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

_____)	
In re)	Chapter 11
)	
GRUPO AEROMÉXICO, S.A.B de C.V., <i>et al.</i> ,)	Case No. 20-11563 (SCC)
)	
)	
Debtors. ¹)	(Jointly Administered)
_____)	

**NOTICE OF FILING OF DECLARATION IN SUPPORT OF CONFIRMATION OF THE
DEBTORS' THIRD AMENDED JOINT PLAN OF REORGANIZATION UNDER
CHAPTER 11 OF THE BANKRUPTCY CODE**

PLEASE TAKE NOTICE that on December 10, 2021, the above-captioned debtors and debtors in possession (collectively, the “Debtors”), filed the *Debtors’ Third Amended Joint Plan of Reorganization under Chapter 11 of the Bankruptcy Code* [ECF No. 2293] (as may be amended, restated, amended and restated, supplemented, altered or modified from time to time, the “Plan”).

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

PLEASE TAKE FURTHER NOTICE that attached hereto as **Exhibit 1** is the *Declaration of Joshua S. Scherer in Support of Confirmation of the Debtors' Third Amended Joint Chapter 11 Plan of Reorganization under Chapter 11 of the Bankruptcy Code* (the "Scherer Declaration").

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

Dated: January 12, 2022
New York, New York

AKIN GUMP STRAUSS HAUER & FELD LLP

By: /s/ Abid Qureshi

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Exhibit 1

Scherer Declaration

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

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

**DECLARATION OF JOSHUA S. SCHERER IN SUPPORT OF CONFIRMATION
OF THE DEBTORS' THIRD AMENDED JOINT CHAPTER 11 PLAN OF
REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

I, Joshua S. Scherer, make this declaration pursuant to 28 U.S.C. § 1746 and state as follows:

1. I am a partner at Ducera Partners LLC (and its affiliates including, where appropriate, Ducera Securities LLC) ("Ducera"), financial advisor to the ad hoc group (the "Ad Hoc Group") composed of certain unaffiliated holders, each on behalf of itself and/or acting by the holder's investment manager solely for and on behalf of certain funds or accounts managed or advised by it, that are holders of the 7.000% Senior Notes due 2025 issued pursuant to that certain indenture, dated as of February 5, 2020, by and among Aerovías de México, S.A. de C.V., as issuer, Grupo Aeroméxico, S.A.B. de C.V. (together with its affiliates that are debtors and debtors in possession in these proceedings, the "Debtors"), as guarantor, and The Bank of New York Mellon, as trustee, transfer agent, registrar and paying agent (the "Senior Notes"). I submit this declaration

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

(the “Declaration”) in support of confirmation of the *Debtors’ Third Amended Joint Plan of Reorganization under Chapter 11 of the Bankruptcy Code* [ECF No. 2293] (as may be subsequently supplemented, amended, or modified from time to time, the “Plan”).

2. Except as otherwise indicated, all statements in this Declaration are based upon my review of relevant documents, my discussions with the Ad Hoc Group and its professionals, and my personal knowledge and experience. If I were called upon to testify, I could and would testify to each of the facts set forth below.

Qualifications of Declarant and Ducera

3. Ducera is an independent investment banking firm that provides strategic advisory, restructuring, and liability management services as well as capital markets knowledge, financing skills, and restructuring capabilities that are employed in corporate restructuring transactions. Ducera’s professionals have extensive experience rendering investment banking services to financially distressed companies and to creditors, equity holders, and other constituencies in reorganization proceedings and complex financial restructurings, both in-court and out-of-court, from its offices in New York, California, and Connecticut.

4. Since its inception in 2015, Ducera has provided restructuring services in numerous large, complex chapter 11 cases to debtors, creditor groups, asset purchasers, committees, boards of directors, and trustees in a number of bankruptcy matters including, but not limited to, (a) *In re GBG USA Inc., et al.*, Case No. 21-11369 (Bankr. S.D.N.Y); (b) *In re Superior Energy Services, Inc., et al.*, Case No. 20-35812 (Bankr. S.D. Tex.); (c) *In re Remington Outdoor Co., Inc.*, Case No. 20-81688 (Bankr. N.D. Ala); (d) *In re Imerys Talc Am., Inc.*, Case No. 19-10289 (Bankr. D. Del.); (e) *In re Paniolo Cable Co., LLC*, Case No. 18-01319 (Bankr. D. Haw.); (f) *In re Specialty Retail Shops Holding Corp.*, Case No. 19-80064 (Bankr. D. Neb.); (g) *In re Sungevity*, Case No.

17-10561 (Bankr. D. Del.); (h) *In re Toys “R” Us, Inc.*, Case No. 17-034665 (Bankr E.D. Va.); (i) *In re Panda Temple Power, LLC*, Case No. 17-10839 (Bankr. D. Del.); (j) *In re Dacco Transmission Parts (NY), Inc.*, Case No. 16-13245 (Bankr. S.D.N.Y.); (k) *In re Hercules Offshore, Inc.*, Case No. 16-11385 (Bankr. D. Del.); (l) *In re Illinois Power Generating Co.*, Case No. 16-36326 (Bankr. S.D. Tex.); and (m) *In re Paragon Offshore PLC*, Case No. 16-10386 (Bankr. D. Del.). Additionally, Ducera has served as an investment banker to debtors, creditor groups, and other interested parties in a number of aviation and aerospace restructuring and other matters including, but not limited to, American Airlines, Inc., Delta Air Lines Inc., Hawker Beechcraft Corporation, LATAM Airlines, and U.S. Airways.

5. I have more than 27 years of investment banking experience, rendering advisory services to corporations and other constituents in connection with restructuring transactions, mergers, acquisitions, and financings across a wide range of industries. I joined Ducera in 2015 as a founding partner. Prior to joining Ducera, I was a partner at Perella Weinberg Partners L.P., which I joined in 2007. I also was a director at Houlihan Lokey, Inc., which I joined in 1999. I have testified in a multitude of cases on various topics including valuation, sales process, and plan feasibility.

6. In July 2020, the Ad Hoc Group retained Ducera and Banco BTG Pactual S.A. (and its affiliates including, where appropriate, BTG Pactual US Capital, LLC) (“BTG”) to provide strategic and financial advice for the purpose of assisting counsel for the Ad Hoc Group in connection with the general financial advisory and investment banking services, transaction services, and financing services for the comprehensive restructuring of the Debtors’ balance sheet in the above-captioned chapter 11 cases (the “Chapter 11 Cases”).

Negotiations with the Mexican Investors²

7. In May 2021, the Debtors commenced their exit financing process to determine the terms on which they could raise sufficient debt and/or equity financing to emerge from chapter 11. The Ad Hoc Group was an active participant in that exit financing process from the outset, and sought to provide the Debtors with an alternative to Apollo's proposal that would provide greater value to all constituents in these chapter 11 cases. Many months of difficult negotiations in which I was personally involved followed, and ultimately resulted in the Plan currently before the Court. A significant issue in all of these negotiations was the need to craft an exit financing and ownership structure for these Debtors that complies with Mexican legal requirements.

8. As described in detail in the *Declaration of Alejandro Sainz in support of the Debtors' Third Amended Joint Plan of Reorganization under Chapter 11 of the Bankruptcy Code* [ECF No. 2395], certain Mexican laws require that no more than 49% of a company's full-voting stock be owned by foreign individuals or entities, with a minimum of 51% of the full-voting stock owned by Mexican nationals (the "Minimum Ownership Requirement").

9. As a result, satisfying the Minimum Ownership Requirement has been a goal from the outset of the exit financing and Plan negotiation process. The Debtors provided to all parties participating in the Debtors' exit financing process a memorandum outlining the basic requirements for satisfying the Minimum Ownership Requirement, and relayed these requirements to the Ad Hoc Group multiple times throughout the negotiation process. As such, the Ad Hoc Group and its professionals spent considerable time negotiating with the Mexican Investors, as well as pursuing alternative options for satisfying the Minimum Ownership Requirement without the participation of the Mexican Investors.

² Capitalized terms used but not defined herein shall have the meaning given to them in the Plan.

10. Ducera led the negotiations with the Mexican Investors on behalf of the Ad Hoc Group. During those negotiations, I primarily negotiated with the professional representatives of the Mexican Investors, including attorneys from the law firms of Bufete Robles Miaja, S.C. (“Robles Miaja”) and Quinn Emanuel Urquhart & Sullivan LLP.

11. On June 9, 2021, the Ad Hoc Group and the BSPO Investors delivered to the Debtors a non-binding indication of interest to provide exit debt and equity financing. After initial feedback from the Debtors’ advisors, the Ad Hoc Group and the BSPO Investors submitted a revised non-binding indication of interest to the Debtors (the “Indication of Interest”) on June 14, 2021. Following the submission of the Indication of Interest to the Debtors, on June 15, 2021, the Ad Hoc Group made an initial outreach to the Debtors through Javier Arrigunaga, the chairman of the Board of Directors, regarding a potential proposal to the Mexican Investors. On June 20, 2021, on behalf of the Ad Hoc Group I sent to the Debtors an indicative proposal to the shareholders of Aeroméxico. Over the course of the next week or so, members of the Ad Hoc Group and its advisors participated in multiple conference calls and video conferences with certain of the Mexican Investors and their advisors regarding the Ad Hoc Group’s proposal to the Mexican Investors. At this time, the Ad Hoc Group recognized the importance of negotiating with the Mexican Investors, in part due to our understanding that the Mexican government was interested in a continuing role for Mexican investors in its flagship carrier.

12. Throughout July 2021, the Ad Hoc Group continued to negotiate the terms of the Mexican Investors’ participation in the Debtors’ exit financing. The Ad Hoc Group submitted multiple proposals to the Mexican Investors, emphasizing its desire to maximize the value of Mexico’s flagship carrier and ensure an expedited process for the Debtors’ emergence from chapter 11. I also had calls with the Mexican Investors’ counsel, including a conference call with

the Mexican Investors' attorneys from Robles Miaja on or around July 12, 2021.

13. In July 2021, the Ad Hoc Group also explored other options to satisfy the Minimum Ownership Requirement. On a foundational level, the Ad Hoc Group recognized the necessity of satisfying the Minimum Ownership Requirement and understood that the Mexican Investors were not the only Mexican nationals who could do so. Furthermore, the Ad Hoc Group also was optimistic that increasing the number of interested parties may result in improved economic terms, so the Ad Hoc Group sought competitive offers from Mexican national investors outside of the Mexican Investors who the Ad Hoc Group believed would be interested in participating in the exit financing and could also satisfy the Minimum Ownership Requirement.

14. As such, representatives from BTG and I made efforts to gauge the interest of other Mexican national investors. The Ad Hoc Group reached out to at least twenty potential Mexican national investors, including small private equity firms, pension funds, venture capitalists, and family offices. There were challenges to securing interest from other Mexican investors, however, in part because of the reluctance of investors to invest fresh capital in the airline sector given unsuccessful past investments in the sector and the on-going headwinds facing the industry, including due to the ongoing and uncertain impact of the global COVID-19 pandemic.

15. Despite the Ad Hoc Group's efforts, the Ad Hoc Group was unable to identify an alternative group of interested Mexican investors. As a result, the Ad Hoc Group recognized that the way to maximize value to creditor groups was to pursue improved economic terms from the existing Mexican Investors, so the Ad Hoc Group continued to negotiate with and refine its proposals to the Mexican Investors to gain their support.

16. On August 20, 2021, the Ad Hoc Group, the BSPO Investors, and the Ad Hoc Group of Unsecured Claimholders submitted to the Debtors an exit financing term sheet

representing a joint exit financing proposal (the “Joint Proposal”), which made reference to certain supporting Mexican Investors and included a structure to satisfy the Minimum Ownership Requirement. Around this time, counsel for the Ad Hoc Group continued to negotiate with the Mexican Investors’ counsel regarding proposals for a potential equity investment by the Mexican Investors that would provide for an ownership structure that would comply with Mexican law.

17. In early September 2021, the Debtors provided feedback to the Ad Hoc Group regarding the Joint Proposal, including the requirement that all financing proposals must fulfill Mexican foreign ownership requirements, and requesting that the Ad Hoc Group identify the Mexican shareholders who would be fulfilling that legal structure under the Joint Proposal.

18. On September 9, 2021, the Ad Hoc Group, the BSPO Investors, and the Ad Hoc Group of Unsecured Claimholders submitted a revised proposal to the Debtors that indicated that they would continue to work with the Debtors and other stakeholders to finalize an agreement with either the Mexican Investors or an alternative group of Mexican nationals.

19. In keeping with those statements to the Debtors, throughout September 2021, I engaged in further negotiations with the Mexican Investors, including in-person meetings and conference calls. On or around September 14, 2021, together with BTG representatives, I attended an in-person meeting in Mexico City with the Mexican Investors’ counsel. On or around September 16, 2021, September 30, 2021, October 1, 2021, and October 30, 2021, I attended conference calls with the Mexican Investors’ counsel in connection with negotiating the terms of their participation in the exit financing.

20. On October 8, 2021, the Debtors filed the *Debtors’ Motion for Entry of An Order (I) Authorizing the Debtors’ Entry Into, and Performance Under, the Debt Financing Commitment Letter, (II) Authorizing the Debtors’ Entry Into, and Performance Under the Equity Commitment*

Letter, (III) Authorizing the Debtors' Entry Into, and Performance Under, the Subscription Agreement and (IV) Authorizing Incurrence, Payment, and Allowance of Related Premiums, Fees, Costs and Expenses As Superpriority Administrative Expense Claims [ECF No. 1860] (the "Exit Financing Motion"), which included an overview of how "the Debtors, Delta, and the Commitment Parties shall work together to structure the Exit Financing . . . in a manner that satisfies the Minimum Ownership Requirement prior to the effective date."

21. The Debtors then filed a revised version of the *Debtors' Joint Plan of Reorganization under Chapter 11 of the Bankruptcy Code* [ECF No. 1896] on October 15, 2021. Though that version of the Plan was supported by several of the Debtors' key constituencies, it was opposed by others. Therefore, following the filing of the Exit Financing Motion, the Ad Hoc Group continued to negotiate the terms of an exit financing that was consensual and executable, including the treatment of the Mexican Investors under such exit financing. On or around October 30, 2021, I participated in a conference call with the Mexican Investors' counsel as part of these ongoing negotiations.

22. In early November 2021, I continued to participate in negotiations with the Mexican Investors, including direct discussions with the lead Mexican Investor, Eduardo Tricio. Throughout November 2021, the Mexican Investors aggressively negotiated the terms of their participation in the exit financing and sought further economic incentives to participate in the exit financing, including through the exchange of drafts the Equity Financing Commitment Letter and term sheet as applicable to the Mexican Investors.

23. The Debtors and their key constituencies continued to negotiate towards a consensual deal. Eventually, after tireless good-faith negotiations, the Debtors, Apollo, the Ad Hoc Group, the BSPO Investors, the Ad Hoc Group of Unsecured Claimholders, and the Mexican

Investors agreed to the terms of a revised exit financing package, and on November 19, 2021, the Debtors filed the *Supplement to Debtors' Exit Financing Motion and Notice of Filing of Revised Equity and Debt Commitment Letters* [ECF No. 2168] (the "Exit Financing Supplement"), which outlined the terms of the agreed-to exit financing. The Plan incorporates the terms of the exit financing package described in the Exit Financing Supplement.

24. The Plan, and the consideration the Mexican Investors are to receive thereunder, is a result of nearly six months of good faith, arm's length negotiations between the Mexican Investors and the Ad Hoc Group and their respective advisors. The Ad Hoc Group and its advisors spent considerable time and energy discussing, analyzing, and participating in these laborious and sometimes difficult negotiations. But the ultimate result ensured long-term Mexican ownership from a group of investors who satisfy the Minimum Ownership Requirement.

Treatment of the Mexican Investors Under the Plan

25. As a result of extensive negotiations with the Mexican Investors, the Plan provides for the Mexican Investors to receive 4.1% of the New Stock (subject to dilution) in consideration for \$20 million for the subscription and purchase of New Stock, certain covenants (the "Mexican Investor Covenants") to be made to the Debtors pursuant to the Plan, and certain extra-contractual benefits the Mexican Investors will provide to the reorganized Debtors.

26. As set out in section 4.10 of the Plan, the Mexican Investor Covenants require the Mexican Investors to, among other things, provide public relationship assistance and participate in setting overall objectives, design long term strategy, approve plans and programs of operation, formulate general policies, and offer advice. These covenants are in addition to the Mexican Investors' duties as members of the Board.

27. In addition, the continued participation of the Mexican Investors provides

additional benefits to the reorganized Debtors such as continuity, stability, and consistency of governance and oversight. The Mexican Investors each have been with the Debtors for many years and are committed to their success. Furthermore, the Mexican Investors are uniquely positioned to assist the Debtors with meeting Mexican law requirements and maintaining good working relationships with the Mexican government and regulators. I understand key members of the Mexican government are particularly interested in the Debtors being managed and owned by reputable and trustworthy Mexican nationals.

28. The consideration provided to the Mexican Investors under the Plan is commensurate with the services and holistic benefits they provide to the Debtors. The Mexican Investors are esteemed businesspersons with extensive experience in corporate governance in different industries and they have extensive contacts that can be leveraged for the Debtors' advantage. Chief among those contacts that the Mexican Investors can leverage for the benefit of the Debtors is their relationship with the Mexican government and regulatory authorities at the highest levels, which relationship the Mexican Investors have explained is integral to the Debtors' emergence and is important for a company that operates based on governmental concessions and within government airports.

29. Another important benefit that the Mexican Investors provide is that they are willing to be long-term partners for the Debtors post-emergence. Indeed, the Plan provides that the Mexican Investor Stock will be subject to certain transfer requirements for the five-year period following the Effective Date. In addition, if any of the Mexican Investors breaches the transfer requirements or the non-compete covenant in the Plan, such breaching party will pay the Debtors a penalty of \$20 million.

30. The Ad Hoc Group also factored into the consideration provided to the Mexican

Investors in connection with the Plan the potential expenses associated with finding new investors that could satisfy the Minimum Ownership Requirement. Having already expended substantial time and energy pursuing such alternatives—which efforts failed—it was more efficient for the Debtors and their stakeholders to retain the support of the Mexican Investors.

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* * *

I certify under penalty of perjury that, based upon my knowledge, information and belief as set forth in this Declaration, the foregoing is true and correct.

New York, New York
January 12, 2022

By: /s/ Joshua S. Scherer
Joshua S. Scherer
Partner
Ducera Partners LLC