It is produced along with a non-certified copy which will be compared to the original and then added to the proceedings and the certified one will be returned for other corresponding legal purposes.—

THE APPEARING PARTIES STATED THE FOLLOWING: The union and the company hereby mutually recognize each other's duly shown representative capacity. In good faith and in agreement, we produce a collective agreement to modify working conditions consisting of seven pages, which have writing on one side, dated December 29, 2020, and which is produced as five originals, so that it can be added to the proceedings, and asking for it to be approved by this honorable Board so that it can be added to the corresponding file and also respectfully requesting a duplicate copy of this appearance document be issued to both parties as well as the agreement with original signatures that were produced. Those authorized to receive them are Attorneys at Law Elizabeth Hernández Hernández, Víctor Vizcarra González and Salvador Villaseñor del Villar, as well as Messrs. Héctor Mauricio de la Cruz Castañeda, Claudio […]

[…] clause that is contrary to law, morals or good customs. The foregoing is based on articles 33, 34 and 987 of the Federal Labor Law, requiring that signatories abide by them at all times and places as if it were an enforceable decision elevated to the category of *res judicata*. As requested by the appearing parties and pursuant to article 723 of the Federal Labor Law, certified copies in duplicate are ordered to be prepared of the agreement produced on December 29, 2020 and this document, receipt of which must be signed for and documented.

Transmit an official letter to the Registration of Collective Bargaining Agreements and Internal Work Regulations Office of this Court, sending these proceedings so that legal orders can be made in file **CC-893/1988-XXIII DF (1)**. The identifications shown by the appearing parties are ordered returned, and photocopies of them must be attached. Notice ordered. The appearing parties having been notified, they sign in the margins as confirmation. Signing at the bottom are the representatives that make up Special Board Number **Three Bis** of the Federal Conciliation and Arbitration Board, along with the President of the Federal Conciliation and Arbitration Board. So certified.—

PRESIDENT OF THE FEDERAL CONCILIATION AND ARBITRATION BOARD

MARÍA EUGENIA NAVARRETE RODRÍGUEZ

REPRESENTATIVE FOR THE EMPLOYERS

ANTHONY MICHAEL TYR ORTIZ CEDILLO

REPRESENTATIVE FOR THE WORKERS

HUMBERTO GUERRA CORREA

COURT CLERK

RAFAEL MARTÍNEZ CASTRO

OFFICIAL LETTER
RMC/LCG
albp.

[illegible Board seal]

Exhibit C

Relevant events filed with the Mexican Stock Exchange on December 29, 2020 and January 28, 2021

Aeromexico moves forward with union agreements

Mexico City, Mexico, December 29, 2020. Grupo Aeroméxico, S.A.B. de C.V. ("Aeromexico" or the "Company") (BMV: AEROMEX) reports that significant progress has been made in Collective Bargaining Agreement (*Contratos Colectivos de Trabajo*) negotiations with its unions, progress that was necessary to face the adverse effects caused to the airline industry by the global COVID-19.

As of today, the Company has satisfactorily concluded negotiations with the *Sindicato de Trabajadores de la Industria Aeronáutica, Comunicaciones Similares y Conexos de la República Mexicana (STIA)* and with the *Sindicato Nacional de Trabajadores al Servicio de las Líneas Aéreas, Transportes, Servicios, Similares y Conexos Independencia (Independencia)*.

Likewise, negotiations with the *Asociación Sindical de Sobrecargos de Aviación de México (ASSA)*, are continuing in the best conditions, aligned with the objectives required to access the financing that will give viability to the Company.

It is also important to highlight that the ASSA, Independencia and STIA unions complied with the optimization and staff reduction program in October and November necessary for the Company to continue its restructuring process.

The company continues in negotiations with the *Asociación Sindical de Pilotos Aviadores de Mexico (ASPA)* seeking to achieve the necessary conditions established in the restructuring plan and recognizes the effort made by ASPA to contain the negative effects of the pandemic.

The concluded agreements, along with those that are in under negotiation, are necessary for the Company to comply with certain commitments and objectives required by the DIP Lenders under the Senior Debtor in Possession Credit Facility ("DIP Financing"), obtained within the Company's voluntary financial restructuring process, under the Chapter 11 of the Bankruptcy Code of the United States of America.

The Company will continue working in a coordinated manner with its unions in order to comply with the necessary conditions to request the next disbursement under Tranche 2 of the DIP Financing facility. The remaining disbursements are subject to the fulfillment of additional goals, conditions and objectives.

Andrés Conesa, CEO of Aeromexico, commented: *"The favorable outcome of the negotiations with the Independencia and STIA unions, as well as the progress with the flight attendants union ASSA, represents an extremely important milestone to have access to the next stages of DIP financing under our restructuring process. These agreements are a product of the enormous effort, contributions, and support of all Aeromexico employees. Likewise, we also hope to conclude negotiations with ASPA within the established timeframe and within the necessary conditions. We recognize the invaluable support of our unions so that Aeromexico consolidates in the future as the leading airline in our country and continues to unite Mexico with the world."*

Aeromexico will continue pursuing, in an orderly manner, the voluntary process of its financial restructuring under the Chapter 11 process, while continuing to operate and offer services to its customers and contracting from its suppliers the goods and services required for operations. The Company will continue to use the advantages of the Chapter 11 proceeding to strengthen its financial position and liquidity, protect and preserve operations and assets, and implement the necessary adjustments to manage the impact of COVID-19.

This press release contains certain forward-looking statements that reflect the current views and/or expectations of the Company and its management with respect to its performance, business and future events. We use words such as "believe," "anticipate," "plan," "expect,", "intend," "target," "estimate," "project," "predict," "forecast," "guideline," "should" and other similar expressions to identify forward-looking statements, but they are not the only way we identify such statements. Such statements are subject to a number of risks, uncertainties and assumptions. We caution you that a number of important factors could cause actual results to differ materially from the plans, objectives, expectations, estimates and intentions expressed in this release. The Company is under no obligation and expressly disclaims any intention or obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

About Grupo Aeromexico
Grupo Aeroméxico, S.A.B. de C.V. is a holding company whose subsidiaries are engaged in commercial aviation in Mexico and the promotion of passenger loyalty programs. Aeromexico, Mexico's global airline, has its main operations center in Terminal 2 of the Mexico City International Airport. Its destination network has reach in Mexico, the United States, Canada, Central America, South America, Asia and Europe. The Group's current operating fleet includes Boeing 787 and 737 aircraft, as well as the latest generation Embraer 190. Aeromexico is a founding partner of SkyTeam, an alliance that celebrates 20 years and offers connectivity in more than 170 countries, through the 19 partner airlines. Aeromexico created and implemented a Health and Hygiene Management System (SGSH) to protect its clients and collaborators at all stages of its operation.

Aeroméxico avanza en acuerdos con Sindicatos

Ciudad de México, México, a 29 de diciembre del 2020. Grupo Aeroméxico, S.A.B. de C.V. ("Aeroméxico" o la "Compañía") (BMV: AEROMEX) informa que se han tenido avances significativos en las negociaciones de los Contratos Colectivos de Trabajo con sus sindicatos, ajustes que fueron necesarios para enfrentar los efectos adversos provocados a la industria aérea por la pandemia global del COVID-19.

A la fecha, la Compañía ha concluido satisfactoriamente las negociaciones con el Sindicato de Trabajadores de la Industria Aeronáutica, Comunicaciones Similares y Conexos de la República Mexicana (STIA) y con el Sindicato Nacional de Trabajadores al Servicio de las Líneas Aéreas, Transportes, Servicios, Similares y Conexos Independencia (Independencia).

Asimismo, las negociaciones con la Asociación Sindical de Sobrecargos de Aviación de México (ASSA) están avanzando en las mejores condiciones, alineado a los objetivos requeridos para acceder a los financiamientos contratados que permitirán darle viabilidad a la empresa.

Es importante destacar, además, que los sindicatos ASSA, Independencia y STIA, cumplieron entre octubre y noviembre el programa de optimización y reducción de personal necesario para que la Compañía continúe su proceso de reestructura.

La empresa continúa en negociaciones con la Asociación Sindical de Pilotos Aviadores de Mexico (ASPA) buscando alcanzar las condiciones necesarias establecidas en el plan de reestructura y reconoce el esfuerzo de ASPA para contener los efectos negativos de la pandemia.

Los acuerdos concluídos, junto con aquellos que se encuentran en proceso de negociación, son necesarios para que la Compañía pueda cumplir con ciertos compromisos y objetivos requeridos por los fondeadores bajo el financiamiento preferencial garantizado ("DIP Financing") (Senior Debtor in Possession Credit Facility), obtenido dentro del proceso voluntario de reestructura financiera de la aerolínea, bajo el Capítulo 11 de la legislación de los Estados Unidos de América.

La Compañía continuará trabajando de manera coordinada con sus sindicatos para cumplir las condiciones necesarias para solicitar el siguiente desembolso bajo el Tramo 2 del DIP Financing. Los desembolsos restantes del financiamiento están sujetos al cumplimiento de metas, condiciones y objetivos adicionales, que deberán concretarse para que Aeroméxico pueda continuar teniendo acceso a los desembolsos subsecuentes.

Andrés Conesa, Director General de Grupo Aeroméxico, comentó: "El resultado favorable de las negociaciones con los sindicatos Independencia y STIA, así como el avance con el sindicato de sobrecargos ASSA, representa un paso sumamente importante para tener acceso a las siguientes etapas del financiamiento durante nuestro proceso de reestructura. Estos acuerdos son producto del enorme esfuerzo, contribuciones y apoyo de todos los colaboradores de Aeroméxico. Asimismo, esperamos también concluir en los tiempos establecidos y en las condiciones necesarias las negociaciones con ASPA. Reconocemos el invaluable apoyo de nuestros sindicatos para que Aeroméxico se consolide en el futuro como la aerolínea líder en nuestro país y continúe uniendo a Mexico con el mundo".

Aeroméxico seguirá llevando a cabo de una manera ordenada el proceso voluntario de reestructura de sus pasivos financieros bajo el procedimiento de Capítulo 11, mientras continúa operando y ofreciendo servicios a sus clientes y contratando de sus proveedores los bienes y servicios requeridos para su operación. La Compañía continuará aprovechando las ventajas del procedimiento de Capítulo 11 para fortalecer su situación financiera y su liquidez, proteger y preservar la operación y activos, e implementar los ajustes necesarios para enfrentar el impacto derivado del COVID-19.

El presente Evento Relevante contiene ciertos pronósticos o proyecciones, que reflejan la visión actual o las expectativas de la Compañía y su Administración con respecto a su desempeño, negocio y eventos futuros. La Compañía usa palabras como "creer", "anticipar", "planear", "esperar", "pretender", "objetivo", "estimar", "proyectar", "predecir", "pronosticar", "lineamientos", "deber" y otras expresiones similares para identificar pronósticos o proyecciones, pero no es la única manera en que se refiere a los mismos. Dichos enunciados están sujetos a ciertos riesgos, imprevistos y supuestos. La Compañía advierte que un número importante de factores podrían causar que los resultados actuales difieran materialmente de los planes, objetivos, expectativas, estimaciones e intenciones expresadas en el presente evento relevante. La Compañía no está sujeta a obligación alguna y expresamente se deslinda de cualquier intención u obligación de actualizar o modificar cualquier pronóstico o proyección que pudiera resultar de nueva información, eventos futuros o de cualquier otra causa.

Acerca de Grupo Aeroméxico Grupo Aeroméxico, S.A.B. de C.V., es una sociedad controladora, cuyas subsidiarias se dedican a la aviación comercial en México y a la promoción de programas de lealtad de pasajeros. Aeroméxico, la aerolínea global de México tiene su principal centro de operaciones en la Terminal 2 del Aeropuerto Internacional de la Ciudad de México. Su red de destinos tiene alcance en México, Estados Unidos, Canadá, Centroamérica, Sudamérica, Asia y Europa. La flota operativa del Grupo se conforma de aviones Boeing 787 y 737, así como Embraer 190 de última generación. Aeroméxico es socio fundador de SkyTeam, una alianza que cumple 20 años y ofrece conectividad en más de 170 países, a través de las 19 aerolíneas socias. Aeroméxico creó e implementó un Sistema de Gestión de Salud e Higiene (SGSH) para proteger a sus clientes y colaboradores en todas las etapas de su operación.

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Aeroméxico reaches agreement with Unions

Mexico City, Mexico, January 28, 2021. Grupo Aeroméxico, S.A.B. de C.V. ("Aeromexico" or the "Company") (BMV: AEROMEX) announces that it has reached satisfactory agreements with the *Asociación Sindical de Pilotos Aviadores de México* ("ASPA") and the *Asociación Sindical de Sobrecargos de Aviación de México* ("ASSA"), during the restructure of their Collective Bargaining Agreements. The agreements, approved yesterday by personal and direct vote of the Company's pilots and flight attendants, are essential to face the adverse effects caused globally to the airline industry by the COVID-19 pandemic and shall be formalized in the following days.

The results achieved during the negotiations were necessary for the Company to meet certain commitments and objectives required by the DIP lenders under the Senior Debtor in Possession Credit Facility ("DIP Financing"), obtained within the Company's voluntary financial restructuring process.

The Company recognizes the important effort that the flight attendants of ASSA and pilots of ASPA have made to face the negative effects of the pandemic and will continue to work in a coordinated manner with the unions' representatives to formalize the agreements reached.

Aeromexico also recognizes the support of its unionized employees of the *Sindicato de Trabajadores de la Industria Aeronáutica, Comunicaciones Similares y Conexos de la República Mexicana (STIA)* and the *Sindicato Nacional de Trabajadores al Servicio de las Líneas Aéreas, Transportes, Servicios, Similares y Conexos (Independencia)*, with whom the Company reached satisfactory agreements last December, which was communicated previously. Likewise, the Company highlights the efforts of non-unionized employees, as well as the Mexican Government for accompanying the airline throughout this process.

The Company will continue working in the following days on the process to comply with the conditions and obligations established in the Credit Agreement, in order to request the next disbursement under Tranche 2 of the DIP Financing.

Aeromexico will continue pursuing, in an orderly manner, the voluntary process of its financial restructuring under the Chapter 11 process, while continuing to operate and offer services to its customers and contracting from its suppliers the goods and services required for operations. The Company will continue to strengthen its financial position and liquidity, protecting and preserving the operation and assets, and implementing the necessary adjustments to face the impact derived from COVID-19.

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Aeroméxico logra acuerdos con Sindicatos

Ciudad de México, México, a 28 de enero del 2021. Grupo Aeroméxico, S.A.B. de C.V. ("Aeroméxico" o la "Compañía") (BMV: AEROMEX) informa que ha alcanzado acuerdos satisfactorios con la Asociación Sindical de Sobrecargos de Aviación de México (ASSA) y la Asociación Sindical de Pilotos Aviadores de México (ASPA) durante la reestructura de sus Contratos Colectivos de Trabajo. Los acuerdos, aprobados el día de ayer por voto personal y directo de pilotos y sobrecargos de la Compañía, son indispensables para enfrentar los efectos adversos provocados a nivel global a la industria aérea por la pandemia del COVID-19, y serán formalizados en los siguientes días.

Los objetivos alcanzados durante las negociaciones eran necesarios para que la Compañía pueda cumplir con ciertos compromisos y objetivos requeridos por los fondeadores bajo el financiamiento preferencial garantizado ("*DIP Financing*") obtenido dentro del proceso voluntario de reestructura financiera de Aeroméxico.

La Compañía reconoce el importante esfuerzo que los sobrecargos de ASSA y pilotos de ASPA han hecho para hacer frente a los efectos negativos de la pandemia, y continuará trabajando de manera coordinada con los representantes de dichos sindicatos para formalizar los acuerdos alcanzados.

Aeroméxico también reconoce el apoyo de sus colaboradores agremiados al Sindicato de Trabajadores de la Industria Aeronáutica, Comunicaciones Similares y Conexos de la República Mexicana (STIA) y al Sindicato Nacional de Trabajadores al Servicio de las Líneas Aéreas, Transportes, Servicios, Similares y Conexos (Independencia), con los cuales la Compañía alcanzó acuerdos satisfactorios en diciembre pasado, lo cual fue informado previamente. De igual manera, la Compañía destaca los esfuerzos de los colaboradores no sindicalizados, así como al Gobierno de México por acompañar a la aerolinea durante todo este proceso.

La Compañía continuará trabajando en los próximos días en el proceso de cumplimiento de las condiciones y obligaciones previstas en el Contrato de Crédito, a fin de solicitar el siguiente desembolso bajo el Tramo 2 del DIP Financing.

Aeroméxico seguirá llevando a cabo de una manera ordenada el proceso voluntario de reestructura de sus pasivos financieros bajo el procedimiento de Capítulo 11, mientras continúa operando y ofreciendo servicios a sus clientes y contratando de sus proveedores los bienes y servicios requeridos para su operación. La Compañía continuará fortaleciendo su situación financiera y su liquidez, protegiendo y preservando la operación y activos, e implementando los ajustes necesarios para enfrentar el impacto derivado del COVID-19.

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