Hearing Date and Time: 11:00 a.m.[1] on November 17, 2026
Objection Deadline: 4:00 p.m. on November 13, 2026

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	**Chapter 11**
SPIRIT AVIATION HOLDINGS, INC., *et al.*,	**Case No. 25-11897 (SHL)**
Debtors.[2]	**Jointly Administered**

MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER (I) APPROVING THE SETTLEMENT AGREEMENT AND RELEASE BETWEEN SPIRIT AIRLINES, LLC AND AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY, INC., (II) ALLOWING ASSUMPTION OF THE CARD ACCEPTANCE AGREEMENT, AS MODIFIED, AND (III) GRANTING RELATED RELIEF

Spirit Aviation Holdings, Inc. and its subsidiaries (collectively, the "**Debtors**"), each of which is a debtor and debtor in possession in the above-captioned chapter 11 cases (the "**Chapter 11 Cases**"), hereby file this *Motion of the Debtors for Entry of an Order (I) Approving the Settlement Agreement and Release between Spirit Airlines, LLC and American Express Travel Related Services Company, Inc., (II) Allowing Assumption of the Card Acceptance Agreement, as Modified, and (III) Granting Related Relief* (this "**Motion**"). This Motion is supported by the

[1] All times herein and in the Motion (as defined below) are expressed in prevailing Eastern Time.

[2] The Debtors' names and last four digits of their respective employer identification numbers are as follows: Spirit Aviation Holdings, Inc. (1797); Spirit Airlines, LLC (7023); Spirit Finance Cayman 1 Ltd. (7020); Spirit Finance Cayman 2 Ltd. (7362); Spirit IP Cayman Ltd. (4732); and Spirit Loyalty Cayman Ltd. (4752). The Debtors' mailing address is 1731 Radiant Drive, Dania Beach, FL 33004.

Declaration of Pedro Motta in Support of (I) the Elavon Settlement Motion, (II) the AmEx Settlement Motion and (III) the Motion to Shorten (the "**Motta Declaration**") filed contemporaneously herewith and incorporated herein by reference. In further support of this Motion, the Debtors respectfully state as follows:

Relief Requested

1. By this Motion, and pursuant to sections 105(a), 362, 363, 365, 502, 503, 507 and 553 of title 11 of the United States Code (the "**Bankruptcy Code**") and rules 6004, 6006 and 9019 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), the Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the "**Proposed Order**"), (a) approving the Settlement Agreement and Release (the "**Settlement Agreement**") between Spirit Airlines, LLC and American Express Travel Related Services Company, Inc. attached to the Proposed Order as Exhibit 1, (b) allowing assumption of the Card Acceptance Agreement, as modified by the Settlement Agreement, and (c) granting related relief.[3]

Jurisdiction and Venue

2. The United States Bankruptcy Court for the Southern District of New York (the "**Court**") has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference M-431*, dated January 31, 2012 (Preska, C.J.).

3. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b).

4. The Debtors confirm their consent to the entry of a final order by the Court in connection with this Motion.

5. Venue of the Chapter 11 Cases and related proceedings is proper in this district

[3] For the avoidance of doubt, this Motion provides an overview of the Settlement Agreement and various terms thereof. Any summary or recitation of the settlement terms is not intended to displace or supersede the actual terms of the Settlement Agreement.

pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

6. On August 29, 2025 (the "**Petition Date**"), each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Chapter 11 Cases are being jointly administered, for procedural purposes only, pursuant to Bankruptcy Rule 1015(b), as ordered by the Court [ECF No. 35].

7. On September 17, 2025, the United States Trustee for the Southern District of New York (the "**U.S. Trustee**") appointed an Official Committee of Unsecured Creditors (the "**Committee**") pursuant to section 1102 of the Bankruptcy Code [ECF No. 117].

8. Additional information about the events leading up to the Petition Date and the Debtors' businesses, affairs, capital structure, and prepetition indebtedness can be found in the *Declaration of Fred Cromer in Support of the Chapter 11 Proceedings and First Day Pleadings* [ECF No. 19] (the "**First Day Declaration**").[4]

9. On May 8, 2026 (the "**Wind-Down Date**"), the Bankruptcy Court entered the *Order (I) Authorizing the Debtors to Wind Down Operations, (II) Approving the Debtors' Use of Cash Collateral and Amendments to the DIP Credit Agreement and Final DIP Order, (III) Authorizing Modification or Termination of the Debtors' Employee Programs, (IV) Approving Wind-Down Incentive and Retention Plan, (V) Approving Modification of Contract Rejection Procedures, (VI) Approving Non-Fleet Assets Sale Procedures, (VII) Approving Non-Fleet Assets Abandonment Procedures, (VIII) Approving the Use of Certain Third-Party Contractors, (IX) Approving Protections for Certain Persons Implementing the Wind-Down, (X) Enforcing an*

[4] Capitalized terms used but not defined herein shall have the meanings set forth in the First Day Declaration, the Card Acceptance Agreement, or the Settlement Agreement, as applicable.

Administrative Stay, (XI) Authorizing the Preemption of Applicable Laws and Ordinances for the Debtors to Effectuate the Wind-Down, (XII) Authorizing the Debtors to Take Any and All Actions Necessary to Implement the Wind-Down, and (XIII) Granting Related Relief [ECF No. 1048] (the "**Wind-Down Order**").

Preliminary Statement

10. On September 4, 1998, Spirit Airlines, Inc., now known as Spirit Airlines, LLC ("**Spirit**") and American Express Travel Related Services Company, Inc. ("**AmEx**") entered into the Terms and Conditions for Worldwide Acceptance of the American Express Card by Airlines (as amended, restated, supplemented and modified from time to time, the "**Card Acceptance Agreement**"). The purpose of the Card Acceptance Agreement was for Spirit to accept American Express Card charges from Cardmembers for the purchase of Air Transport and Related Services provided by Spirit.

11. The Card Acceptance Agreement allowed AmEx to withhold payments due to Spirit, including payments for Cardmember charges and other marketing or volume incentives, to create a reserve (the "**Reserve**") as security for Spirit's obligations to AmEx under the Card Acceptance Agreement and to provide a holdback to protect against Cardmember disputed charges and charges related to unflown tickets for future travel and services not yet received, among other things as provided for in the Card Acceptance Agreement.

12. On June 24, 2011, in an Addendum and Amendment to the Card Acceptance Agreement, Spirit granted AmEx a first priority security interest in and continuing lien on the Reserve and accounts receivable or rights to payments under the Card Acceptance Agreement and proceeds thereof.

13. On or around May 2, 2026, in advance of a planned wind-down of its businesses,

Spirit ceased all passenger flight operations and asked the Federal Aviation Administration to issue a ground stop for Spirit flights to ensure no accidental dispatches.

14. AmEx is entitled to a setoff or recoupment against the Reserve in an amount not less than $13,571,686.63, which may increase over time due to pending claims and Cardmember disputes. The Reserve exceeds the estimated amount of Spirit's projected remaining obligations under the Card Acceptance Agreement or AmEx's estimated risk related to disputed charges and charges related to tickets for canceled flights and services not received by Cardmembers.

15. As a result of the ceased passenger flight operations, the disputed charges and related refund requests by Cardmembers have declined sharply and will continue to decline over time and consequently, the need to retain the Reserve has decreased and will continue to decrease.

16. Spirit and AmEx have agreed to resolve the dispute over the amount of the Reserve to be retained by AmEx for disputed charges and refunds and the period of time over which AmEx should continue to retain the Reserve or portions thereof before releasing it to Spirit.

17. The settlement embodied in the Settlement Agreement includes the following key terms, among others:

- After applying any setoffs or recoupment against the Reserve for undisputed obligations Spirit has under the Card Acceptance Agreement, the remaining balance of the Reserve (approximately $13,173,421, the "**Excess Reserve**") will be released by payment to Spirit according to the following schedule:

    a. On or before November 30, 2026 (or as soon thereafter following court approval), after additional setoffs/recoupment for undisputed obligations Spirit has under the Card Acceptance Agreement, 50% of the Excess Reserve existing at that time shall be released to Spirit, less a 2.25% fee on the released amount which shall be paid to AmEx;

    b. On or before December 31, 2026, after additional setoffs/recoupment for undisputed obligations Spirit has under the Card Acceptance Agreement, 50% of the then Excess Reserve existing at that time shall be released to Spirit, less a 1.875% fee on the released amount which shall be paid to

AmEx;

c. On or before February 15, 2027, after additional setoffs/recoupment for undisputed obligations Spirit has under the Card Acceptance Agreement, 50% of the then Excess Reserve existing at that time shall be released to Spirit, less a 1.125% fee on the released amount which shall be paid to AmEx; and

d. On May 8, 2027, the one year anniversary of the Wind-Down Date, after additional setoffs/recoupment for undisputed obligations Spirit has under the Card Acceptance Agreement, the remaining Excess Reserve existing at that time shall be released to Spirit with no fee.

e. The Parties acknowledge that inherent operating controls may delay slightly the timing for payments of the Excess Reserve.

- The Card Acceptance Agreement will terminate, without further act, upon receipt by Spirit in full of all payments due from AmEx pursuant to paragraph 2 of the Settlement Agreement (the "**Termination Date**"). Before the Termination Date, Spirit will certify to AmEx compliance with all terms and conditions under AmEx's Data Security Operating Policy (as provided for in the Card Acceptance Agreement), with all confidential or proprietary information, Cardmember Information and Cardmember Data, transaction data and data security information being deleted and destroyed. Spirit further acknowledges and confirms that it does not own any Cardmember Information, AmEx proprietary data and security information, or any information identifying Cardmembers, and represents that in no event will any Cardmember Information, AmEx proprietary data and security information, or any information identifying Cardmembers be included as a transferred asset in any transaction under section 363 of the Bankruptcy Code.

- The Settlement Agreement will become effective upon the first date on which all of the following conditions have been met (the "**Effectiveness Conditions**"): (i) the execution of this Settlement Agreement by each of AmEx and Spirit; (ii) entry of an order of the Bankruptcy Court approving the Settlement Agreement and granting the 9019 Motion (the "**9019 Order**"); and (iii) the 9019 Order becomes final and non-appealable.

- Through and until the Termination Date, AmEx shall provide to Spirit a monthly report, either by Spirit's access to its AmEx merchant portal or directly by request, providing an accounting of the Reserve and any fees, charges, or setoffs against the Reserve, which shall be due on or before the 15th day of the month for the preceding month.

- The Parties will mutually release each other of all claims or causes of actions, as follows:

a. **Spirit's Release of Claims against AmEx**. Upon the occurrence of all of the Effectiveness Conditions and after return of all payments due to Spirit pursuant to paragraph 2 of the Settlement Agreement, and subject to the obligations of the Parties set forth in this Settlement Agreement, Spirit, its bankruptcy estate, and their accountants, affiliates, agents, consultants, employees, financial advisors, legal counsel, officers, representatives of any kind, and subordinates of the foregoing, hereby release and forever discharge AmEx, and any and all of AmEx's accountants, affiliates, agents, consultants, employees, financial advisors, directors, officers, legal counsel, members, managers, shareholders, and representatives of any kind in their capacity as such on behalf of AmEx, from each and every right, claim, debt, cause of action (including those arising under Chapter 5 of the Bankruptcy Code), demand, suit for damages, liability, act or right of action of any nature whatsoever, whether asserted or unasserted, known or unknown, accrued or not yet accrued, arising from, related to, or asserted in or in connection with the Card Acceptance Agreement or relating to (i) Spirit, (ii) Spirit Aviation Holdings, Inc., Spirit Finance Cayman 1 Ltd., Spirit Finance Cayman 2 Ltd., Spirit IP Cayman Ltd., and Spirit Loyalty Cayman Ltd. (collectively, the "**Other Debtors**") or (iii) the Bankruptcy Case, or any other case jointly administered with the Bankruptcy Case.

b. **AmEx's Release of Claims against Spirit**. Upon the occurrence of all of the Effectiveness Conditions, and subject to the obligations of the Parties set forth in this Settlement Agreement, AmEx releases and forever discharges (i) Spirit and its bankruptcy estate, (ii) the Other Debtors and each of their bankruptcy estates, and (iii) each of their respective accountants, affiliates, agents, consultants, employees, financial advisors, legal counsel, officers, and representatives of any kind, from each and every right, claim, debt, cause of action, demand, suit for damages, liability, act or right of action of any nature whatsoever, whether asserted or unasserted, known or unknown, accrued or not yet accrued, arising from, related to, or asserted in or in connection with the Card Acceptance Agreement or relating to Spirit or any of the Other Debtors, the Bankruptcy Case, any other case jointly administered with the Bankruptcy Case, or the Prior Bankruptcy Case.

- The Bankruptcy Court shall retain jurisdiction to enforce the terms of the Settlement Agreement.

18. The Settlement Agreement, if approved, will further the Debtors' goal of effecting a value maximizing liquidation of the Debtors' estates. Specifically, the Settlement Agreement creates an orderly process for Spirit to receive a refund of the Excess Reserve in a timely manner in accordance with an agreed-upon schedule. Accordingly, and for the reasons set forth herein,

Spirit submits that the Motion should be granted and the Settlement Agreement should be approved.

Basis for Relief

A. The Court Should Approve the Settlement of Claims Under Bankruptcy Rule 9019

19. By this Motion, Spirit seeks approval of the Settlement Agreement between Spirit and AmEx. Spirit and AmEx engaged in good-faith negotiations at arm's length, which led to the Settlement Agreement that settles potentially costly disputes with AmEx related to the timing of the return of the Reserve and Excess Reserve, which will bring cash into Spirit's estate in furtherance of the wind-down of the Debtors' operations. *See* Motta Decl. ¶ 15.

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

21. Under Bankruptcy Rule 9019 and governing case law, a court should approve a compromise or settlement where it makes an independent determination that the compromise or settlement is fair and equitable, reasonable, and in the best interests of the debtor's estate. *See, e.g.*, *In re Republic Airways*, 2016 WL 2616717 at *3; *see also In re Genesis Glob. Holdco, LLC*,

2023 WL 6543250, at *5 (Bankr. S.D.N.Y. Oct. 6, 2023); *Ionosphere Clubs, Inc. v. Am. Nat'l Bank & Trust Co. of Chicago (In re Ionosphere Clubs, Inc.)*, 156 B.R. 414, 426 (S.D.N.Y. 1993), *aff'd*, 17 F.3d 600 (2d Cir. 1994); *Nellis v. Shugrue*, 165 B.R. 115, 122–23 (S.D.N.Y. 1994). In so doing, a court may consider the opinions of the trustee or debtor in possession that the settlement is fair and equitable. *See id.*; *see also In re Purofied Down Prods. Corp.*, 150 B.R. 519, 522 (S.D.N.Y. 1993).

22. In assessing whether to approve a settlement, a court need not decide the issues of law and fact raised by the settlement, but rather should "canvass the issues and see whether the settlement fall[s] below the lowest point in the range of reasonableness." *In re W.T. Grant Co.*, 699 F.2d 599, 608 (2d Cir. 1983) (alteration in original) (citations and quotations omitted). Put differently, "the court need not conduct a 'mini-trial' to determine the merits of the underlying litigation." *In re Purofied Down Prods.*, 150 B.R. at 522. In this regard, "[t]he 'reasonableness' of [a] settlement depends upon all factors, including probability of success, the length and cost of the litigation, and the extent to which the settlement is truly the product of 'arms-length' bargaining, and not fraud or collusion." *In re Ionosphere Clubs, Inc.*, 156 B.R. at 428.

23. Courts in the Second Circuit have described the following seven interrelated factors that a bankruptcy court should consider in exercising its discretion under Rule 9019: (1) the balance between the litigation's possibility of success and the settlement's future benefits; (2) the likelihood of complex and protracted litigation, with its attendant expense, inconveniences, and delay; (3) the paramount interest of the creditors; (4) whether other parties in interest affirmatively support the proposed settlement; (5) the nature and breadth of releases to be obtained by officers and directors; (6) whether the competency and experience of counsel support the settlement; and (7) the extent to which the settlement is the product of arm's-length bargaining. *See In re Iridium*

Operating LLC, 478 F.3d 452, 462 (2d Cir. 2007); *see also Drexel Burnham Lambert Grp., Inc.*, 960 F.2d 285, 292 (2d Cir. 1992); *In re Ionosphere Clubs, Inc.*, 156 B.R. 414, 427 (S.D.N.Y. 1993), *aff'd*, 17 F.3d 600 (2d Cir. 1994). When assessing a global settlement of claims, "[t]he appropriate inquiry is whether the [s]ettlement [a]greement is **in its entirety** appropriate for the [] estate." *In re Ionosphere Clubs*, 156 B.R. at 430 (emphasis added).

24. The Debtors respectfully submit that the *Iridium* factors weigh overwhelmingly in favor of approval of the settlements and compromises contained in the Settlement Agreement, satisfying the range of reasonableness test and settlement standard described above. As to the first and second *Iridium* factors, while Spirit may be likely to ultimately succeed in litigation against AmEx for the return of the Reserve, AmEx could resist and delay the return of the Reserve and Excess Reserve in an effort to enforce its setoff and/or recoupment rights, and such litigation would be costly at a time when preserving costs is of the utmost importance. *See* Motta Decl. ¶ 17. Weighing the cost and time associated with potential litigation against the value provided by the compromise, Spirit believes that the transactions, settlement and compromise of claims and disputes contained in the Settlement Agreement are highly favorable to the Debtors and their estates. *See* Motta Decl. ¶ 17. On the third factor, the settlement benefits the interest of creditors by bringing cash into Spirit's estate on an expedited and undisputed timeline, which will enable the Debtors to materially advance the goal of liquidating their assets and distributing amounts to their creditors. *See* Motta Decl. ¶ 17. Further, receiving the funds sooner will reduce the amount of funds that the Debtors will need to draw from the debtor in possession financing and, as a result, generate savings in interest expenses that outweigh the costs of this settlement, ultimately benefitting the creditors of the estates. *See* Motta Decl. ¶ 17. The fifth factor weighs in favor of approval of the Settlement Agreement, as the release of Spirit's directors and officers is limited to

certain claims held by AmEx and its related parties, if any, and therefore, the nature and breadth of the release is appropriately limited. And the sixth and seventh factors indisputably weigh in favor of approval, as the transactions contained in the Settlement Agreement are the product of arm's-length bargaining amongst parties represented by highly experienced counsel. *See* Motta Decl. ¶ 16.

25. Moreover, viewed in its entirety, the settlement of claims and disputes is entirely appropriate and is far above the lowest range of reasonableness. *See* Motta Decl. ¶ 17. Accordingly, the Debtors respectfully request that the Court approve the Settlement Agreement

B. The Court Should Allow Spirit to Assume the Card Acceptance Agreement, as Modified by the Settlement Agreement.

26. Section 365 of the Bankruptcy Code allows a debtor in possession (with bankruptcy court approval) to maximize the value of its estates by, among other things, assuming and rejecting executory contracts and unexpired leases. 11 U.S.C. §365(a); *see also NLRM v. Bildisco & Bildisco*, 465 U.S. 513, 521 (1984); *Orion Pictures Corp. v. Showtime Networks, Inc*. (*In re Orion Pictures Corp*.), 4 F.3d 1095, 1098 (2d Cir. 1993). An executory contract is a "contract under which the obligation of both the bankrupt and the other party to the contract are so far unperformed that the failure of either to complete performance would constitute a material breach excusing performance of the other." *Sharon Steel Corp. v. Nat'l Fuel Gas Distribution Corp*., 872 F.2d 36, 39 (3d Cir. 1989) (internal citations omitted); *see also In re Keren Ltd. P'ship*, 225 B.R. 303, 307 (S.D.N.Y. 1997), aff'd, 189 F.3d 86 (2d Cir. 1999) (same).

27. In determining whether to permit a debtor to assume or reject a contract or lease, "the debtor's interests are paramount." *COR Route 5 Co. v. Penn Traffic Co.* (*In re Penn Traffic Co*.), 524 F.3d. 373, 383 (2d Cir. 2008). Accordingly, the decision to assume or reject an

executory contract or unexpired lease is governed by the business judgment rule, which requires that a debtor determine that the requested assumption would be beneficial to its estates. *See Grp. of Institutional Invs. v. Chicago, M., St. P. & P. R. Co*., 318 U.S. 523, 550 (1943) (finding that the question of assumption "is one of business judgment"); *In re Penn Traffic*, 524 F.3d at 383; *In re Old Carco LLC*, 406 B.R. 180, 188 (Bankr. S.D.N.Y. 2009); *In re Helm*, 335 B.R. 528, 538 (Bankr. S.D.N.Y. 2006); *In re MF Global Inc*., No. 11-2790, 2011 WL 6792758, at *2 (Bankr. S.D.N.Y. Dec. 20, 2011) ("The assumption or rejection of an executory contract may be approved if such action would benefit the debtor's estate and is an exercise of sound business judgment."); *Sharon Steel*, 872 F.2d at 40. A debtor's decision to assume an executory contract or unexpired lease based on its business judgment will generally not be disturbed absent a showing of "bad faith or abuse of business discretion." *In re Old Carco*, 406 B.R. at 188 (quoting In re G Survivor Corp., 171 B.R. 755, 757 (Bankr. S.D.N.Y. 1994), *aff'd sub nom. John Forsyth Co., Inc. v. G Licensing, Ltd*., 187 B.R. 111 (S.D.N.Y. 1995)). The party opposing a debtor's exercise of its business judgment has the burden of rebutting the presumption of validity. *See Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc*.), 147 B.R. 650, 656 (S.D.N.Y. 1992), appeal dismissed, 3 F.3d 49 (2d Cir. 1993).

28. Upon finding that the debtor has exercised its sound business judgment in determining that the assumption or rejection of a contract or lease is in the best interests of the debtor, its creditors, and all parties in interest, the court should approve the assumption or rejection under section 365(a) of the Bankruptcy Code. *See, e.g., In re Child World, Inc*., 142 B.R. 87, 89 (Bankr. S.D.N.Y. 1992); *In re Gucci*, 193 B.R. at 417. Moreover, section 105(a) of the Bankruptcy Code confers the Court with broad equitable powers to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a).

29. Spirit respectfully submits that the relief requested herein is fair, equitable, reasonable, and in the best interests of the Debtors' estates and is, thus, justified under sections 365(a) and 105(a) of the Bankruptcy Code. As described above and in the Motta Declaration, the assumption of the Card Acceptance Agreement, as modified by the Settlement Agreement, will result in an orderly timeline for the return of the Reserve and Excess Reserve without further litigation or Court intervention. While assumption may not be necessary because the terms of the Settlement Agreement establish the procedure and timing of termination of the Card Acceptance Agreement, allowing Spirit to assume the Card Acceptance Agreement, as modified by the Settlement Agreement, will remove all doubt as to the enforceability of the terms of the agreement between Spirit and AmEx into the future until the Card Acceptance Agreement is terminated upon its own terms. Accordingly, Spirit respectfully requests that the Court authorize it assume the Card Acceptance Agreement, as modified by the Settlement Agreement.

Waiver of Bankruptcy Rules 6004(a) and 6004(h)

30. To implement successfully the relief sought herein, Spirit requests that the Court find that notice of the Motion is adequate under Bankruptcy Rule 6004(a) under the circumstances. Spirit also requests that, to the extent applicable to the relief requested in this Motion, the Court waive the stay imposed by Bankruptcy Rule 6004(h), which provides that "[u]nless the court orders otherwise, an order authorizing the use, sale, or lease of property (other than cash collateral) is stayed for 14 days after the order is entered." Fed. R. Bankr. P. 6004(h). As described above, the sooner an order granting this Motion becomes effective granting the relief requested in this Motion, the sooner cash will flow into Spirit's estate under the terms of the Settlement Agreement, which will maximize value for parties in interest. Accordingly, Spirit respectfully submits that ample cause exists to justify the (a) finding that the notice requirements under Bankruptcy Rule 6004(a)

have been satisfied and (b) waiving of the 14-day stay imposed by Bankruptcy Rule 6004(h), as the exigent nature of the relief sought herein justifies immediate relief.

Notice

31. Notice of this Motion will be provided to the following parties (or their counsel) (collectively, the "**Notice Parties**"): (a) the U.S. Trustee; (b) the Committee; (c) the Ad Hoc Committee of Senior Secured Noteholders; (d) AmEx; and (e) any other party that is entitled to notice under the Court's *Order Implementing Certain Notice and Case Management Procedures* [ECF No. 61]. A copy of this Motion and any order entered in respect thereto will also be made available on the Debtors' case information website located at https://dm.epiq11.com/SpiritAirlines. Based on the circumstances surrounding this Motion and the nature of the relief requested herein, the Debtors respectfully submit that no other or further notice is required.

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WHEREFORE, Spirit respectfully requests that the Court enter the Proposed Order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein and such other and further relief as the Court deems just and proper.

Dated: October 30, 2026
New York, New York

DAVIS POLK & WARDWELL LLP

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Counsel to the Debtors and Debtors in Possession

Exhibit A

Proposed Order

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: **SPIRIT AVIATION HOLDINGS, INC., *et al.*,** **Debtors.**[5]	**Chapter 11** **Case No. 25-11897 (SHL)** **Jointly Administered**

ORDER (I) APPROVING THE SETTLEMENT AGREEMENT AND RELEASE BETWEEN SPIRIT AIRLINES, LLC AND AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY, INC., (II) ALLOWING ASSUMPTION OF THE CARD ACCEPTANCE AGREEMENT, AS MODIFIED, AND (III) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[6] of Spirit Aviation Holdings, Inc. ("**Spirit**" and with its direct and indirect subsidiaries, collectively, the "**Debtors**"), each of which is a debtor and debtor in possession in the above-captioned chapter 11 cases (the "**Chapter 11 Cases**"), for entry of an order (this "**Order**") pursuant to sections 105(a), 362, 363, 365, 502, 503, 507 and 553 of the Bankruptcy Code, and Bankruptcy Rules 6004, 6006 and 9019, (a) approving the Settlement Agreement between Spirt and American Express Travel Related Services Company, Inc. ("**AmEx**") attached hereto as **Exhibit 1**, (b) allowing assumption of the Card Acceptance Agreement, as modified, and (c) granting related relief, and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference M-431*, dated January 31, 2012 (Preska, C.J.); and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157; and the Court having found that

[5] The Debtors' names and last four digits of their respective employer identification numbers are as follows: Spirit Aviation Holdings, Inc. (1797); Spirit Airlines, LLC (7023); Spirit Finance Cayman 1 Ltd. (7020); Spirit Finance Cayman 2 Ltd. (7362); Spirit IP Cayman Ltd. (4732); and Spirit Loyalty Cayman Ltd. (4752). The Debtors' mailing address is 1731 Radiant Drive, Dania Beach, FL 33004.

[6] Unless defined herein, all defined terms shall have the meanings ascribed to them as contained in the Motion or the Settlement Agreement.

it may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of the Chapter 11 Cases and related proceedings being proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed and considered the Motion, the Motta Declaration and the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion and the Motta Declaration and at the Hearing establish just cause for the relief granted herein; and the Court having found that the relief requested in the Motion represents a sound exercise of Spirit's business judgment, and is in the best interests of Spirit and the other Debtors, their creditors, their estates, and all other parties in interest; and all objections and reservations of rights filed or asserted in respect of the Motion, if any, having been withdrawn, resolved, or overruled with prejudice; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.

2. The Settlement Agreement, attached hereto as **Exhibit 1**, and all the terms and conditions thereof, and all the transactions and agreements contemplated thereby or embodied therein are hereby approved pursuant to Bankruptcy Rule 9019(a) in all respects and (a) represent a valid exercise of Spirit's business judgment, (b) are supported by reasonable consideration, and (c) are fair and equitable and in the best interest of the Debtors' estates.

3. Spirit is authorized to (i) execute and deliver all documentation necessary to implement and effectuate the terms and conditions of the Settlement Agreement and this Order,

(ii) comply with all obligations and make all payments provided for in the Settlement Agreement, and (iii) take any additional actions as are reasonably necessary or appropriate to implement and effectuate the settlement and the transactions outlined in the Settlement Agreement, it being the intent of this Court that the terms set forth in the Settlement Agreement be approved in their entirety, and the failure to specifically describe or include any provision of the Settlement Agreement in the Motion or this Order shall not diminish or impair the effectiveness of such provision.

4. The automatic stay imposed under section 362(a) of the Bankruptcy Code, to the extent applicable, is hereby modified and lifted to permit the parties to comply with the terms of Settlement Agreement and any amendments and/or modifications thereto.

5. The Settlement Agreement, and the other transaction instruments, agreements, and documents related thereto may be modified, amended, or supplemented by the parties thereto in a writing signed by the parties thereto, and in accordance with the terms thereof, without further order of the Court.

6. Notwithstanding any subsequent appointment of any trustee(s) under any chapter of the Bankruptcy Code, this Order and the terms and conditions of the Settlement Agreement shall be binding in all respects upon, and shall inure to the benefit of, the Debtors, their estates, and their creditors, their respective affiliates, successors, and assigns, including any subsequently appointed trustee, and any affected third parties, including, but not limited to, AmEx, its affiliates, and subsidiaries.

7. Notice of the Motion is adequate under Bankruptcy Rule 6004(a). Notwithstanding the provisions of Bankruptcy Rule 6004(h), this Order shall be immediately effective and enforceable upon its entry.

8. Pursuant to section 365 of the Bankruptcy Code, Spirit is authorized to assume the Card Acceptance Agreement, as modified by the Settlement Agreement, and each of the terms and conditions contained therein are hereby approved in their entirety and shall be deemed assumed effective as of the date of entry of this Order, and the requirements of section 365 of the Bankruptcy Code with respect to the assumption of the Card Acceptance Agreement, as modified by the Settlement Agreement, shall be deemed satisfied.

9. Spirit shall not be required to make any monetary cure payment other than as expressly required under the Settlement Agreement.

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

11. During the pendency of the Chapter 11 Cases or the conversion thereof, this Court shall retain exclusive jurisdiction over any and all matters arising from or related to the implementation, interpretation, and enforcement of this Order and the Settlement Agreement.

Dated: _____, 2026
New York, New York

THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Settlement Agreement

Execution Version

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (the "**Settlement Agreement**") is entered into as of the 29th day of October, 2026, by and between Spirit Airlines, LLC, formerly known as Spirit Airlines, Inc. ("**Spirit**") and American Express Travel Related Services Company, Inc. ("**AmEx**"). Each of Spirit and AmEx are a "**Party**" and are, collectively, the "**Parties**" to this Settlement Agreement.

WHEREAS, Spirit operated a leading value airline which served destinations throughout the United States, Latin America, and the Caribbean.

WHEREAS, on September 4, 1998, Spirit Airlines, Inc. and American Express Travel Services Company, Inc. entered the Terms and Conditions for Worldwide Acceptance of the American Express Card by Airlines (as amended, restated, supplemented and modified from time to time, the "**Card Acceptance Agreement**").

WHEREAS, the purpose of the Card Acceptance Agreement was for Spirit to accept American Express Card charges from Cardmembers[1] for the purchase of Air Transport and Related Services provided by Spirit.

WHEREAS, the Card Acceptance Agreement allowed AmEx to withhold payments due to Spirit, including payments for Cardmember charges and other marketing or volume incentives, to create a reserve (the "**Reserve**") as security for Spirit's obligations to AmEx under the Card Acceptance Agreement and to provide a holdback to protect against Cardmember disputed charges and charges related to unflown tickets for future travel and services not yet received, among other things as provided for in the Card Acceptance Agreement.

WHEREAS, on June 24, 2011, in an Addendum and Amendment to the Card Acceptance Agreement, Spirit granted AmEx a first priority security interest in and continuing lien on the Reserve and accounts receivable or rights to payments under the Card Acceptance Agreement and proceeds thereof.

WHEREAS, on November 15, 2024, Spirit Airlines, Inc. filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the "**Bankruptcy Code**") and emerged from bankruptcy with a confirmed plan of reorganization on March 12, 2025 (the "**Prior Chapter 11 Case**").

WHEREAS, concurrent with emerging from the Prior Chapter 11 Case, Spirit Airlines, Inc. was converted to Spirit Airlines, LLC, a Delaware limited liability company, concurrently assuming the Card Acceptance Agreement.

WHEREAS, on August 29, 2025, Spirit filed a second voluntary petition for relief under Chapter 11 of the Bankruptcy Code (the "**Chapter 11 Case**") in the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**").

WHEREAS, on or around May 2, 2026, in advance of a planned wind-down of its businesses, Spirit ceased all passenger flight operations and asked the Federal Aviation Administration to issue a ground stop for Spirit flights to ensure no accidental dispatches.

WHEREAS, on May 8, 2026 (the "**Wind-Down Date**"), the Bankruptcy Court entered an *Order (I) Authorizing the Debtors to Wind Down Operations, (II) Approving the Debtors' Use of Cash Collateral and Amendments to the DIP Credit Agreement and Final DIP Order, (III) Authorizing Modification or Termination of the Debtors' Employee Programs, (IV) Approving Wind-Down Retention Plan, (V) Approving Modification of Contract Rejection Procedures, (VI) Approving Non-Fleet Assets Sale Procedures, (VII) Approving the Use of Certain Third Party Contractors, (IX) Approving Non-Fleet Asset*

[1] Capitalized terms not otherwise defined herein shall have the meaning as defined in the Card Acceptance Agreement, unless otherwise indicated.

Sale Procedures, (X) Enforcing an Administrative Stay, (XI) Authorizing the Preemption of Applicable Laws and Ordinances for the Debtors to Effectuate the Wind-Down, (XII) Authorizing the Debtors to Take Any and All Actions Necessary to Implement the Wind-Down, and (XIII) Granting Related Relief (the "**Wind-Down Order**").

WHEREAS, AmEx is entitled to a setoff or recoupment against the Reserve in an amount not less than $13,571,686.63, which may increase over time due to pending claims and Cardmember disputes.

WHEREAS, the Reserve exceeds the estimated amount of Spirit's projected remaining obligations under the Card Acceptance Agreement or AmEx's estimated risk related to disputed charges and charges related to tickets for canceled flights and services not received by Cardmembers.

WHEREAS, the Parties are in agreement that they will mutually determine the amount of the remaining Reserve.

WHEREAS, the Parties are in agreement that as a result of the ceased passenger flight operations, the disputed charges and related refund requests by Cardmembers have declined sharply and will continue to decline over time and consequently, the need to retain the Reserve has decreased and will continue to decrease.

WHEREAS, the Parties have agreed to resolve the dispute over the amount of the Reserve to be retained by AmEx for disputed charges and refunds and the period of time over which AmEx should continue to retain the Reserve or portions thereof before releasing it to Spirit.

WHEREAS, Spirit will file a motion in Chapter 11 Case for Bankruptcy Court approval of this Settlement Agreement under rule 9019 of the rules governing the Bankruptcy Code (the "**9019 Motion**"); and

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is stipulated and agreed by and between the Parties, as follows:

1. **Recitals.** The above Recitals and the definitions contained therein are incorporated by reference and made—and shall be deemed—substantive parts of this Settlement Agreement.

2. **Release of Reserve.** After applying any setoffs or recoupment against the Reserve for undisputed obligations Spirit has under the Card Acceptance Agreement, the remaining balance of the Reserve (approximately $13,173,421, the "**Excess Reserve**") will be released by payment to Spirit according to the following schedule:

   a. On or before November 30, 2026 (or as soon thereafter following court approval), after additional setoffs/recoupment for undisputed obligations Spirit has under the Card Acceptance Agreement, 50% of the Excess Reserve existing at that time shall be released to Spirit, less a 2.25% fee on the released amount which shall be paid to AmEx;

   b. On or before December 31, 2026, after additional setoffs/recoupment for undisputed obligations Spirit has under the Card Acceptance Agreement, 50% of the then Excess Reserve existing at that time shall be released to Spirit, less a 1.875% fee on the released amount which shall be paid to AmEx;

   c. On or before February 15, 2027, after additional setoffs/recoupment for undisputed obligations Spirit has under the Card Acceptance Agreement, 50% of the then Excess Reserve existing at that time shall be released to Spirit, less a 1.125% fee on the released amount which shall be paid to AmEx; and

   d. On May 8, 2027, the one year anniversary of the Wind-Down Date, after additional

setoffs/recoupment for undisputed obligations Spirit has under the Card Acceptance Agreement, the remining Excess Reserve existing at that time shall be released to Spirit with no fee.

e. The Parties acknowledge that inherent operating controls may delay slightly the timing for payments of the Excess Reserve, but not more than seven (7) days from the due date for such payment.

3. **Termination of Card Acceptance Agreement**. The Card Acceptance Agreement will terminate, without further act, upon receipt by Spirit in full of all payments due from AmEx pursuant to paragraph 2 herein (the "**Termination Date**"). Before the Termination Date, Spirit will certify to AmEx compliance with all terms and conditions under AmEx's Data Security Operating Policy (as provided for in the CAA), with all confidential or proprietary information, Cardmember Information and Cardmember Data, transaction data and data security information being deleted and destroyed. Spirit further acknowledges and confirms that it does not own any Cardmember Information, AmEx proprietary data and security information, and any information identifying Cardmembers, and represents that in no event will any Cardmember Information, AmEx proprietary data and security information, and any information identifying Cardmembers be included as a transferred asset in any transaction under section 363 of the Bankruptcy Code.

4. **Conditions Precedent to Settlement.** The Settlement Agreement will become effective upon the first date on which all of the following conditions have been met (the "**Effectiveness Conditions**"): (i) the execution of this Settlement Agreement by each of the Parties; (ii) entry of an order of the Bankruptcy Court approving the Settlement Agreement and granting the 9019 Motion (the "**9019 Order**"); and (iii) the 9019 Order becomes final and non-appealable.

5. **Reporting Obligations**. Through and until the Termination Date, AmEx shall provide to Spirit a monthly report, either by Spirit's access to its AmEx merchant portal or directly by request, providing an accounting of the Reserve and any fees, charges, or setoffs against the Reserve, which shall be due on or before the 15th day of the month for the preceding month.

6. **Spirit's Release of Claims against AmEx**. Upon the occurrence of all of the Effectiveness Conditions and after return of all payments due to Spirit pursuant to paragraph 2 herein, and subject to the obligations and representations of the Parties set forth in this Settlement Agreement, including those arising post-Effective Date, which will survive this release, Spirit, its bankruptcy estate, and their accountants, affiliates, agents, consultants, employees, financial advisors, legal counsel, officers, representatives of any kind, and subordinates of the foregoing, hereby release and forever discharge AmEx, and any and all of AmEx's accountants, affiliates, agents, consultants, employees, financial advisors, directors, officers, legal counsel, members, managers, shareholders, officers, and representatives of any kind in their capacity as such on behalf of AmEx, from each and every right, claim, debt, cause of action (including those arising under Chapter 5 of the Bankruptcy Code), demand, suit for damages, liability, act or right of action of any nature whatsoever, whether asserted or unasserted, known or unknown, accrued or not yet accrued, arising from, related to, or asserted in or in connection with the Card Acceptance Agreement or relating to (i) Spirit, (ii) Spirit Aviation Holdings, Inc., Spirit Finance Cayman 1 Ltd., Spirit Finance Cayman 2 Ltd., Spirit IP Cayman Ltd., and Spirit Loyalty Cayman Ltd. (collectively, the "**Other Debtors**") or (iii) the Bankruptcy Case, or any other case jointly administered with the Bankruptcy Case.

7. **AmEx's Release of Claims against Spirit.** Upon the occurrence of all of the Effectiveness Conditions, and subject to the obligations and representations of the Parties set forth in this Settlement Agreement, including those arising post-Effective Date, which will survive this release, AmEx releases and forever discharges (i) Spirit and its bankruptcy estate and the bankruptcy estate, (ii) the Other Debtors and each of their bankruptcy estates, and (iii) each of their respective accountants, affiliates, agents, consultants,

employees, financial advisors, legal counsel, officers, and representatives of any kind, from each and every right, claim, debt, cause of action, demand, suit for damages, liability, act or right of action of any nature whatsoever, whether asserted or unasserted, known or unknown, accrued or not yet accrued, arising from, related to, or asserted in or in connection with the Card Acceptance Agreement or relating to Spirit or any of the Other Debtors, the Bankruptcy Case, any other case jointly administered with the Bankruptcy Case, or the Prior Bankruptcy Case.

8. **Reservation of Rights.** This Settlement Agreement and the settlement herein is an accord and satisfaction, not a novation. In the event this Settlement Agreement does not become effective for any reason, including the non-occurrence of the Effectiveness Conditions, the Parties will return, without prejudice, to the status quo ante, for all litigation purposes, as if no settlement had been negotiated or entered into and the settlement and its existence shall be inadmissible for any purpose.

9. **No Admission of Liability.** The Parties acknowledge that this Settlement Agreement is a compromise of disputed claims and that neither admits, and each expressly denies, any liability on their part.

10. **Inadmissibility of Settlement Agreement.** Except as necessary for supporting the 9019 Motion, neither this Settlement Agreement, nor any statement made or action taken in connection with the negotiation of this Settlement Agreement, shall be offered or received into evidence or in any way referred to in any legal action or administrative proceeding, other than as may be necessary (i) to enforce or approve this Settlement Agreement, or (ii) to seek damages or injunctive relief in connection therewith.

11. **No Reliance.** The Parties represent and acknowledge that, in executing this Settlement Agreement, they do not rely and have not relied upon any representation or statement made by any Party or any of their agents, shareholders, representatives or attorneys, with regard to the subject matter, basis or effect of this Settlement Agreement or otherwise, other than as specifically stated in this Settlement Agreement.

12. **Knowing and Voluntary**. The Parties further declare that, in making this Settlement Agreement, they rely entirely upon their own judgment, beliefs, and interests and the advice of their counsel, if any (for whose expense each shall be solely responsible), and that they have had a reasonable period of time to consider this Settlement Agreement.

13. **Jurisdiction of the Bankruptcy Court**. The Parties agree that the Bankruptcy Court shall retain jurisdiction to enforce the terms of this Settlement Agreement.

14. **Enforcement Costs.** In the event that an action is commenced by any Party to enforce the provisions of this Settlement Agreement, the prevailing party shall be entitled to an award, in addition to any other claims or damages, of its costs and expenses, including attorney's fees, incurred in connection with said action.

15. **Interpretation.** The Parties agree that each Party has reviewed this Settlement Agreement and that each fully understands and voluntarily accepts all the provisions contained in this Settlement Agreement. The Parties further agree that this Settlement Agreement is the product of negotiations between the Parties and that any rule of construction that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Settlement Agreement.

16. **Entire Agreement.** This Settlement Agreement sets forth the entire agreement between the Parties and fully supersedes any and all prior agreements and understandings, written or oral, between the Parties pertaining to the subject matter hereof.

17. **Modifications.** No modification of this Settlement Agreement shall be binding or enforceable unless in writing and signed by the Parties.

18. **Successors.** This Settlement Agreement shall be binding upon and inure to the benefit of the Parties, their respective heirs, other trustees, executors, successors, administrators and assigns.

19. **Governing Law.** This Settlement Agreement shall be construed and enforced in accordance with the provisions of the Bankruptcy Code and, where not inconsistent, the laws of New York, without regard to the conflicts of laws or principles thereof.

20. **Counterparts.** This Settlement Agreement may be executed in one or more counterparts, including by Docusign electronic signature, facsimile and/or electronic mail, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective officers or agents as of the date and year first above written.

SPIRIT AIRLINES, LLC, formerly known as Spirit Airlines, Inc.

Signed by:
826C167FB446491...

By: _____

Name: Pedro Motta

Title: Chief Financial Officer

AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY, INC.

By: _____

Name: _____

Title: _____

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective officers or agents as of the date and year first above written.

SPIRIT AIRLINES, LLC, formerly known as Spirit Airlines, Inc.	**AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY, INC.**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

Signature Page
Settlement Agreement and Mutual Release
Spirit/AmEx